

# International Law as Legal Obligations or Global Standards?\*

Saki Kuzushima<sup>†</sup>      Kenneth Mori McElwain<sup>‡</sup>      Yuki Shiraito<sup>§</sup>

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## Abstract

Although scholars have been skeptical about the effect of international law on state behavior, recent studies show that non-state actors such as human rights activists pressure governments to comply with international laws, and that the general public in advanced democracies tend to disapprove of government practices that violate them. However, the motivation for negative public attitudes toward international law violations is yet to be disentangled. We design a survey experiment in Japan to investigate two potential channels: respecting legal obligations and following globally standard practices. We examine responses to treatments that highlight these features of international law on attitudes toward same-surname marriage, whaling, hate speech regulation, and the death penalty. The results show that the legal obligation cue, which emphasizes that compliance with international law is a constitutional obligation, has a stronger effect on respondent attitudes than the global standards cue. We also find subgroup differences in treatment effect based on partisanship, beliefs about Japan's political influence in the world, and identification with global civil society. Our paper shows that domestic audiences value international law for its legal and constitutional standing, not because it signals global standards or norms.

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<sup>†</sup>Ph.D. Student, Department of Political Science, University of Michigan, Ann Arbor, MI, USA. Email: [skuzushi@umich.edu](mailto:skuzushi@umich.edu).

<sup>‡</sup>Professor, Institute of Social Science, University of Tokyo, Tokyo, Japan. Email: [mcelwain@iss.u-tokyo.ac.jp](mailto:mcelwain@iss.u-tokyo.ac.jp).

<sup>§</sup>Assistant Professor, Department of Political Science, University of Michigan, Ann Arbor, MI, USA. Email: [shiraito@umich.edu](mailto:shiraito@umich.edu), URL: [shiraito.github.io](https://shiraito.github.io).

# 1 Introduction

Scholars of international relations have long debated whether international law can alter state behavior and policies. While most agree that there is no law enforcement in international society, scholars are divided over whether states behave differently in the presence of international law than they would in its absence. Some argue that states adjust their behavior to conform to international law once they acquire the capacity to do so (Chayes and Chayes, 1993). Others contend that states join only the international treaties that serve their national interest, and therefore their behavior would be identical regardless of international law (Downs et al., 1996). This debate is difficult to resolve through empirical studies at the state level, due to unobserved counterfactuals of state behavior (Simmons, 2000; Von Stein, 2005).

Instead of trying to measure compliance at the state level, recent research has paid greater attention to the domestic mechanisms through which governments are pressured to comply with international law. A number of mechanisms, many of which are interconnected, have been proposed: mobilization by international and domestic human rights activists (Simmons, 2009; Tsutsui, 2018; Hafner-Burton and Tsutsui, 2005), concerns about national reputation (Hafner-Burton, 2008), influence on domestic courts (Lupu, 2013), strategic interactions among domestic political elites (Dai, 2005; Moravcsik, 2000), and socialization through military training (Morrow, 2007). Although early empirical studies suggested that international human rights treaties do not improve domestic practices (Keith, 1999; Neumayer, 2005), recent analyses report a positive correlation between treaty ratification and human rights compliance, at least in some areas (Hill Jr, 2010; Fariss, 2014). While there may be significant variation across issue areas, from human rights to *jus in bello*, there is a growing consensus on the existence of a domestic “compliance pull” for international law.

Arguments for these domestic mechanisms, whether implicitly or explicitly, rely on the assumption that public opinion supports (or, at least does not oppose) international law compliance. Accordingly, scholarly attention has shifted to ascertaining the determinants of public support for compliance. Survey experiments show that voters are more likely to support a policy change when they are told that the status quo violates international law. In one of the earliest such studies, Wallace (2013) reports that respondents are more likely to oppose the use of torture in the U.S. War on Terror if they are given the information that torture is prohibited by international law. Similar experiments have been conducted across issue areas, including trade policy (Chaudoin, 2014), the rights of prisoners (Chilton, 2014), the use of torture (Wallace, 2013, 2014; Chilton and Versteeg, 2016), the conduct of military operations (Chilton, 2015; Kreps and Wallace, 2016; Wallace, 2019), refugee policy (Strezhnev et al., 2019), and welfare policy (Linos, 2011, 2013).<sup>1</sup> These studies uniformly conclude that the U.S. public generally favors complying with

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<sup>1</sup>Tingley and Tomz (2014) also show that the U.S. public are more likely to support trade sanctions on the countries that violate an environmental international law. For an extensive review of this literature, see Chilton and Linos (2020).

international law.

That said, it remains unclear why voters think that compliance matters. In particular, existing empirical studies have not addressed whether voters want their government to comply because they value adherence to legal commitments, or because international law reflects global standards of acceptable practices. This difference is important, because experiments conducted outside of the United States show that there may be backlash effects to international law (Lupu and Wallace, 2019; Chapman and Chaudoin, 2020; Cope and Crabtree, 2020).<sup>2</sup> In order to understand why the public prefers compliance in some cases but not in others, we need to disentangle individual-level motivations for compliance. For example, Chilton (2014) measures how experimental manipulations affect attitudes other than policy preferences and finds that treated respondents are more likely to think that the domestic practice in question is inconsistent with international standards. While this suggests that voters perceive international laws to reflect international standards, it does not necessarily mean that inconsistencies between domestic practices and international standards lead to preferences for policy change.

To address this question, we conduct a survey experiment that experimentally manipulates information regarding international standards and legal obligations separately. We ask respondents for their views on four different domestic practices or policies that have been criticized by international actors. Our treatments are designed to distinguish the effect of being told that these practices deviate from international standards, and the effect of being told that these violate binding legal commitments. To the best of our knowledge, this is the first experiment where the experimental manipulation is directly relevant to the motivation behind the preference for international law compliance.

More specifically, our experiment uses a nationally representative sample of Japanese voters who are randomly given one of the following treatments: (1) current domestic practices violate international law, (2) the practices violate international law but the Constitution of Japan requires compliance with ratified international treaties, and (3) the practices are rare in other industrialized countries. Our outcomes of interest are attitudes toward the following four domestic practices: (1) the family law clause under which married couples must choose a common surname, (2) whaling, (3) criminalization of hate speech, and (4) the death penalty.

Our research design has several important advantages over existing survey experiments. First, our treatments seek to distinguish the importance of international law in the minds of citizens. The first treatment is similar to those in previous studies and does not distinguish the “legal” and “global standards” connotations of international law compliance explicitly. By contrast, the second treatment underscores the constitutional importance of international law to emphasize the legal dimension, while the third treatment accentuates the global standards dimension. Second, Japan is a good laboratory to address some caveats to the generalizability of existing experimental studies. Japan has ratified numerous international treaties and conventions, but it has several

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<sup>2</sup>However, not all experiments in non-US countries find a backlash. See Anjum et al. (2016)

controversial laws and social customs that do not conform to the norms stipulated in the treaties. This is partially related to the fact that Japan is a non-Western society, and therefore its traditional customs are more likely to conflict with international standards. On the other hand, Japan is a democracy where public opinion is expected to matter in policy making. It is also the third largest economy in the world, and so mechanisms that may matter in developing countries, such as the importance of international law compliance to obtain foreign aid, are less likely to matter.

The results of our experiment suggest that Japanese citizens' views on international law compliance are driven by its legal binding nature, not by its reflection of global standards. While the second (constitution) treatment has statistically significant effects on respondents' attitudes toward the family law and whaling, the estimated effects of the third treatment (global standards) are not significant for any outcome. In addition, we find that the effect of the second treatment is driven by those who perceive Japan's international influence less highly, identify themselves with global civil society, and do not support the governing conservative party. Overall, we find evidence that voters favor compliance with international law because they value honoring legal commitments rather than international standards.

The remainder of the paper proceeds as follows. The next section articulates our argument and hypotheses about why the public prefers compliance with international law. In the third section, we describe the case context and explain the specifics of our survey design. The fourth section presents our experimental results. Finally, we conclude the paper with remarks on the limitations and broader implications of our study.

## 2 Argument

There is a variation in how scholars use the term "international law." While some include unwritten customary international law in the scope of analysis, we focus on codified treaties, and in particular, multilateral treaties on global commons such as human rights and environment.

The literature posits two mechanisms through which international law can shape citizens' preferences. The first mechanism derives from the legally-binding nature of international law, which can generate normative and instrumental motivations for compliance. Normatively, people may prefer compliance simply because it is morally right to comply with laws, as argued by legal scholars (Chayes and Chayes, 1993). Although some citizens may be skeptical about the legal legitimacy of international law, its normative pressure is still relevant because international law is, to various degrees, integrated into domestic law and legal practices. According to data from the Comparative Constitutions Project, 92% of national constitutions include provisions pertaining to international law, and 33% do so concerning customary international law (Elkins et al., 2009). States often change domestic laws to implement international laws, and international laws themselves can be used in domestic courts, though their specific treatment varies across states and legal traditions (Simmons, 2009; Lupu, 2013; Tsutsui, 2018). Instrumentally, the motivation

for compliance also arises because reneging on a legally binding commitment can incur reputation costs. People may believe that violating a legally binding commitment can harm the state's reputation as a law-abiding country, and thus impair its diplomatic capabilities. It may also impede the state's ability to appeal to international law when it is an injured party in future disputes. The audience cost literature relies on this logic, arguing that the public will punish leaders who fail to follow through on their commitment to international agreements (Tomz, 2008; Chaudoin, 2014). Through either channel, there is a unique pressure for compliance that stems from the legal nature of international law, which non-legal norms cannot exert.

The second mechanism arises from the perception that international laws reflect accepted standard behavior, regardless of legal obligations. International law may be seen as a representation of global practices that legitimate members of the international community should follow. This is particularly relevant for multilateral treaties on global issues such as human rights and global warming, which have a strong ethical component. This perception can create social pressures for compliance, both at the individual and state levels. At the individual level, information about what is internationally accepted or not can legitimize people's claims regarding their rights. The fact that a specific right is guaranteed in peer countries, even if not in one's own, can serve as a persuasive framing to justify claims for rights (Simmons, 2009). States also copy policies and institutions of peer countries to signal acceptance of global standards, which can enhance their status in the international community (Meyer and Rowan, 1977; Finnemore and Sikkink, 1998; Goodman and Jinks, 2004). In the case of Japan, Gurowitz (1999) explains how the government strategically adopts international norms on immigration in order to claim legitimacy in the international community. In this sense, citizens who are concerned about national honor may receive psychic benefits from having their country viewed highly by peer states, and thus pressure their government to abide by international practices. In sum, this second mechanism arises from the fact that international laws are perceived to be reflections of global standards, rather than legally-binding commitments.

The distinction between the two mechanisms—legal obligations versus global standards—is important because they generate different empirical implications. The first mechanism is exclusive to legally-binding international laws, while non-legal norms can substitute international laws under the second mechanism. Previous studies have shown that information on international law violations can change public opinion. However, because international law can be perceived as a legally-binding contract, a representation of global standards, or both, we cannot differentiate which mechanism is driving individual preferences. By contrast, if non-legal norms about standard practices, such as factual information about common practices in peer countries, change public opinion, we can infer that social pressure, not legal obligations, is causing the change.

For instance, the Convention on the Elimination of All Form of Discrimination against Women (CEDAW) is a human rights treaty specific to women's rights, and it is often considered to be a representation of widely-accepted norms about women's rights. Suppose that State A has ratified

this treaty, and thus is legally obliged to comply with it. Furthermore, suppose that marriage laws in State A are criticized as being in violation of CEDAW. If information that A’s marriage laws violate CEDAW reduces public support for the policy, we cannot distinguish whether this is because compliance is perceived to be a legal obligation, whether CEDAW is seen as a reflection of international standards about women’s rights, or both. Thus, the fact that information about treaty violations changes public opinion cannot tell us which mechanism—legal obligations or global standards—is doing the heavy lifting. In contrast, suppose that a factual statement that State A is the only state in the world which has a particular marriage law reduces public support for the practice. In this case, the motivation likely stems from social pressure, rather than legal duty.

To understand whether legal obligations or global standards are more important in changing public opinion, we implement a survey experiment in Japan. Its key feature is the separate manipulation of information about legal obligations and international standards. As outcomes, we ask respondents for their support or opposition to domestic legal and social practices that have been criticized as violations of international laws. Before doing so, we randomly assign respondents into three treatment groups as well as one control group. The first group receives information that the practice is in violation of international law. This treatment is equivalent to those in canonical studies such as (Wallace, 2013; Chilton, 2014). The second group also receives this information on international law violations, but with a further emphasis on the legally-binding nature of international law. To do this, we provide additional information that the constitution mandates compliance with international law. If the effect of the second treatment is stronger than the first treatment, we can argue that the legally-binding aspect of international law, as reinforced by the constitutional obligation, is an important factor in molding public support for compliance. The third group receives factual information about the rarity of these practices in peer countries. This treatment aims to activate the mechanism about global standards, but not the mechanism about legal obligations. If the effect of the third treatment is stronger than the first and second treatments, we can argue that the “standards” aspect of international law is the important factor, not the legal obligations aspect. In addition to these main questions about domestic practices, we also asked for respondents’ prior beliefs about international law and politics, which may reasonably produce heterogeneous treatment effects.

Our survey experiment differs from previous studies in the following respects. First and foremost, it enables us to disentangle the mechanisms—legal obligations or global standards—through which international law changes public opinion. Second, we inquire about opinions on a wide variety of issues beyond national security matters, which have been primary subjects of analysis in previous experiments. This allows us to compare the salience of international law on different issue domains. Third, it is conducted in Japan, where no similar experiment has been published to our knowledge. Given mixed evidence on the effect of international law in non-Western countries, we believe that this new case can contribute to our understanding of the generalizable implications of

international law. Crucially, Japan is an ideal laboratory for conducting this experiment. Japan has ratified numerous international treaties, but several of its legal and social practices have been criticized for being in violation of these treaties. This is partially related to the fact that Japan is a non-Western society, whose domestic social practices evolved outside of the debates and movements that shaped Western nations, which have an outsized influence on establishing international norms and law. In addition, Japan is an established democratic country, where public opinion matters for policy choice. If information on treaty violations does change public opinion, it is also more likely to translate into actual policy change than in authoritarian countries. Japan is also the third largest economy in the world, which enables us to exclude the possibility of compliance in exchange for economic incentives like developmental aid.

## 3 Research Design

### 3.1 Case Context

We asked respondents’ opinions on four Japanese customs and practices that have received international criticism, and whose domestic and global salience vary. These include practices that are controversial in Japan, such as same-surnames upon marriage and penalties on hate speech, and those that have not sparked extensive domestic debate, such as whaling and the death penalty. In addition, marriage surnames, hate speech, and the death penalty are arguably domestic matters, where Japanese practices do not impinge on those of other countries, while whaling deals with global commons with cross-border implications. Let us begin by describing the background of these items briefly.

#### 3.1.1 Mixed-surname marriage and CEDAW

Since 1896, Japan’s civil code has required married couples to adopt a common surname. This practice is rare globally: as of 2020, Japan is the only OECD country with this mandate. In 96% of cases, the wife changes her surname to that of the husband (Nippon.com, 2019). This practice has long been controversial in Japan, even as the informal use of separate, pre-marriage surnames has become de facto accepted in professional life. Proponents of the status quo warn that separate surnames will weaken familial unity, subject children to bullying and psychological stress, and lead to an increase in divorce and out-of-wedlock births. Critics, including the Japan Federation of Bar Associations (2017), contend that this requirement runs afoul of the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), which Japan signed in 1985.

The provision has been contested in the courts since the late 1980s. However, the Supreme Court ruled in 2015 that the adoption of common surnames is well established in society and

that there is a rational basis for its requirement.<sup>3</sup> However, in a supplementary opinion, Justice Kiyoko Okabe argued that this practice is in tension with CEDAW; this issue was also referred to in Justice Yoshiaki Yamaura’s dissenting opinion. While the Ministry of Justice has drafted bills to allow separate surnames, this has been blocked repeatedly by the conservative Liberal Democratic Party, which has long argued that the family is the fundamental unit of society, and common surnames contributes to a sense of familial unity.

Previous surveys have generally asked respondents for their views on the institution itself, without explicitly differentiating what they would prefer to do themselves from what they would expect or require from others. Accordingly, we examine attitudes towards this practice using three separate questions: whether the respondent (1) wants to use a different surname from their spouse (**self**); (2) thinks that every married couple should choose for themselves (**others**); (3) thinks that Japan should amend the civil code so that couples who want to adopt mixed-surnames can do so (**system**).

We do not expect the three treatments to influence the respondents’ preferences on the (**self**) dimension, and only weakly if at all on the (**others**) dimension. For one, these are likely determined by strong prior views about one’s own identity. For another, existing international laws do not require that married couples adopt separate surnames, simply that either option should be available. However, we expect the treatment to change preferences on the third, (**system**) dimension, which is the specific subject of international criticism.

As baselines, the mean outcome values, measured on a 1 to 6 scale, to each item in our control group are 3.29 (**self**), 4.37 (**other**), 4.08 (**system**).

### 3.1.2 Whaling and the IWC

Japan, along with Iceland and Norway, is one of the few countries that engage in commercial whaling as of 2020.<sup>4</sup> While some regions of Japan have a long tradition of whaling, the government has, in the past, bowed to international pressure and curbed these practices. As a member of the International Whaling Commission since 1961, Japan halted commercial whaling when the IWC placed a moratorium in 1980, but it continued to hunt whales by utilizing the scientific research exception.<sup>5</sup> Catalinac and Chan (2005) argue that this balance—agreeing to the moratorium on paper but utilizing the scientific exception as a work around—reflects Japan’s sensitivity to international norms. In principle, the government was opposed to the banning of commercial whaling, due to its closeness to the whaling industry and its belief that whaling was necessary for Japan’s resource security. The weakness and scattered nature of environmental civil society movements also meant that there was limited domestic pushback. However, Catalinac and Chan (2005, p. 152) also contend that Japan could not object to the IWC for two reasons: the desire

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<sup>3</sup> Judgment concerning Article 750 of the Civil Code and Article 13 of the Constitution, Minshu Vol. 69, No. 8, (2015)

<sup>4</sup>Denmark and the United States permit limited whaling among aboriginal communities.

<sup>5</sup>The moratorium was passed in 1982, and Japan began to comply in 1986.



to be seen as an equal by Western powers, and to remedy its poor reputation with regard to environmental issues.

This practice has been criticized by the European Union and Australia, as well as by environmental NGOs such as Sea Shepherd. Strausz (2014, p. 457) argues that commercial whaling, and the subsequent usage of the scientific whaling exception, was seen domestically as hindering Japan’s attempts to flex its soft power globally. However, after the International Court of Justice ruled in 2014 that Japanese whaling was against IWC regulations, Japan withdrew from the IWC in 2019.

We include two items on this practice: whether the respondent thinks that 1) Japan should stop whaling (**whaling**); 2) the sale of whale meat should be prohibited (**meat**).

We expect public opinion to be more sensitive to the information treatments on (**whaling**) than on (**meat**). First, IWC restrictions were directly aimed at whaling itself, not on the consumption of whale meat. Second, Catalinac and Chan (2005, p. 155) argue that while Japanese elites were willing to accept the whaling ban in principle, they framed the issue as an attack on Japanese traditions and turned whale meat into a symbol of Japanese culture. Accordingly, information about international law violations may move public opinion on the former, but the sentiment on the latter may be more inflexible.

As baselines, the mean outcome values, measured on a 1 to 6 scale, to each item in our control group are 2.73 (**whaling**), 2.87 (**meat**).

### 3.1.3 Hate speech and CERD

While hate speech laws have become commonplace among OECD nations, there are significant differences in compliance and enforcement. Japan passed an anti-hate speech law in 2016, motivated by protests and demonstrations by extreme-right organizations—dubbed the “Action Conservative Movement” (ACM)—against ethnic Koreans, Taiwanese, and Chinese who are long-term residents of Japan (Smith, 2018). However, this law does not impose legal penalties on hate speech itself. In their text analysis of newspaper coverage of hate speech incidents, Merklejn and Wiślicki (2020) find that conservative outlets primarily treat these as isolated criminal cases, rather than as manifestations of deeper, societal issues. Even ostensibly center-left newspapers relegate hate speech incidents to back-page news items. Even when newspapers point to official statistics that show an increase in such crimes, they do not delve deeply into underlying structural causes.

The lack of legal penalties has been criticized as being in violation of the International Convention on the Elimination of All Forms Racial Discrimination (CERD), of which Japan has been a member since 1995. In a 2013 report, its Committee on the Elimination of Racial Discrimination noted that Japan’s lack of a comprehensive law banning hate speech prevented victims of racial discrimination from seeking legal relief. This was reiterated in a 2017 report, which demanded that Japan pass specific legislation banning direct or indirect racial discrimination, including hate speech (Committee on the Elimination of Racial Discrimination, 2013, 2017).

We include one survey item for this practice: Whether the respondent thinks that hate speech should be criminalized in Japan. As a baseline, the mean outcome value, measured on a 1 to 6 scale, to this item in our control group is 4.04.

### 3.1.4 Death penalty and ICCPR

Japan’s criminal justice system currently allows for capital punishment, making it one of two OECD countries—along with the United States—that both permits and enacts death penalties for civilians. Perhaps more notably, Japanese executions are carried out by hanging. Both the practice and its method has been criticized by the European Union and human rights NGOs such as Amnesty International (European Union External Action Service, 2019; Amnesty International, 2019). Although Japan has not signed the second optional protocol of the International Covenant on Civil and Political Rights (ICCPR) that abolishes the death penalty, the manner in which executions are implemented has been criticized as a violation of the ICCPR.

In a comparative analysis of Japanese, Chinese, and American public opinion, Jiang et al. (2010) find that support for the practice is lowest in Japan, but also that there is strongest belief in its deterrent effects. However, Muramatsu et al. (2018)’s time series analysis demonstrates that neither death sentences nor executions reduces homicides or robbery-homicides. There is significant secrecy and silence surrounding the actual timing of executions (Johnson, 2006) not to say sentencing decisions (Johnson, 2013), producing a public that is both uninformed and misinformed about its effects.

We include one survey item for this practice: Whether the respondent thinks that the death penalty should be abolished in Japan. As a baseline, the mean outcome value, measured on a 1 to 6 scale, to this item in our control group is 2.48.

## 3.2 Treatment

Before asking questions about these items, we assign respondents into one of the following groups randomly. The first group receives information about international law violations in general. This treatment is in line with the design of most previous studies. We also create two additional groups that receive information that highlights legal obligations and international standards separately.

The first group receives information that domestic rules and practices have been criticized as violations of international laws. For instance, in the case of the mixed-surname marriage, the respondents first see basic information about the current policy, that is, “In Japan, married couples must use a common surname.” Then, the respondents see the following text: “However, this system is said to be in violation of the ‘Convention of the Elimination of All Forms of Discrimination against Women’ of which Japan is a member.” This treatment measures whether information of international law violations changes public opinion, but it does not allow us to differentiate the underlying mechanisms. In other words, we expect that this information implies both a violation

of legal obligations and a deviation from global standards. We label this the “international law” treatment.

The second group receives information that emphasizes the legally-binding nature of international law. In addition to the information about international law provided in the first group, the second group receives additional information that Article 98.2 of the Constitution of Japan mandates compliance with international laws.<sup>6</sup> This information is included to highlight the legal aspect of international law. Although the treatment of ratified international laws in domestic courts varies across countries, it has some consequences in the domestic legal arena (Simmons, 2009). This type of article is not unique to the Constitution of Japan. In the case of mixed-surname marriage, the respondents see the following text: “Despite the fact that the Constitution of Japan stipulates the obligation to observe international treaties, this system is said to be in violation of the ‘Convention on the Elimination of All Forms of Discrimination against Women’ of which Japan is a member.” Note that the constitutional information is about the procedural obligation to comply with ratified international laws, not that the domestic policy is in a direct violation of the Constitution. Therefore, our treatment is different from that in Chilton and Versteeg (2016), where one of the treatments states that the use of torture violates the U.S. constitution. We label this the “constitution” treatment.

The third group receives information about global standards that notes the rarity of Japanese practices in peer countries. If this information causes a stronger change in the respondents’ opinion than the information in the first and the second group, we can conclude that the most important driver for opinion change is whether a norm is accepted globally, rather than whether it is legally obliged. In the case of mixed-surname marriage, the respondents see the following text: “However, more than 80% of OECD countries do not have such a system.”<sup>78</sup> We label this the “standards” treatment.

We should note that we considered other ways to operationalize the global standards treatment. One was criticism from a specific country, such as a major ally or superpower, and another was recommendations from international organizations or NGOs, which earlier research has flagged as being relevant (Linos, 2011). However, we decided to use factual information about practices in peer countries for the following reasons. First, providing information about the sender of such information can confound respondents’ opinions. For instance, people who have favorable attitudes towards the U.S. may be more likely to change their opinion when the U.S. criticizes the domestic policy at stake, but the same criticism may generate backlash among people who view the U.S. negatively. Second, because we ask for respondents’ opinions about multiple policies, we could not identify real examples where the same actor criticized Japanese policies across domains

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<sup>6</sup>Section 2, Article 98 of the Constitution of Japan says “The treaties concluded by Japan and established laws of nations shall be faithfully observed”.

<sup>7</sup>Regarding the mixed-surname marriage item, Japan is the only country among OECD countries where married couples must use the same surname. However, in order to provide consistent information across all items, we decided to write “more than 80% of OECD countries” in all items.

<sup>8</sup>We also informed respondents that OECD countries are a commonly-used representation of developed countries.

consistently.

### 3.3 Treatment effect heterogeneity based on individual beliefs and preferences

It is reasonable to expect subgroup differences in the effect of our three treatments. These may relate to prior beliefs about the meaning of international law, the importance of compliance to the nation’s standing in the world, one’s identification with global civil society, and one’s support for the domestic government that preserves the controversial domestic practices. To explore these differences, we included four related questions in the pre-treatment section of our survey instrument. The distributions of the responses are reported in the Appendix. First, we asked respondents for their views on the legitimacy of international law. Those who hold it in greater esteem should be more likely to be swayed by information about its violation. To measure this, we asked which of the following statements is closer to their opinion. “A: International treaties and international law are legal norms that should be observed by countries around the world, and Japan should faithfully observe them.” “B: The contents of international treaties and international law reflect the preferences of major powers, so it is not necessary to observe them.”<sup>9</sup>

Second, public perceptions of Japan’s influence in the world could matter, albeit in either direction. On the one hand, people who view Japan’s influence highly may think that it does not need to comply with international laws and appease other states to be recognized as a valid member of the international community. On the other hand, the same people could also believe that Japan has to be a responsible member of the global community, and thus take pride in following through with its international commitments. To measure this, we asked how proud people feel about Japan’s influence in world politics.<sup>10</sup>

Third, previous studies have found that a “cosmopolitan identity” can also be an important moderating factor (Bayram, 2017). Thus, we asked how much people identify themselves as a citizen of the world.<sup>11</sup>

Lastly, partisanship is also reported to be an important source of heterogeneous effects (Chilton and Versteeg, 2016; Wallace, 2019; Chilton, 2014). Current domestic practices have been implemented—or at least remained unopposed—under the conservative Liberal Democratic Party, which has been in government for 61 out of the last 65 years since its founding in 1955. This can generate two complementary effects. First, respondents who support the LDP may be more conservative, and

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<sup>9</sup> Respondents chose from a five-point Likert scale. We consider people who answered “Close to A”, “Relatively close to A”, or “Neither” as having high trust, and people who answered either “Relatively close to B” or “Close to B” as having low trust. We included people who answered “Neither is close” in the high category to balance the number of observations in each group.

<sup>10</sup> Respondents chose from a four-point Likert scale. We consider people who answered either “Very proud” or “Proud” as having high pride, and people who answered “Not proud” and “Not proud at all” as having low pride.

<sup>11</sup> Respondents chose from a six-point Likert scale. We consider people who answered either “Strongly agree,” “Agree,” or “Somewhat agree” as having strong cosmopolitan identity, and people who answered “Somewhat disagree,” “Disagree,” or “Strongly disagree” as having weak cosmopolitan identity.

thus less likely to be swayed by global trends or international laws on ideological grounds. Second, they may be less likely to be swayed by implicit criticism of their favored party, under which these controversial practices were fostered. While we do not aim to disentangle the motivations proxied by partisanship, our survey instrument asked respondents for their favored party. In our analysis, we examine the conditional effect of the treatment on people who support the Liberal Democratic Party (LDP) and those who do not.

### 3.4 Sampling

Our survey experiment was conducted on August 5th–10th, 2020. Respondents were recruited through Nikkei Research, one of the largest survey companies in Japan. We employed quota sampling by age (20-69), gender, and region to match the most recent national census distribution. 3212 respondents participated in the survey, and the final sample size in our analysis, after excluding incomplete or irregular responses, was 2954. We used a block randomization scheme, based on the respondents’ gender (male or not) and party identification (LDP supporters, independents, or other parties). All conditioning variables used in our analysis (trust in international law, Japan’s influence in world politics, identification with global civil society, and party identification) were asked prior to the experimental treatment. This survey experiment was approved by the University of Michigan IRB (Study ID: HUM00175625) and the Research Ethics Committee of the Institute of Social Science, University of Tokyo (Study ID: 19-12). It was also pre-registered with Evidence in Governance and Politics (EGAP; Registration ID 20200821AA), time-stamped on August 2nd, 2020.

## 4 Results

The results of our survey experiment are summarized as follows. First, the constitution treatment about the legal obligations of international law has a stronger effect than the global standards cue. Respondents are more likely to support changes to status quo practices when they are informed that compliance with international law is a constitutional obligation. By contrast, informing respondents that domestic practices are rare among peer countries do not change their opinion at statistically significant levels. In addition, we find heterogeneous treatment effects across items based on prior individual beliefs about the value of international laws generally. Respondents with stronger identification with global civil society, those who view Japan’s influence in world politics lightly, and non-LDP supporters are more likely to be influenced by our treatments.

### 4.1 Average Treatment Effect

Figure 1 shows the difference-in-means estimates of the average treatment effects. The rows correspond to the effects of the International Law treatment (top), Constitution treatment (middle),

and Standards treatment (bottom). The columns correspond to our dependent variables: (1) three mixed-surname marriage items: **self**, **other**, **system**, (b) two whaling-related items: **whaling**, **meat**, (c) **hate speech**, and (d) **death penalty**. The raw distribution of the responses in the control group is shown in Figure A.1 of Appendix A.1. The survey questions translated in English are in Appendix A.2.

The main finding is that the International Law (IntLaw hereafter) and Constitution treatments have significant effects on some items, while the Standards treatment is not significant on any. Specifically, the IntLaw treatment has a statistically significant positive effect on the hate speech item at the 5% level, though the lower bound of the confidence interval is only slightly above zero. The Constitution treatment has significant effects on two items: the legalization of mixed-surname marriage and the prohibition of whaling. Regarding the hate speech item, we cannot reject the null hypothesis of no effect, though the difference between the IntLaw and Constitution treatments is almost negligible. However, the Standards treatment does not have any effects significantly different from zero on any of the items, though all point estimates are either positive or very close to zero, which is the expected direction.

The most important implication of these results is that information about treaty violations can nudge public opinion to favor domestic reforms, particularly when respondents are told that the constitution obliges compliance. By contrast, respondents are not sensitive to information about standard practices in peer countries. This implies that legal obligations, not global standards, is the key mechanism through which international law influences public opinion.

We can also draw interesting inferences from variations in treatment effects across items. Overall, none of the three treatments has a statistically significant effect on preferences about one’s own or others’ choices about surnames, the consumption of whale meat, or the death penalty. Conversely, one or more treatments cause changes in attitudes about the legal regulation of marriage surnames, whaling, and hate speech. Although we did not have a prior theory to explain variations across dependent variables, the literature on Japanese politics and society points to some plausible explanations. For instance, the difference among the three surname items can be explained by the strength of prior preferences. It is reasonable to think that people have strong opinions about whether they themselves would like to change their surname upon marriage. They may also have beliefs about whether this practice enhances familial harmony and social cohesion, based on observations of their relatives and friends. However, the question of whether this should be legally mandatory is thornier, and people may have weaker priors about whether the state should be able to use its powers to enforce this decision on all citizens. Among the two whaling-related items, the difference between whaling and whale meat is consistent with Catalinac and Chan (2005), which argues that the latter has become identified with an essential element of Japanese culture. That said, the positive and significant effect on the ban on whaling is somewhat puzzling, given that Japan withdrew from the IWC in 2019, as noted explicitly in the treatment text.

In order to corroborate our finding that information about constitutional obligations reinforces

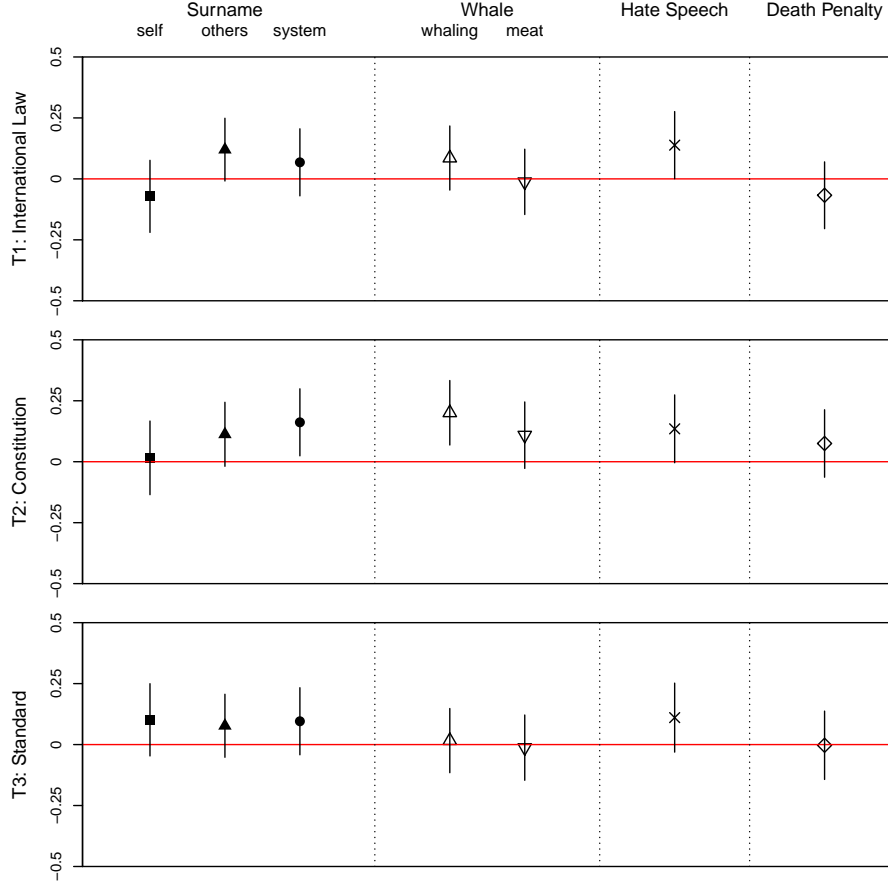


Figure 1: Difference-in-means estimates of the average treatment effect for each treatment and item. The vertical bars denote the 95% confidence intervals. The rows correspond to the effects of the International Law (top), Constitution (middle), and Standards (bottom) treatments. The columns correspond to status quo practices: (a) three mixed-surname marriage items: **self**, **other**, **system**; (b) two whaling-related items: **whaling**, **meat**; (c) **hate speech**; (d) **death penalty**. The dependent variables range from 1 to 6 (Strongly disagree, Disagree, Somewhat disagree, Somewhat agree, Agree, Strongly agree). The International Law and Constitution treatments have significant effects on some items, while the Standards treatment does not have any significant effects.

the effects of international law, Figure 2 shows the difference-in-means between the Constitution and IntLaw treatment effects on four selected issues. On the two topics in which we asked multiple questions, we selected the policy-level choice of mixed-surname marriages and the ban on whaling (not on whale meat). The hate speech and death penalty items were preserved as is. We find that all point estimates are either positive or close to zero, and the positive effect on the death penalty item is significantly different from zero. Although not all items show statistically significant difference, these results support the argument that the additional constitutional cue can strengthen the effects of information about international law violations.

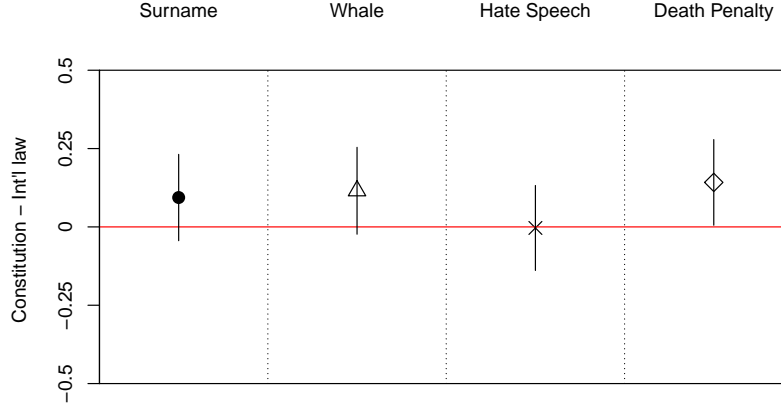


Figure 2: The additional effect of informing respondents of the constitutional obligation to comply with international law. The estimates are computed by difference-in-means. The vertical bars show the 95% confidence intervals. We select four items: system-level choice of mixed-surname marriage, whaling, hate speech, and death penalty (from left to right). The point estimates are either positive or zero, although only the death penalty item shows a statistically significant effect.

## 4.2 Heterogeneous effect

It is plausible that respondents' underlying sentiments about law and politics may moderate their sensitivity to our treatments. In this section, we explore the conditional effects of information about international law violations on four dimensions: 1) trust in international law, 2) Japan's perceived influence in world politics, 3) identification with global civil society, and 4) party identification. Existing studies have not inquired consistently about these prior beliefs, which are directly related to how respondents perceive and value compliance with international laws. Overall, we find that people with stronger identification with global civil society, people who view Japan's influence in world politics lightly, and non-LDP supporters are more likely to change their opinions when shown the treatments.

Figure 3 shows the estimated difference between the Constitution and International Law treatments based on respondents' baseline trust in international law. For each item, the left error bar is the effect among people with high trust in international law; the right bar is for people with low trust. Our expectation was that the additional constitutional emphasis would have a stronger effect on those with low trust, as those with high trust may change their opinions even with relatively weaker nudges. However, we do not find clear differences between these two subgroups, except for on the whaling item. Those with high trust in international laws are more likely to support a prohibition on whaling when informed of the constitutional obligation, compared to those with low trust. This is a surprising result, as we explicitly informed respondents that Japan had already withdrawn from the IWC.

Figure 4 shows the treatment effects conditional on respondents' pride in Japan's international



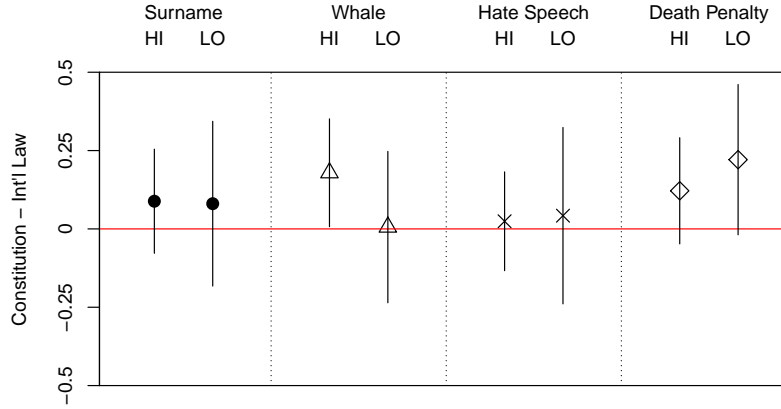


Figure 3: The additional effect of the Constitution treatment, conditional on respondents’ views of international law. Estimates are computed by difference-in-means. Vertical bars denote 95% confidence intervals. For each item, the left (right) bar shows the conditional treatment effect on people with higher (lower) trust in international law. We could not identify a consistent pattern between people with high versus lower trust.

stature.<sup>12</sup> Overall, the treatment effects are stronger on people in the “low” category than in the “high” category. Among those who view Japan’s influence lightly, the Constitution treatment has positive and significant effects on mixed-surname marriage, whaling, and hate speech. The Standards treatment also has a positive and significant effect on the marriage item among this subgroup. Conversely, we do not find any significant treatment effects among respondents who view Japan’s influence highly. The stronger effects among those with low pride may due to their desire to elevate Japan’s international status by adhering to standard practices in peer countries. Interestingly, there is also some evidence of backlash against international pressure. On the mixed-surname item, the Standards treatment has a negative—though not significant—effect on those who view Japan’s influence in the world highly. We do not find similar patterns in either the IntLaw or Constitution groups. Previous studies conducted in non-U.S. contexts report similar backlash effects (Chapman and Chaudoin, 2020; Lupu and Wallace, 2019; Cope and Crabtree, 2020). Our results suggest that such backlash may be caused by information about global standards rather than about legal obligations.

Figure 5 shows conditional treatment effects based on the respondents’ identification with global civil society. Previous studies suggest that cosmopolitan identity is an important factor in compliance with international law (Bayram, 2017). Our survey instrument asked respondents whether they identified as “a citizen of the world” on a 1 to 4 scale, which we then dichotomized.<sup>13</sup> Our results confirm those from earlier research: people with stronger identification with global society are more likely to be influenced by the treatments. In particular, the IntLaw treatment has a significant and positive effect on the hate speech item, and the Constitution treatment has

<sup>12</sup> This survey item was taken from International Social Survey Programme (ISSP Research Group, 2015).

<sup>13</sup> This survey item was taken from World Value Survey (Inglehart et al., 2014).

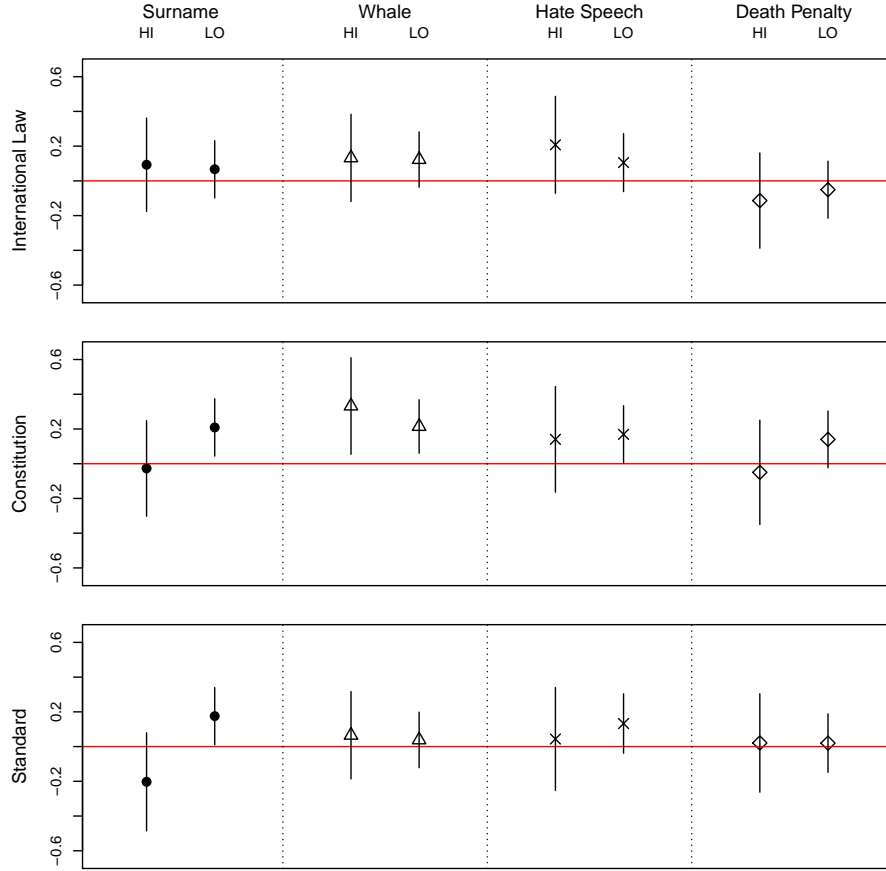


Figure 4: Difference-in-means estimates of the treatment effects conditional on perceptions of Japan’s influence in world politics. Vertical bars denote the 95% confidence intervals. For each item, the left (right) bar shows the conditional treatment effect among people with higher (lower) pride in Japan’s international influence. People who view Japan’s influence in the world politics lightly are more likely to be influenced by the treatments.

significant and positive effects on the mixed-surname, whaling, and hate speech items.

Figure 6 shows the treatment effects conditional on party identification. This dimension is widely explored in the literature, particularly in the American context. To the extent that individuals sort into parties based on ideological leanings and/or take policy cues from party elites, we can expect variation in treatment effects by partisanship. The “LDP” column indicates the treatment effect among supporters of the conservative Liberal Democratic Party, while the “Other” column includes all other respondents. While none of the treatments has significant effects on LDP partisans, there are some notable patterns among non-LDP supporters. The IntLaw treatment has positive and significant effects on non-LDP supporters on the hate speech item, and the Constitution treatment has positive and significant effects on mixed-surname marriage and whaling. The stronger effect among non-LDP respondents is consistent with previous survey experiments in the United States, which found that liberals are more likely to change their opinions when shown information about treaty violations (Wallace, 2013). In the Japanese context, our results can be

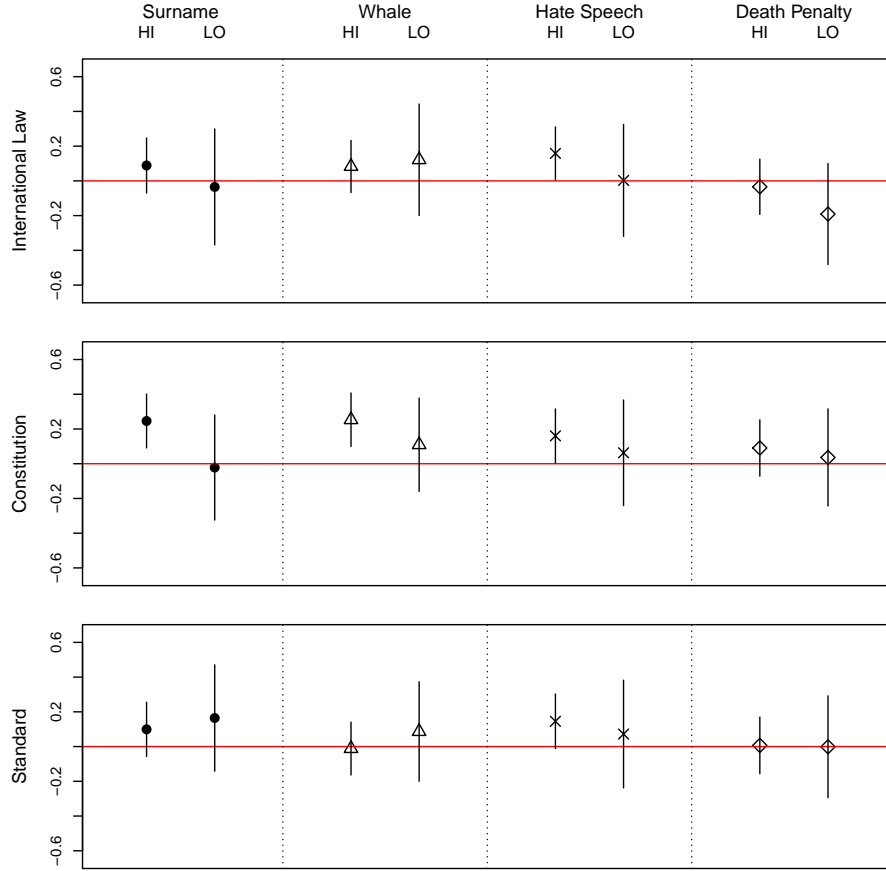


Figure 5: Difference-in-means estimates of the treatment effects conditional on identification with global civil society. Vertical bars show the 95% confidence intervals. For each item, the left (right) bar shows the conditional treatment effect among people with higher (lower) identification with global civil society. People with stronger identification with global society are more likely to be influenced by the treatments.

interpreted in two ways. First, LDP supporters are more likely to be conservative, and thus may be less amenable to liberal policy changes such as the legalization of mixed-surname marriages or penalization of hate speech. Second, LDP supporters may oppose significant changes to the status quo to avoid cognitive dissonance, given that current policies were established or tacitly accepted by the long-ruling LDP. In either case, the Constitution treatment makes even LDP supporters more likely to support liberal policy changes on the items except for the death penalty, though the estimates are not statistically significant. As the governing party, the LDP has blocked the proposals of these policy reforms, but our results suggest that its supporters may be susceptible to pro-revision arguments based on the state's legal obligations.

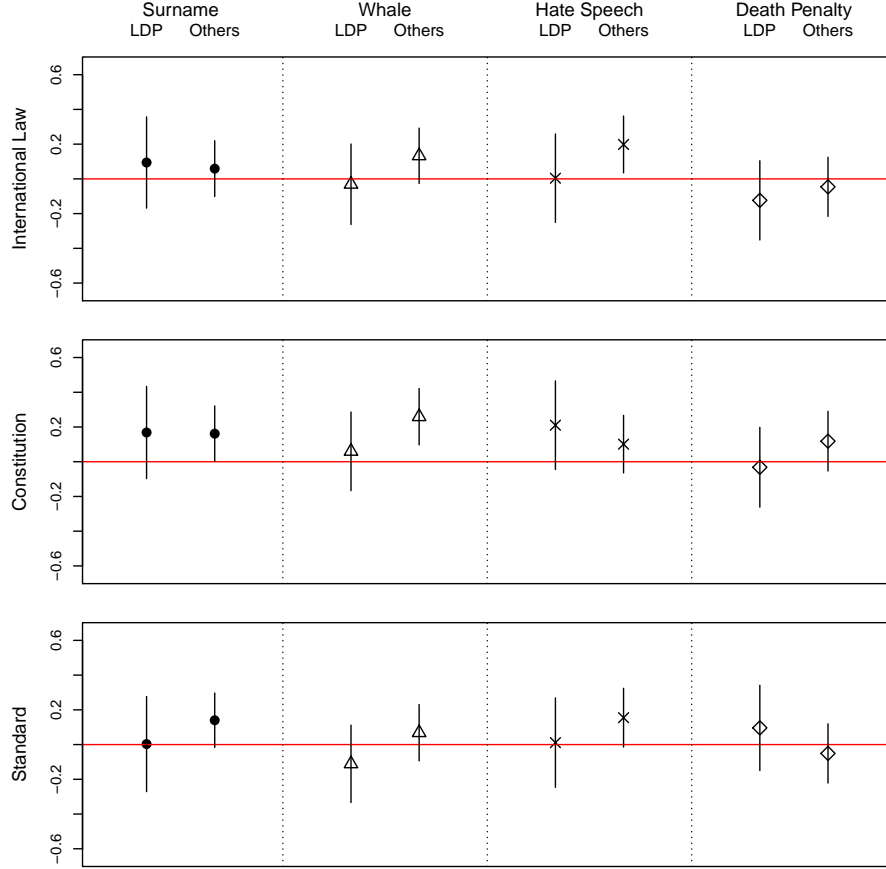


Figure 6: Difference-in-means estimates of the treatment effects conditional on partisanship. Vertical bars show the 95% confidence intervals. For each item, the left (right) bar shows the conditional treatment effect among LDP (non-LDP) partisans. Non-LDP supporters are more likely to be influenced by the treatments than LDP supporters.

## 5 Concluding Remarks

The determinants of state compliance with international law is a long-standing debate in international relations. Recent studies have focused on domestic mechanisms through which governments can be pressured to change their policies to conform with international laws. This paper examined the motivations of individual voters for such policy changes, since public opinion in favor of compliance is implicitly or explicitly assumed to underlie the domestic mechanisms. Our experiment showed that Japanese citizens prefer policies that are compliant with international laws, not because they think international laws reflect global standards, but because they think the government should abide by legally binding commitments. Our treatment emphasizing the government's constitutional obligation to comply with international law makes respondents more supportive of changes to current policies that violate international treaties. This effect is stronger among those who have a low opinion of Japan's international influence, identify themselves with global civil society, and do not support the long-governing conservative party. At least in the Japanese

context, voters do not necessarily want to follow global standards, but do want to honor their government's legal commitments.

As is the case with any other studies, ours is not without limitations. First, our study is not an exception among existing experimental studies on public attitudes toward international law, in the sense that the survey experiment is conducted within a single country. Although our results confirm U.S.-based findings that citizens generally prefer complying with international law, it is yet to be known whether legally binding commitments are the motivation of the public in the other contexts. To address this question, future research involving similar experiments in other countries is needed.

Second, although we describe common practices in other industrialized countries as “global standards,” there may be other ways to conceptualize or signal global standards. In particular, our experiment deliberately did not specify who—foreign nations, environmental NGOs, expert commissions, and the like—accused Japan of international law violations. Our intention was to identify the pure effect of Japan being described as an outlier, but the Japanese public may react differently depending on who they think is setting “global standards.” It may be useful to consider including different versions of “global standards” in future experiments, particularly when conducted in non-Japanese contexts.

On a final note, unlike some previous experiments in non-US countries, we did not observe a significant backlash against international law. On all items, none of the treatments significantly increase respondents' opposition to compliance with international law. This is true even for whaling. The literature has argued that international pressure has been seen as an attack on Japan's traditional culture, but information that Japanese practices violated international law did not increase support for the status quo. Unfortunately, neither this study nor previous scholarship has further evidence on why domestic publics are sometimes against international law. This is a crucial question that future studies on public attitudes toward international law should address.

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# A Appendix

## A.1 The distribution of response variables in the control group

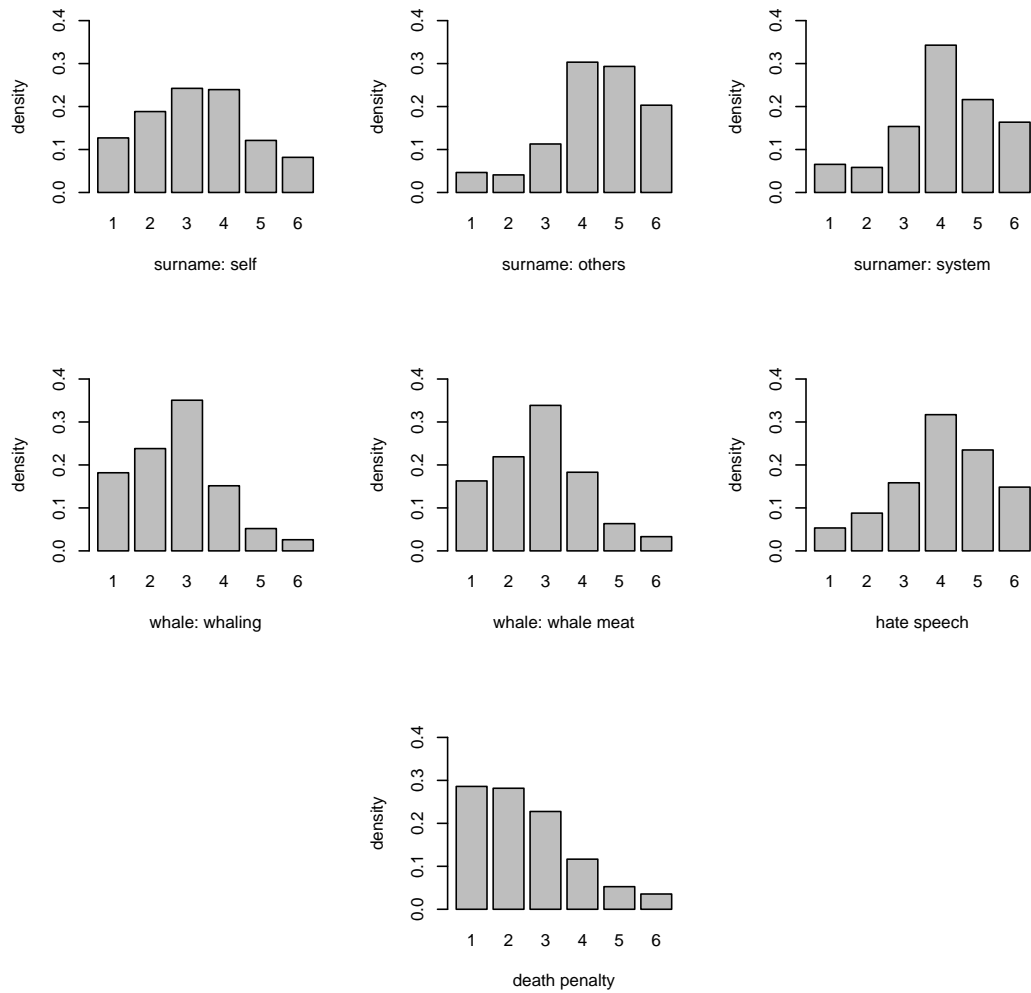


Figure A.1: Baseline distribution of the response variable

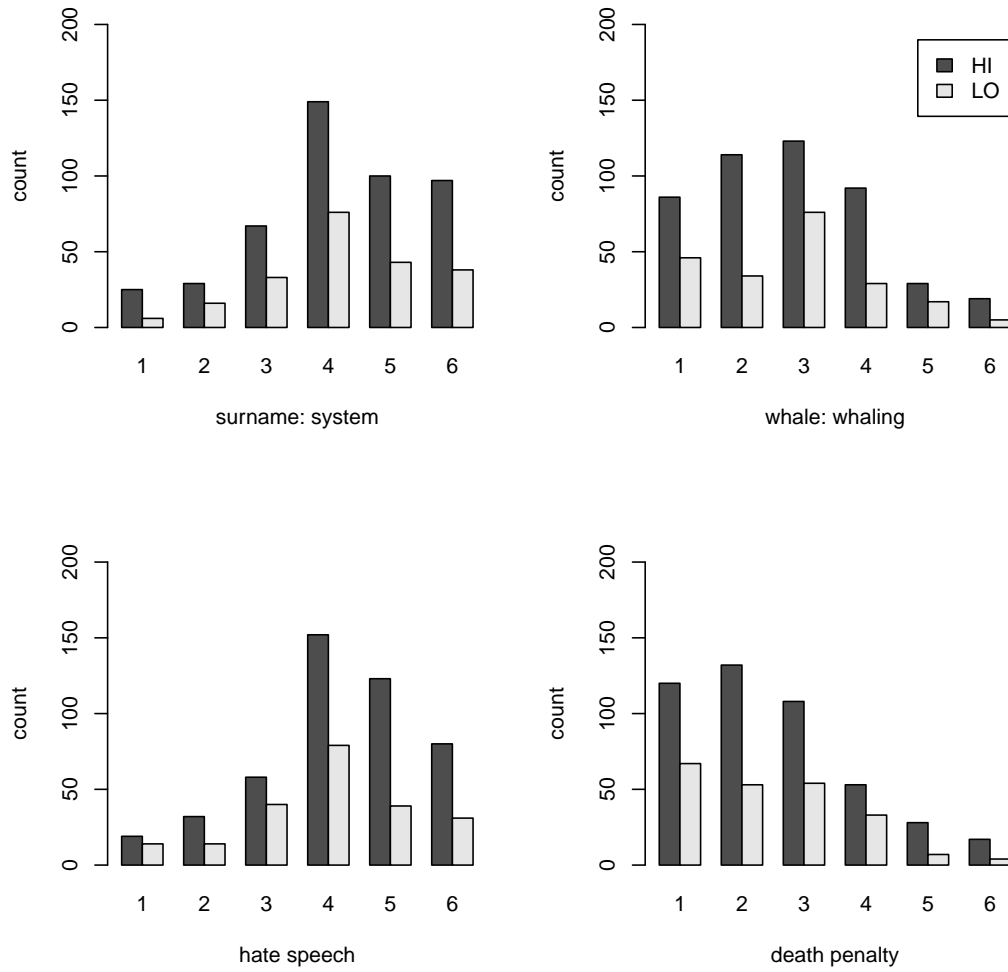


Figure A.2: Baseline distribution of the response variable (By trust in international law)

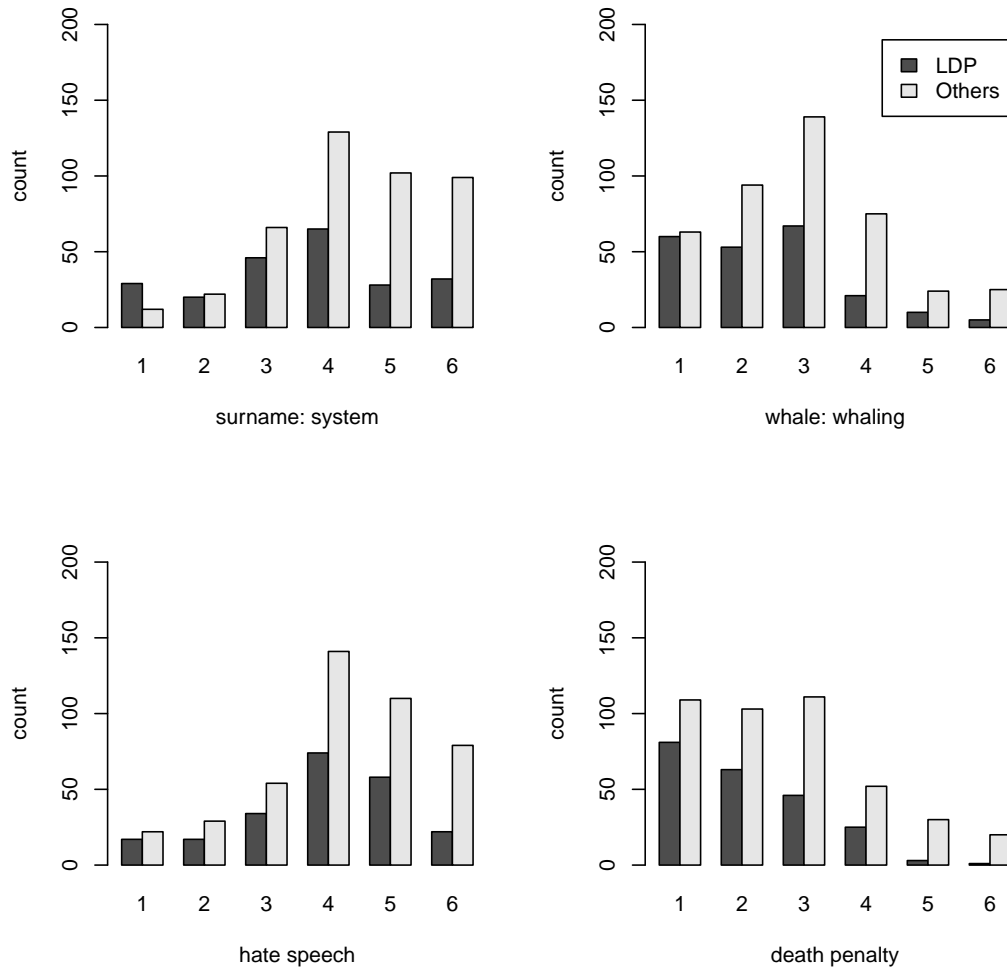


Figure A.3: Baseline distribution of the response variable (By LDP supporter or not)

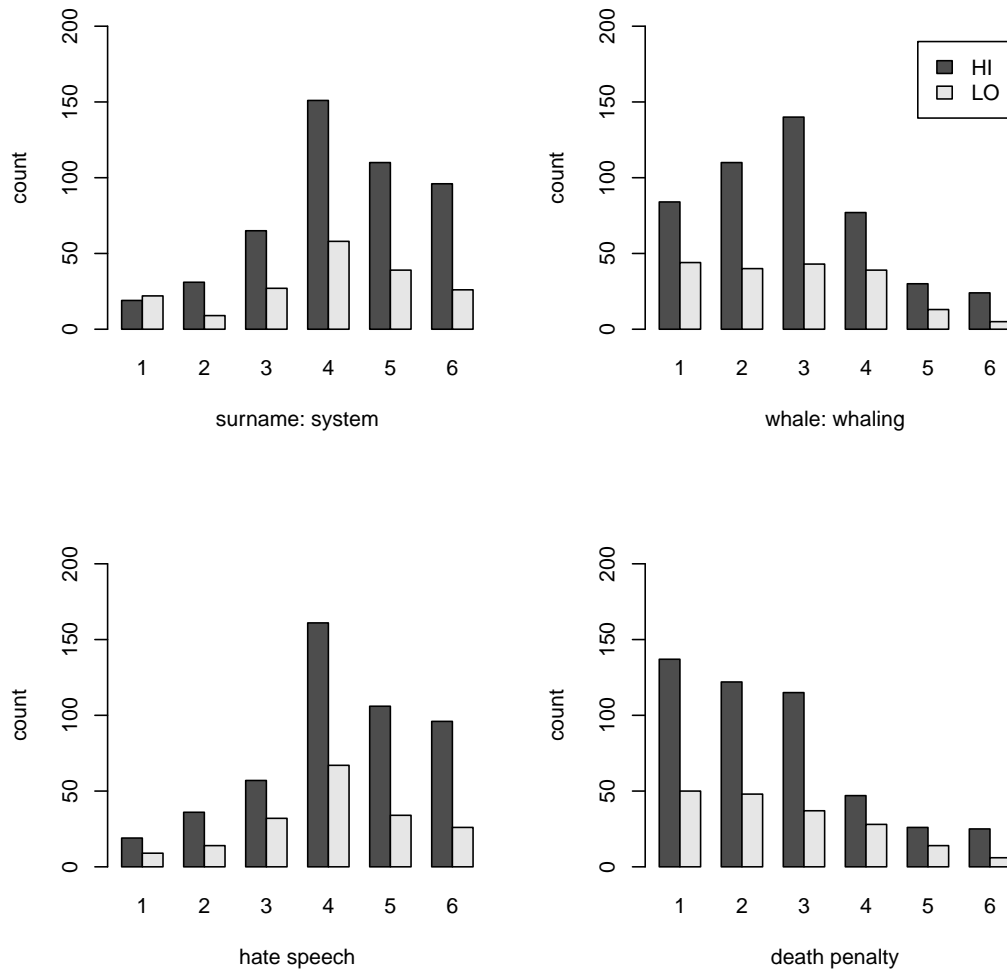


Figure A.4: Baseline distribution of the response variable (By Japan's perceived influence in the world politics)

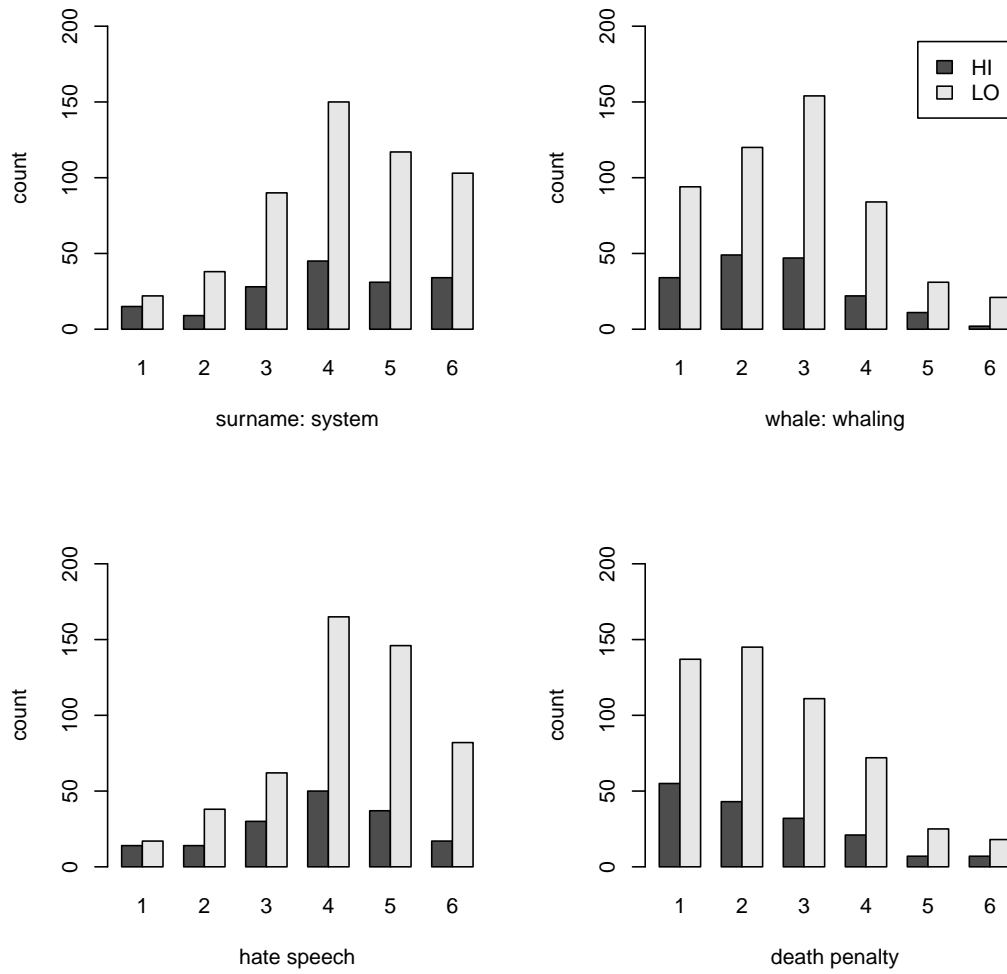


Figure A.5: Baseline distribution of the response variable (By identification with global civil society)

## A.2 Survey Instruments

### A.2.1 Main questions

*Note: The following five questions were subject to randomized treatment assignment. Respondents were randomly assigned into one of the following groups: (1) international law; (2) international law + constitution; (3) global standards; (4) control group. Each group received one of the following treatment statements.*

#### Introduction to the randomized questions

##### (1) International law:

At present, Japan has various systems and customs, some of which are said to be in violation of international law. The following questions ask what you would do when faced with these systems and customs, or what you think the Japanese system should be. There are no correct or wrong answers. Please tell us your honest opinion.

##### (2) International law + constitution

At present, Japan has various systems and customs, some of which are said to be in violation of international law. Japan is a party to various international laws, and Article 98 of the Constitution of Japan states, “The treaties concluded by Japan and established laws of nations shall be faithfully observed.” The following questions ask what you would do when faced with these systems and customs, or what you think the Japanese system should be. There are no correct or wrong answers. Please tell us your honest opinion.

##### (3) Global Standards

At present, Japan has various systems and customs, some of which are rare among the OECD countries. The following questions ask what you would do when faced with these systems and customs, or what you think the Japanese system should be. There are no correct or wrong answers. Please tell us your honest opinion.

##### (4) Control

At present, Japan has various systems and customs. The following questions ask what you would do when faced with these systems and customs, or what you think the Japanese system should be. There are no correct or wrong answers. Please tell us your honest opinion.

#### Randomized Question 1: Marriage

In Japan today, married couples must use the same surname.

##### (1) International law

However, this system is said to be in violation of the “Convention on the Elimination of All Forms of Discrimination against Women” of which Japan is a member.

(2) International law + constitution

Despite the fact that the Constitution of Japan stipulates the obligation to observe international treaties, this system is said to be in violation of the “Convention on the Elimination of All Forms of Discrimination against Women” of which Japan is a member.

(3) Global Standards

However, more than 80% of OECD countries do not have such a system.

(4) Control

(Nothing)

Do you agree or disagree with the following opinion? Please choose one of the following options. *Strongly agree, Agree, Somewhat agree, Somewhat disagree, Disagree, Strongly disagree, Do not want to answer.*

(1) You want to have a different family name from your husband or wife.

(2) Other people should be able to choose different family names if they want.

(3) Japan should introduce a system that allows married couples to have different family names.

## Randomized Question 2: Whaling

Japan has a culture and history of whaling, and whaling is still practiced in some areas.

(1) International law

However, Japanese whaling was said to violate the “International Convention for the Regulation of Whaling.” Japan withdrew from the International Convention for the Regulation of Whaling last year.

(2) International law + constitution

Despite the fact that the Constitution of Japan stipulates the obligation to observe international treaties, Japanese whaling was said to violate the “International Convention for the Regulation of Whaling.” Japan withdrew from the International Convention for the Regulation of Whaling last year.

(3) Global standards

However, more than 80% of OECD countries do not engage in whaling.

(4) Control

(Nothing)

Do you agree or disagree with the following opinion? Please choose one of the following options. *Strongly agree, Agree, Somewhat agree, Somewhat disagree, Disagree, Strongly disagree, Do not want to answer.*



- (1) Japan should stop whaling.
- (2) Japan should regulate the sale of whale meat.

### **Randomized Question 3: Hate speech**

Hate speech is a problem in Japan now. Hate speech is biased words and deeds that encourage to expel or harm a person or a group of people from Japanese society solely because the person or the group are from or are descendants of a particular country.

- (1) International law

The “International Convention on the Elimination of All Forms of Racial Discrimination,” of which Japan is a member, prohibits hate speech.

- (2) International law + constitution

The Constitution of Japan stipulates the obligation to observe international treaties, and the “International Convention on the Elimination of All Forms of Racial Discrimination,” of which Japan is a member, prohibits hate speech.

- (3) Global standards

More than 80% of OECD countries regulate and penalize hate speech.

- (4) Control

(Nothing)

Do you agree or disagree with the following opinion? Please choose one of the following options. *Strongly agree, Agree, Somewhat agree, Somewhat disagree, Disagree, Strongly disagree, Do not want to answer.*

- (1) The government should regulate hate speech by imposing penalties.

### **Randomized Question 4: Death penalty**

Japan currently has the death penalty.

- (1) International law

However, it is said that the death penalty in Japan violates the “International Covenant on Civil and Political Rights.”

- (2) International law + constitution

Despite the fact that the Constitution of Japan stipulates the obligation to observe international treaties, it is said that the death penalty in Japan violates the “International Covenant on Civil and Political Rights.”

(3) Global standards

However, more than 80% of OECD countries do not have the death penalty.

(4) Control (Nothing)

Do you agree or disagree with the following opinion? Please choose one of the following options. *Strongly agree, Agree, Somewhat agree, Somewhat disagree, Disagree, Strongly disagree, Do not want to answer.*

(1) Japan should abolish the death penalty.

### **A.2.2 Questions about individual attitudes towards international law and politics**

#### **Trust in international law**

There are two ways of thinking about international treaties and international law. Which of the following statements is closer to your opinion? Please choose from the following options.

*Close to A, Relatively close to A, Neither is close, Relatively close to B, Close to B, Do not know / Do not want to answer.*

A: International treaties and international law are legal norms that should be observed by countries around the world, and Japan should also observe them faithfully.

B: The contents of international treaties and international law depend on the preferences of major powers, so it is not necessary to observe them.

#### **Perceived Japan's influence in the world**

How proud are you of the following? Please choose from the following options.

*Very proud, Somewhat proud, Somewhat not proud, Not proud at all, Do not know / Do not want to answer.*

(1) Japan's political influence in the world

#### **Identification with global civil society**

Different people have different senses of belonging to different groups. How much do you agree or disagree with each of the following opinions?

*Close to A, Relatively close to A, Neither is close, Relatively close to B, Close to B, Do not know / Do not want to answer.*

(1) I feel that I am a citizen of the world.

#### **Party identification**

Many people think, "In the long run, I am pro-XX party." Of course it is possible to vote for other parties in the short term, but in the long run, can you say, "I am pro-XX party"? Please choose one party from the following.