

**Laidlaw Scholars Undergraduate Leadership and Research
Programme**
Research Report

**What Political, Legal or Social Factors Within a Country Promote
Governmental Respect for Human Rights?**

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Introduction:

In the news, there is never a shortage of reporting about violence and conflict somewhere in the world. More often than not, this reporting decries governmental repression and violations of human rights as the source of this violence and conflict. It is evident, however, that some governments bolster more respect for human rights than other governments. Especially with so many different organizations, collectives and societies focused on enforcing respect for human rights, the questions stand as to why different states respect human rights more than others and what factors are in place that promote or dissuade governmental respect for human rights. This paper tries to answer that question. When approaching this topic, this paper grounds itself in the works of other scholars, namely Wade M. Cole¹, James M. McCormick and Neil J. Mitchell² and Steven C. Poe and C. Neal Tate³ to understand past developments and discoveries in this field. This research seeks to consider what factors may contribute to enforcing governmental respect for human rights on an international basis?

In order to answer this question, three hypotheses will be tested to determine what can make a difference in influencing governmental respect for human rights. The International Criminal Court, domestic civil society and conflict severity are going to be analyzed within the context of Albania and Israel to determine whether they can explain the differing Physical Integrity Rights index in each country. For the purpose of this paper, the countries of Albania and Israel have been chosen because of their similar historical and political features but differing human rights records. These two countries will be examined through three hypotheses to gain a better insight into what factors might encourage governmental respect for human rights. The goal of this paper is to investigate human rights in a previously unexamined context in order to offer insight as to how to proceed in the fight to uphold respect for human rights internationally.

In analyzing the three hypotheses, this paper will come to the conclusion that, of the three hypotheses, only conflict severity has a significant impact on governmental respect for human rights with the correlation being that with an increase in conflict severity comes a decrease in respect for human rights. When it comes to the International Criminal Court, the evidence shows that there is the possibility that it can be effective in deterring human rights violations, but that the laws put in place by the Rome Statute don't have as big of an effect of respect for human rights as was hypothesized. The same was found for

¹ Wade M. Cole, "Mind the Gap: State Capacity and the Implementation of Human Rights Treaties." *International Organization* 69, no. 2 (2015): 405–41. <https://doi.org/10.1017/S002081831400040X>.

² James M. McCormick, and Neil J. Mitchell. "Human Rights Violations, Umbrella Concepts, and Empirical Analysis." *World Politics* 49, no. 4 (1997): 510–25. <https://doi.org/10.1017/S0043887100008030>.

³ Steven C. Poe, and C. Neal Tate. "Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis." *American Political Science Review* 88, no. 4 (1994): 853–72. <https://doi.org/10.2307/2082712>.

domestic civil society and NGOs where they have the possibility to be effective but because of corruption in Albania and a rejection of any ideas against the governmental agenda in Israel, they aren't able to have as big of an effect as was hypothesized.

Methodology:

Many studies have already been done looking into what factors contribute to a country's respect for human rights. One of the most prominent of these studies is the article *Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis* published by Steven C. Poe and C. Neal Tate in 1994. In this article, Poe and Tate sought to identify factors that would explain the variation in governmental repression of human rights to personal integrity.⁴ Through empirical testing, they found that the factors that most significantly affected human rights in a country were democracy and participation in civil or international war. To a lesser degree, it was also found that economic development and population size as well as leftist regime types affected the level of repression within a country. This study seeks to further the work done by Poe and Tate and other researchers by asking the question of what other factors present within a country could have an impact on their repression of human rights to personal integrity? This article takes a more nuanced view of the subject researched by Poe and Tate to look at more specific and modern cases.

In order to consider the question of what causes changes in human rights practices in a country, it was necessary to identify what countries this study is going to focus on, what human rights indexes will be used as indicators and what factors will be looked at as influences on human rights.

There are many standards by which human rights can be operationalized and judged. For the purposes of this study, the human rights index that was chosen is the Physical Integrity Rights (PIR) index from the CIRI Human Rights Data Project.⁵ This index measures a government's respect for human rights based on four combined metrics; torture, extrajudicial killings, political imprisonment and disappearances. The CIRI data covers the period between 1981-2011 and measures respect for human rights based on a scale of 0-8 where 0 indicates no government respect for human rights and 8 indicates full government respect for human rights.

Having selected an index by which to measure the performance of a country, it was then necessary to identify what factors are going to be tested to see if they have had an effect on a government's repression of human rights to personal integrity. Given the fact that Poe and Tate already identified democracy, participation in civil or international war, economic development, population size and leftist regime as influential factors, this study is going to look beyond that and identify other possible factors. In considering important developments in international relations and politics since Poe and Tate in 1994, this research will be testing the following three factors to determine whether they could have an impact on human rights: the presence of the International Criminal Court, the impact of local NGOs and activists,

⁴ Poe and Tate, "Repression of Human Rights to Personal Integrity in the 1980s," 853

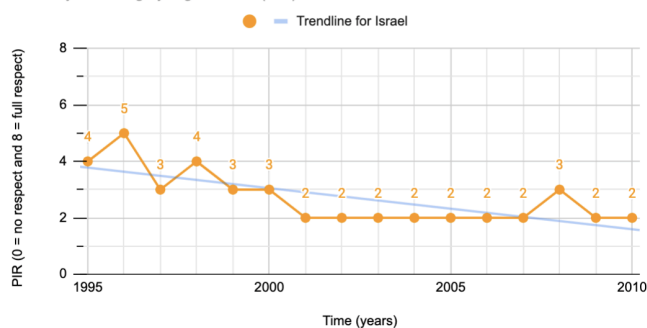
⁵ "CIRI Human Rights Data Project," Human Rights Data, last modified November 29, 2021, <http://www.humanrightsdata.com/>.

and the severity of internal conflict within a state. These factors were chosen based on recent events that have put into question the power international legal institutions and domestic civil society have over governments.

In order to be able to properly test these variables, the two most important Poe and Tate variables must be controlled. As such two countries were chosen that had, as closely as possible, the same standing for each of the Poe and Tate factors and yet had vastly different scores in the CIRI Physical Integrity Rights (PIR) index. This suggests that there is more to the picture than the Poe and Tate factors. It was also important to pick two countries where one had agreed to the jurisdiction of the International Criminal Court and the other hadn't in order to be able to isolate the impact of the ICC on a country's human rights score. This study will focus on two countries because of limitations on time and resources. Based on this criteria, Israel and Albania were chosen. Israel and Albania, during the time period of 1995-2010, scored vastly differently in the PIR index. Israel's PIR trends downwards (*Fig 1*) during the time period, starting at 4 in 1995 and going down to 2 in 2010.⁶ Albania performs the opposite (*Fig 2*), trending upwards during the time period, also starting at 4 in 1995 but ending up at 7 in 2010.⁷ However, while they might score vastly differently in the CIRI PIR index, both countries are similar when it comes to the two most important Poe and Tate factors. The period of 1995-2010 was chosen because it encompasses a period before and after the creation of the ICC, within which important events happened in each country and recent enough to be germane but not too recent so as to be still developing.

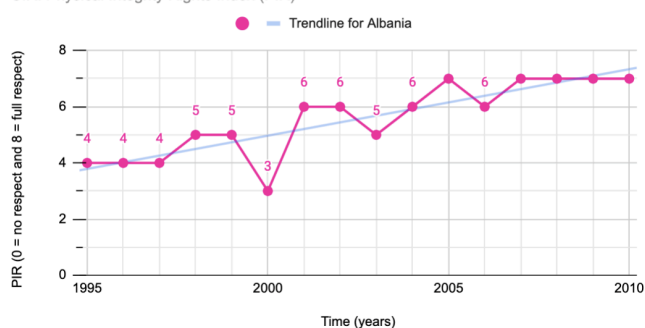
Israel

CIRI Physical Integrity Rights Index (PIR)



Albania

CIRI Physical Integrity Rights Index (PIR)



On the first Poe and Tate metric, democracy, according to the Integrated Network for Social Conflict Research (INSCR) State Fragility Index, both Albania and Israel are classified as institutionalized democracies, scoring 6 or higher on the POLITY scale.⁸ Thus both countries have open, multi-partied, competitive elections where a chief executive is chosen for a position that faces “comprehensive

⁶ Cingranelli, David L., David L. Richards, and K. Chad Clay. 2014. “The CIRI Human Rights Dataset.” <http://www.humanrightsdata.com>. Version 2014.04.14.

⁷ Ibid.

⁸ Integrated Network for Societal Conflict Research, “State Fragility Index and Matrix,” *Center for Systemic Peace*, (2018), <http://www.systemicpeace.org/inscr/SFImatrix2018c.pdf>.

institutional constraints” (POLITY).⁹ On the second Poe and Tate metric, participation in civil or international war, the INSCR State Fragility Index also states that both Israel and Albania have been involved in one or more major armed conflicts during the 1995-2010 period. This is further confirmed by the Center for Systemic Peace Major Episodes of Political Violence which claims that both countries have been involved in an episode of political violence during the time period.¹⁰ While the other three less impactful Poe and Tate factors were taken into account during the case selection process, their impact was either deemed negligible in the case of Albania and Israel, or it proved unable to factor them into the equation in a way that controlled the two most important variables.

Hypothesis 1: The International Criminal Court

Background:

Building off of the success of ad hoc international tribunals such as the International Criminal Tribunals for Rwanda and for the former Yugoslavia, the International Criminal Court (ICC) was designed to be a permanent arbiter for international law. Signed into being by the Rome Statute in 2002, the ICC adjudicates the worst violations of international law: crimes against humanity, war crimes, the crime of aggression and of genocide.¹¹ According to the Rome Statute, the ICC can only prosecute crimes committed by individuals that happened after the court came into power in 2002.¹² By holding individuals responsible for violations of international and humanitarian law, the International Criminal Court was designed to end impunity and bring justice to victims of human rights abuses. Underlying this main goal is the secondary function of the ICC: to deter would-be perpetrators from committing such crimes in the future. There are 124 State Parties who have signed onto the Rome Statute since 1998 when the concept of the ICC was first introduced.¹³ In the 22 years that the ICC has been active, it has opened 32 cases and of those 32 cases, 11 individuals have been convicted and 4 have been acquitted.¹⁴

The International Criminal Court does not open an investigation or indict an individual lightly. The ICC jurisdiction to investigate and prosecute violations of international law extends to crimes committed within a State Party, by a citizen of one of the State Parties or by a State that has accepted the jurisdiction of the ICC. In certain scenarios, cases can be referred to the ICC by the UN Security Council whether or not the crimes were committed on the territory of a State Party or not. The International Criminal Court is designed to be a complement to pre-existing national criminal and legal systems as it will only prosecute cases when the States themselves are unwilling or unable to do so themselves. To enter into an

⁹ Our World In Data, “Democracy index,” *Our World In Data*, last updated May 13, 2024, <https://ourworldindata.org/grapher/democracy-index-polity>.

¹⁰ Integrated Network for Societal Conflict Research, “Major Episodes of Political Violence,” *Center for Systemic Peace*, (2020), <https://www.systemicpeace.org/warlist/warlist.htm#>.

¹¹ International Criminal Court, “About the Court,” *International Criminal Court*, accessed August 2, 2024, <https://www.icc-cpi.int/about/the-court>.

¹² International Criminal Court, “The Rome Statute of the International Criminal Court,” *International Criminal Court*, (1998), <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.

¹³ International Criminal Court, “About the Court.”

¹⁴ Ibid.

investigation, the Office of the Prosecutor must decide whether there is sufficient evidence of crimes having been committed at the level of gravity within the ICC jurisdiction.¹⁵ It must also determine whether there are concrete national proceedings that could legitimately prosecute these crimes independently and also whether opening an investigation would serve the best interest of justice and the victims.

Through its investigations, proceedings and sentencing, the ICC relies heavily on the cooperation of the State Parties.¹⁶ Because the International Criminal Court is a legal institution, it does not have the power of enforcement and as such, must defer to State Parties particularly for making arrests, transferring suspects to the ICC detention center, enforcing sentences and freezing assets. Moreover, while the court is not part of the United Nations, it has a cooperation agreement with the UN for case referrals outside of the ICC jurisdiction.

The cooperation and support of the State Parties are integral to the functioning of the ICC. Being a State Party to the Rome Statute means that a State accepts the jurisdiction of the ICC, supports the Court in its legal actions and works to integrate the rules and laws laid out in the Rome Statute into their own national judicial systems. Albania is currently one of the 124 State Parties signed onto the Rome Statute whereas Israel is not. Given this fact and the differing PIR score for each country, the hypothesis is that Albania has a better Physical Integrity Rights score than Israel because of its ratification of the Rome Statute in 1998.

The ICC within Albania:

In order to test this hypothesis, it is important to understand the history of the ICC in each country. Albania signed onto the Rome Statute in 1998 and submitted its instrument of ratification in 2003 in which the State of Albania declared its consent to be bound by the Statute.¹⁷ In accordance with their ratification, Albania also moved to incorporate the rules of the Rome Statute into its own judicial framework.¹⁸ The crime of genocide can be found in the Albanian Criminal Code under Chapter 1 article 73.¹⁹ Crimes against humanity can be found in the Albanian Criminal Code under Chapter 1 article 74.²⁰ War crimes can be found under Chapter 1 article 75²¹ and finally the crime of aggression can be found under Chapter 5 article 211.²² All other requirements under the Rome Statute have been deemed

¹⁵ International Criminal Court, "How the Court works," *International Criminal Court*, accessed August 2, 2024, <https://www.icc-cpi.int/about/how-the-court-works>.

¹⁶ Ibid.

¹⁷ Parliamentarians for Global Action, "Albania and the Rome Statute," *Parliamentarians for Global Action*, accessed August 3, 2024, <https://www.pgaction.org/ilhr/rome-statute/albania.html>.

¹⁸ International Criminal Court Project, "Albania," *International Criminal Court Project*, accessed August 3, 2024, <https://www.aba-icc.org/country/albania/>.

¹⁹ Republic of Albania, "Article 73 - Genocide," *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.

²⁰ Republic of Albania, "Article 74 - Crimes against humanity," *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.

²¹ Republic of Albania, "Article 75 - War crimes," *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.

²² Republic of Albania, "Article 211 - Provocation of war," *Criminal Code of The Republic of Albania*, (1995): 72, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.

self-executing by the Albanian government meaning that they will take effect immediately without the need for implementing further legislation.²³ The ICC has never opened an investigation in the State of Albania and Albania has thus far been in complete compliance with the mandate of the Rome Statute. It is important to note, however, that Albania has ratified the “agreement between the Republic of Albania and the USA for the surrender of persons to the International Criminal Court” and agreed to never surrender an American individual located on Albanian territory to the ICC without the express consent of the American government.²⁴ In a document sent to the International Criminal Court by the Embassy of the Republic of Albania outlining its dedication to and promotion of the “ratification and full implementation of the Rome Statute”, it claimed that the agreement with the US does not violate the scope and purpose of the International Criminal Court.²⁵

The ICC within Israel:

As stated above, Israel is not a State Party to the Rome Statute and is thus not directly subject to the jurisdiction of the ICC. Though Israel played an integral part in the negotiations that led to the creation of the Rome Statute, it did not end up signing. The main reason for the refusal by the Israeli government to sign the Rome Statute was because of the inclusion of clause (viii) in the Rome Statute under the section War Crimes.²⁶ This clause makes a crime “the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory.”²⁷ Israelis objected to this clause claiming that it misused and misinterpreted the Geneva Convention and would be used by State Parties to specifically prosecute them for actions in the West Bank.²⁸ Moreover, the fact that the USA opposed the Rome Statute and did not become a signatory played a role in the eventual Israeli decision as they are strong allies. Even though Israel is not a State Party of the ICC, there are many instances in the Israeli Penal Code of laws that mirror the ones written into the Rome Statute. For example, the crime of genocide is punishable under Israeli law through law No. 5710-1950²⁹ as well as the crime of war which is punishable under Article 2-98.³⁰

Deterrent effects of the ICC:

In coming to understand the history of the ICC and its impact or lack thereof, it is clear that the International Criminal Court has great potential when it comes to ending impunity and encouraging

²³ Parliamentarians for Global Action, “Albania and the Rome Statute.”

²⁴ The Embassy of the Republic of Albania, “Information on International Criminal Court (ICC) in regard to full implementation of the Rome Statute,” *The Republic of Albania*, (2012): 6, https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP11/ICC-ASP11-POA-2012-ALB-ENG.pdf.

²⁵ Ibid.

²⁶ American Jewish Community, “What You Need to Know About the ICC and the Israel-Hamas War,” *Global Voices*, accessed August 2, 2024. <https://www.ajc.org/news/what-you-need-to-know-about-the-icc-and-the-israel-hamas-war>.

²⁷ International Criminal Court, “Rome Statute.”

²⁸ American Jewish Community, “What You Need to Know About the ICC and the Israel-Hamas War.”

²⁹ The State of Israel, “Penal Law,” *The State of Israel*, (1997): 18

<https://www.icj.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf>.

³⁰ The State of Israel, “Penal Law,” *The State of Israel*, (1997): 40

<https://www.icj.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf>.

governmental respect for international and humanitarian law. But does it actually fulfill its mandate and enforce its codified human rights? Can the International Criminal Court deter violations of international law? The research in this chapter starts from the expectation that if the ICC was successful in its mandate, then there would be a direct link between its influence in Albania and a better Physical Integrity Rights score for that country. The opposite would also be true where its lack of influence in Israel would lead to a worse PIR score. As such, the hypothesis is that Albania has a better Physical Integrity Rights score than Israel because of its signing of the Rome Statute in 1998.

Given the mandate of the International Criminal Court, its first function as an international institution is to be remedial. It serves to provide legal guidelines and solutions for specific criminal activities as outlined in its legal framework. As such, the intent is that the more cases that the court successfully prosecutes and the more criminals that are brought to justice, the more the court will be able to create a deterrent effect, which is the second part of the ICC mandate. Spyros Economides in his article *The International Criminal Court: Reforming the Politics of International Justice* thus concludes that “the power of the Court and the cooperation of the signatory states could result in the formation of a fear of the court and a deterrent against violations of its legal ambit.”³¹ In the paper *Can the International Criminal Court Deter Atrocity?*, Hyeran Jo and Beth A. Simmons outline prosecutorial deterrence as an effect of the ICC and define it as the “direct consequence of legal punishment: it holds when potential perpetrators reduce or avoid law-breaking for fear of being tried or officially punished.”³² This form of deterrence works through the threat of anticipated legal or court ordered punishment. Jo and Simmons believe that people are “increasingly likely to be deterred from violating the law when the chances and severity of legal sanctions [...] increases.”³³ Arbitrary and unenforceable laws will not deter people from violating human rights. This exact criticism is levied against human rights treaties by Oona A. Hathaway in the article *Do Human Rights Treaties Make a Difference?*³⁴

Hathaway deduces that, in general, human rights treaties aren't effective because “countries that take the relatively costless step of treaty ratification may thereby offset pressure for costly changes in policies.”³⁵ She believes that human rights treaties don't make a difference on a global scale because countries have little incentive to comply with and uphold the mandates of the treaties. She quotes Louis Henkin, influential legal professional, in saying that “the forces that induce compliance with other law (...) do not pertain equally to the law of human rights.”³⁶ While this is an important criticism to levy against the broader systems of human rights protection, it is clear that the framework of the ICC addresses, in part, this criticism. The shortfall of the ICC cannot be that it does not enforce compliance on the part of signatories because the very nature of being a signatory means that a state has to adopt the laws and rules of the Rome Statute into their own national judicial systems. As such, not only does the ICC have the

³¹ Economides, Spyros. “The International Criminal Court: Reforming the Politics of International Justice.” *Government and Opposition* 38, no. 1 (2003): 43. <http://www.jstor.org/stable/44483015>.

³² Jo, Hyeran, and Beth A. Simmons. “Can the International Criminal Court Deter Atrocity?” *International Organization* 70, no. 3 (2016): 444. <http://www.jstor.org/stable/24758127>.

³³ Jo, Hyeran, and Beth A. Simmons. “Can the International Criminal Court Deter Atrocity?” 446.

³⁴ Oona A. Hathaway, “Do Human Rights Treaties Make a Difference?” *Yale Law Journal* 111, No 02-03, (2002). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=311359.

³⁵ *Ibid.* 1941.

³⁶ *Ibid.* 1938.

potential to deter individuals from violating its laws, it is also able to fulfill the first part of its mandate because, by proxy, it is able to enforce compliance by making it so that a state and its individuals must be compliant to its own laws. The question then becomes, are these laws effective and is the ICC successful in their enforcement?

The Efficacy of Rome Statute laws:

In his paper *The Efficacy Condition*, author Thomas Adams believes that legal rights, such as those defined under the Universal Declaration of Human Rights, can only exist in the context of a working legal system.³⁷ The efficacy of the laws within a legal system determine the limits of that system. As such, for the ICC to be effective, it is crucial that, among other things, the laws it mandates implemented in signatory states be effective in of themselves. Adams claims that the effectiveness of a law can be determined either by “submission to their requirements on the part of the law subjects or by the enforcement of the courts.”³⁸ A law is not ineffective if it is not used as it still serves the purpose of deterring individuals (prosecutorial deterrence) from violating it. It is when a law is not followed that it loses its efficacy. Adams concludes that a legal system can be effective if most of its laws are either obeyed, enforced or otherwise stand capable of being enforced.³⁹ As such, while the ICC itself has no police force or enforcement body to back the Rome Statute, the signatory countries do. Therefore, according to this definition of efficacy, the legal system of the International Criminal Court can be effective because the State Parties are able to enforce the ICC doctrine within their own nations. The laws against genocide, war crimes, aggression and crimes against humanity within signatory states are obeyed, enforced, or otherwise stand capable of being enforced. In having concluded that the legal system of the ICC has the potential to be effective, it is now a question of whether or not it has an effect. Does the legal system have an effect on the Physical Integrity Rights score of Albania? It has already been determined that it has the potential to because it has been proven effective, but that does not mean that it is able to have an effect on the PIR score.

Rome Statute laws in Israel:

To operationalize the question of whether the legal system of the ICC has an effect on the PIR score of Albania, it becomes important to look at the case of Israel where the legal system of the ICC is not present. Even though the ICC is not present in Israel, parts of the Israeli Penal Code mirror a lot of what the ICC is trying to enforce. As mentioned above, both genocide and the crime of war are represented in the Israeli Penal code while other individual clauses of the Rome Statute definition of the crime of aggression and crime against humanity can be seen throughout the Code too. If the presence of ICC adjacent laws in Israel still leads to the country having a bad PIR score, then it calls into question whether the legal system of the ICC could have as big of an effect as hypothesized. What effect do those laws have on the good PIR score of Albania if similar laws are present in Israel who has a bad PIR score? Moreover, in the document sent to the ICC by the Embassy of the Republic of Albania, it states that there has never

³⁷ Thomas Adams, “The Efficacy Condition,” *Legal Theory*, (2019): <https://ssrn.com/abstract=3610005>

³⁸ *Ibid.* 12.

³⁹ *Ibid.*

been a case where Albania has had to enforce any of the Rome Statute laws. While Adams points out that this does not render them ineffective, it still raises questions as to what effect they could have on the human rights record of Albania if they have never had to be used.

In conclusion, the ICC has the ability to be effective and the potential to deter individuals from violating international law because of the law's enforceability, but that does not mean it has as big of an effect as was hypothesized. As shown above, the ICC has the ability, through the cooperation of the State Parties, to enforce international law within its jurisdiction. As Jo and Simmons conclude, the more likely an individual is to be punished for violating the laws, the less likely they are to violate them. The ICC serves as a “watchdog” and, therefore, has the ability to deter individuals from committing crimes.⁴⁰ However, this does not in and of itself lead to a correlation between the ICC and a better PIR score. When it comes to the first mandate of the ICC, enforcing international law through trying and prosecuting individuals for violations, it might not have as significant of an effect on the PIR score of Albania and Israel as previously hypothesized. While some evidence points to the fact that the ICC can have an impact on human rights respect through direct and active investigations, the ICC has never been implicated in such a way in Albania or Israel and as such, it is hard to say whether or not it has had an effect on a country's respect for human rights as charted by PIR. It must then be something else that promotes a country's respect for human rights which leads into the second hypothesis.

Hypothesis 2: Domestic Civil Society

Background:

Non governmental organizations (NGOs) have existed in many different forms for centuries, long before the term NGO was coined in the 1940s. As the name would suggest, an NGO is an organization unaffiliated with the government that brings together individuals with a similar goal. This goal is generally to influence public policy, locally, nationally or internationally, and to provide public services and support to a community.⁴¹ Most NGOs are not-for-profit, meaning that they don't earn any sort of profit from their work. While typically NGOs are not government affiliated as they seek to critique and improve the government, there are cases when the two can be interdependent. For example, in some cases, NGOs can receive financial support from governments and can be politically affiliated with them⁴².

The history of NGO activism goes back to at least the early nineteenth century when there was a need to fill the void that was created between the voice of the people and the actions of the government. In many of the early examples of NGO appearance such as the Red Cross in Geneva in 1863 and later on, the International Council of Women and Rotary International, there is the common thread of working to promote humanitarianist causes beyond the borders of one's own nation.⁴³ After WW2, the United Nations

⁴⁰ Bousian, Mark. “No Place to Hide.” *The World Today* 56, no. 8/9 (2000): 37–39.
<http://www.jstor.org/stable/40476838>.

⁴¹ Ryan Irwin, “Non-governmental Organizations,” *History Faculty Scholarship*, (2015).
https://scholarsarchive.library.albany.edu/cgi/viewcontent.cgi?article=1025&context=history_fac_scholar.

⁴² Ibid.

⁴³ Ibid.

codified the name of NGOs and their role in the space between individuals, nations and the international community. According to the Global Journal, there are currently more than 10 million active NGOs working around the world, with at least 1.4 million of those being based in the USA alone.⁴⁴

NGOs are one of the many elements of the broader idea of civil society. Civil society, including domestic civil society, is a term that encompasses a broad range of non-governmental organizations, non-profit organizations and also volunteer driven organizations as well as social movements where people mobilize to enforce and protect shared values within the public sphere.⁴⁵ According to Boris DeWeil and his work *A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx*, modern civil society is characterized by 3 factors: “its autonomy from the state, its interdependence with the state, and the pluralism of values, ideals and ways of life embodied in its institutions.”⁴⁶ Civil society contributes to its community in many ways: from acting as a broker in situations of conflict, to advocating, educating and providing basic services, resources and social protection.⁴⁷ The emergence of global civil society arose out of a destabilization in the international community caused by globalization threatening the link between territorial nation-state and democracy.⁴⁸ Nowadays, both domestic and global civil society play an integral role in advancing social movements, bringing perspectives to light and bridging gaps between the government and its people.

It is certain that civil societies have been very active, particularly within this century where globalization has made it easier to connect with others and mobilize for a cause. One of the main questions debated amongst academics is what impact does civil society, and in particular NGOs, have on the protection of human rights? Given the immense potential of civil society, the hypothesis is that Albania has a better Physical Integrity Rights score than Israel because of a more prolific presence of active domestic civil society, particularly NGOs, within the country. This hypothesis rests upon the assumption that the more active NGOs are with a country, the more respect that country would have for human rights. The opposite would also be true. To be able to test this hypothesis, it is first important to establish a link between domestic civil society, NGO activity and a better human rights score.

NGOs and respect for human rights:

Writing in 2010 about the role of NGOs in the enforcement of human rights, Vaibhav Goel writes about how over the past decades, the exponential growth of NGO presence in civil society has led them to

⁴⁴ International Social Service USA, “Non-governmental Organizations,” *International Social Service*, accessed August 1, 2024.

<https://www.iss-usa.org/international-social-service-celebrates-world-ngo-day-2019/#:~:text=According%20to%20The%20Global%20Journal,formed%20United%20Nations%20in%201945>.

⁴⁵ Global Affairs Canada, “Canada’s Policy for Civil Society Partnerships for International Assistance – A Feminist Approach,” *Government of Canada*, accessed August 1, 2024.

https://www.international.gc.ca/world-monde/issues_developpement-enjeux_developpement/priorities-priorites/civil_policy-politique_civile.aspx?lang=eng.

⁴⁶ Boris DeWeil, “A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx,” *Past Imperfect* 6, 3 (1997). <https://journals.library.ualberta.ca/pi/index.php/pi/article/download/1422/963/4577>.

⁴⁷ Ibid.

⁴⁸ Ibid.

develop a distinct and important role within both national and international spheres.⁴⁹ In his article *The Role of NGOs in the Enforcement of Human Rights*, he claims that without the active role of NGOs, the greater human rights system, specifically the one established by the United Nations, would not be able to function in the same capacity as it is able to.⁵⁰ The Council of Europe identifies a couple distinct areas where NGOs are able to influence the process of governmental decision making and encourage respect for human rights: direct humanitarian assistance, investigations and information collection, lobbying and advocacy and human rights education and awareness.⁵¹ Each of these contributions, Goel believes, can have a big impact on pressuring the “government to build a culture of rights and encourage the enforcement of human rights both at the national and internal level.”⁵² However, there are some growing concerns for the hypocrisy within the actual NGOs themselves where, according to an article published by McGill University, there is a “human rights vacuum where non-state actors are not held responsible for respecting human rights.”⁵³

Even though there are many ways in which NGOs have the potential to influence governmental respect for human rights, Goel points out that the capacity of an NGO to influence its government is directly linked to the legal freedoms and rights that are present within a nation. What often limits the ability of an NGO to lobby is the existence of a hostile political environment within a state and a lack of democratic political and legal pathways for advocacy. As such, having established that NGOs have the ability to influence their governments respect for human rights, it is important to identify, within Albania and Israel, whether there exist the freedom and the pathways through which NGOs can advocate. Is there an active domestic civil society within each country and are the political and legal systems of both countries accessible to civil society in a way that allows them to have an influence on human rights? In answering this question, it will become clear whether or not, within Albania and Israel, NGOs have the power to influence their governments’ respect for human rights which will in turn prove or disprove the hypothesis.

Israeli domestic civil society:

To begin to understand the impacts of domestic civil society within each country, it is important to establish what the domestic civil society looks like in each case. According to many different sources, Israel has a larger NGO per capita rate than Albania does.^{54 55} For many decades, Israel has had a very active and prolific domestic civil society. More recently, however, a divide has been born with the State of

⁴⁹ Goel, Vaibhav, and Manoj Kr. Tripathi. “THE ROLE OF NGOs IN THE ENFORCEMENT OF HUMAN RIGHTS: An Overview.” *The Indian Journal of Political Science* 71, no. 3 (2010): 769–93. <http://www.jstor.org/stable/42748408>.

⁵⁰ Ibid.

⁵¹ Council of Europe, “Human Rights Activism and the Role of NGOs,” *Council of Europe*, accessed August 1, 2024. <https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos#:~:text=In%20addition%20to%20demonstrations%20of,as%20in%20the%20story%20below>.

⁵² Goel, Vaibhav, and Manoj Kr. Tripathi. “THE ROLE OF NGOs IN THE ENFORCEMENT OF HUMAN RIGHTS: An Overview.” 769

⁵³ Noam Schimmel, “Preaching Without Practicing: Legal Accountability for NGOs to Respect Human Rights,” *Center for Human Rights and Legal Pluralism*, (2019). <https://www.mcgill.ca/humanrights/article/70th-anniversary-universal-declaration-human-rights/preaching-without-practicing-legal-accountability-ngos-respect-human-rights>.

⁵⁴ Global Giving Atlas, “List of NGOs in Israel,” *Global Giving Atlas*, accessed August 1, 2024. <https://www.globalgiving.org/atlas/country/israel/>

⁵⁵ Worldwide NGO directory, “NGOs in Israel”, *WANGO*, accessed August 1, 2024. <https://www.wango.org/resources.aspx?section=ngodir&sub=list®ionID=0>

Israel and the broader international community around the legitimacy of NGOs within Israel and the ethical implications of the Israeli government and foreign governments in the work of human rights organizations.

On one side of the argument, critics claim that many human rights NGOs, that have been active since the late 1990s, have been propagating an anti-semitic sentiment by attempting to delegitimize Israel and pushing the narrative of civilian massacres and war crimes within Palestinian territory.⁵⁶ The Jerusalem Center for Public Affairs claims that since the Durban NGO Forum in 2001 “through Jenin, Goldstone, the ICC, and other examples, a combination of major international NGOs and local NGOs based in Israel and the Palestinian Authority worked closely with the Palestinian leadership in promoting political warfare targeting Israel.”⁵⁷ This source believes that much of the foreign funding received by NGOs within Israel have promoted the Palestinian position and created many obstacles within the negotiation process for peace.⁵⁸ This would suggest that within Israel, NGO activity could be linked to creating a more hostile environment.

However, arguments from the other side claim that recent Israeli action has been promoting the rise of a “conservative national social force” at the loss of the “humanist camp represented by human rights organizations.”⁵⁹ According to an article published by the German Institute for International and Security Affairs, there has been a rise of conservative nationalist civil society organizations, who receive a lot of support from prominent people within the Israeli government.⁶⁰ These conservative organizations have been promoting aggressive political and social media campaigns against different human rights organizations, especially ones defending the rights of Palestinians in the West Bank and the Gaza Strip.⁶¹ The human rights organizations point to the creation of one law in particular created by Israeli officials that targeted NGOs receiving a substantial amount of foreign aid and inhibiting them from completing a lot of their work within the region. The Foreign Agents Registration Act requires that any organization receiving a substantial amount of funds from foreign agents must register themselves and disclose all funding that they are receiving.⁶² The European Parliament held a debate on the subject of this law in 2010 and many parliamentarians expressed the concern that this law would impede upon the democratic structures within Israel.⁶³ Even the USA, steadfast ally to Israel, expressed worry over this law claiming that it could pose a threat to a “free and functioning civil society.”⁶⁴ Regardless of which side of this argument is correct, the claims above raise questions as to the free and democratic nature of Israeli civil society.

⁵⁶Gerald m. Steingberg, “The Role of NGOs in the Palestinian Political War Against Israel,” *Jerusalem Center for Security and Foreign Affairs*, accessed August 1, 2024.

https://jcpa.org/overview_palestinian_manipulation/role_of_ngos_in_the_palestinian-political_war/.

⁵⁷ Ibid.

⁵⁸ Ibid.

⁵⁹ Amal Jamal, “The Rise of ‘Bad Civil Society’ in Israel,” *German Institute for International and Security Affairs*, (2018). https://www.swp-berlin.org/publications/products/comments/2018C02_jamal.pdf.

⁶⁰ Ibid.

⁶¹ Ibid.

⁶² JTA, “US rejects likening Israel’s NGO law to lobbying registry,” *The Times of Israel*, (2016): <https://www.timesofisrael.com/us-rejects-likening-israels-ngo-law-to-lobbying-registry/>.

⁶³ European Parliament, “Draft Bill of Israel NGOs (debate),” *European Parliament*, (2010) https://www.europarl.europa.eu/doceo/document/CRE-7-2010-09-08-ITM-012_EN.html.

⁶⁴ JTA, “US rejects likening Israel’s NGO law to lobbying registry.”

Israeli legal systems:

In looking more specifically at the legal structures that regulate NGOs within Israel, the first thing that stands out is the existence of a “low standing” in the Israeli legal system makes petitioning the government on actions and policies very accessible.⁶⁵ What low standing means is that any Israeli citizen “may ask that the Court block apparently illegal government action, even when that citizen is not personally affected by the challenged action”.⁶⁶ Thus the Court must review all enacted government policy on the sole basis that someone objected to it. This is important because it gives NGOs and civil society the ability to petition the government over any action they deem important to them, giving them a loud voice within the state. Moreover, an article published by the International Center for Not-For-Profit Law found that an increasing amount of local NGO funding coming from the Israeli government meant that NGOs gained more freedoms.⁶⁷ From just 1995 to 1998, Israeli funding for NGOs went up from 2.6 billion NIS (1999 value), to 4.04 billion NIS.⁶⁸ This funding allowed for NGOs to take on a more active role in civil society which in turn generated a lot of community support for their actions. However, one of the resulting pitfalls that this article mentions is that the increased NGO freedom left the government unable to enforce its normal regulatory capabilities, and thus the accountability of NGO and their management practices decreased.⁶⁹ The fact that some NGOs received a lot of government funding and were not held to high standards of regulations while NGOs with foreign investments needed to declare the amount of funding received, as was seen above, created an unstable environment for the work of NGOs and domestic civil society. The ability for an NGO to function with Israel largely comes down to whether or not its mission is in line with the border governmental agenda.⁷⁰ Even though Israel has a stable and strong democratic and legal system, there exists a bias on behalf of the Israeli government against foreign NGOs that are perceived to be working against the government. As such, it can be concluded that, within the state of Israel, NGOs have the potential to have an impact on the government but because of systemic bias against foreign NGOs and ones that have a mission counter to governmental actions, the ability of these NGOs to influence the government's respect for human rights is limited. Whether it is justified or not, the Israeli government has taken action to protect its national interest against the interest of foreign NGOs and other actors within civil society.

Albanian domestic civil society:

Contrary to Israel, Albanian civil society has not always been as active. Starting in 1944, Albania was ruled by a xenophobic communist regime that held power for 46 years until it collapsed in the early

⁶⁵ Yonatan Green, “The Peculiar Case of the Israeli Legal System,” *The Federalist Review* 24, (2023):<https://fedsoc.org/fedsoc-review/the-peculiar-case-of-the-israeli-legal-system>.

⁶⁶ Ibid.

⁶⁷ Nitza Machmias, “The Government of Israel’s Control of NGOs: Legal Dilemmas and Structural Constraints,” *The International Journal of Not-for-Profit Law* 3, (2000): <https://www.icnl.org/resources/research/ijnl/the-government-of-israels-control-of-ngos-legal-dilemmas-and-structural-constraints>.

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Amal Jamal, “The Rise of ‘Bad Civil Society’ in Israel.”

1990s. After its collapse, an era of democracy was ushered in that came with no shortage of instability, poverty, high unemployment and corruption.⁷¹ Before the communist regime, Albania civil society had mainly been characterized by the presence of a few elites who would use their money and fame to contribute to the development of the country. This all dwindled, however, during the communist regime where basic human rights and freedoms, such as the right to free speech, were limited.⁷² This impeded upon an already small and not very active civil society. It wasn't until after the fall of the regime that civil movements such as demonstrations and workers strikes began to appear. Even with the establishment of a multi-party democracy in the early 1990s, Albania was unprepared for the development of an active civil society and community of NGOs.⁷³ The modern conception of Albanian civil society spans only two decades and is characterized by the appearance of human rights and women's NGOs, associations and new think tanks. It is estimated that 49% of what is now considered Albania's NGO core was established in the period between 1997 and 2001.⁷⁴

This new found period of freedom and relative prosperity would not last. Because of how new this sector of society was it remained very unstable. This instability was only exacerbated by the collapse of a fraudulent pyramid scheme in 1997 which cost thousands of Albanais their savings and by over 1 million Kosovars who were forced to take refuge in Albania because of the war.⁷⁵ Albanian civil society struggled to remain active throughout this time. What's more, after 2005, a growing trend emerged. Civil society actors began to transition into politics which brought into question the delineation between politics and civil society. These blurred boundaries negatively affected civil society as big NGO financial supporters redirected their funding into politics, effectively crippling the size and geographical impact of an already unstable NGO and civil society presence. This might suggest that, given the fragility and relative inactivity of civil society and NGOs during this period, it is unlikely that they would have had much of an effect on the human rights score of the Albanian government.⁷⁶

Albanian legal system:

Looking further, however, the Albanian government has recently made some positive efforts towards improving the legal code surrounding civil society and the activity of NGOs. In October of 2007, the Council of Ministers established a new budget allocation in the State Budget "for the support of Civil Society". This budget was coupled by a new law approved by the Albanian Parliament in 2009 called the law "on the organization and functioning of the civil society support agency".⁷⁷ A broader international initiative to strengthen Albanian civil society culminated in the wide consultation and approval of the Civil Society Charter in 2009. This Charter, among other things, established the Albanian Agency for the Support of Civil Society which is in charge of allocating funding for local NGOs. Despite these positive developments, the main criticism still remains of deep rooted corruption within Albanian government and

⁷¹ BBC News, "Albania profile - Timeline," *BBC*, 2022, <https://www.bbc.com/news/world-europe-17681099>.

⁷² Gjergji Vurmo, "Civil Society Index for Albania," *CIVICUS*, 2010:

https://www.civicus.org/images/stories/csi/csi_phase2/csi%20albania%20acr_eng.pdf.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ BBC News, "Albania profile - Timeline."

⁷⁶ Gjergji Vurmo, "Civil Society Index for Albania."

⁷⁷ *Ibid.*

civil society itself that impeded the development and activity of a free and active society.⁷⁸ The study done by the CIVICUS found that within the civil society sector, 38.3% of respondents reported that corruption was happening frequently and 26.7% declared that it was happening occasionally.⁷⁹ Moreover, according to a study done by the UNDP on access to justice in Albania, the level of trust that citizens have in their government is really low.⁸⁰ This shows that corruption in Albania is high and that efforts to quell corruption might not yet be as successful as necessary. Corruption exists in many different forms within the country: from bribing public officials, purchasing positions within office, to the discriminatory application of laws and taxes against competitors.⁸¹ Such evidence points to the conclusion that NGOs within Albania might not have as big of an impact on the positive human rights score of the country because of a generally weak and largely inactive civil society and because of the presence of corruption within legal and governmental systems that impede upon the the functioning of a free and democratic society.

In conclusion, having examined civil society within the context of Albania and Israel, the hypothesis has been disproven. It does not appear to be the case that Albania has a better Physical Integrity Rights score than Israel because of a more prolific civil society. Within Albania, evidence does not suggest a link between a better human rights score and an active NGO body as civil society is generally not very active and corruption impedes upon the free and democratic functioning of society. In Israel, the case is different but the conclusion is the same. NGOs have the potential to have an impact on the governments respect for human rights but because of systemic bias against foreign NGOs and NGOs having a mission counter to governmental objectives, the ability of these NGOs to influence the government's respect for human rights is limited. This conclusion brings us to the next hypothesis that, if not for the presence of civil society within both countries, then there must be another reason as to the differing Physical Integrity Rights scores.

Hypothesis 3: Conflict severity hypothesis:

Background:

The most clearly understood application of international human rights law concerns the day to day lives of civilians. Human rights are unalienable and everyone should be able to enjoy the freedoms that come with the codified right to life, to a fair trial, to be free from torture or degrading treatment, and to go about their life without the barrier of discrimination. These rights are explicitly stated within international human rights law which, among other things, identifies State obligations to not only refrain from violating the rights of their citizens, but to actively work to promote and protect the rights and freedoms of

⁷⁸ Ibid.

⁷⁹ Ibid.

⁸⁰ Sinisa Milatovic, "Survey on Access to Justice in Albania," *United Nations Development Programme*, 2017: https://www.undp.org/sites/g/files/zskgke326/files/migration/al/FINAL_DRAFT_SURVEY_EN.pdf.

⁸¹ Ibid.

individuals and of groups⁸². The case of human rights law applies in situations of peace and of war. International humanitarian law on the other hand, is a branch of international law that applies specifically to situations of armed conflict as it seeks to protect civilians from the direct effects of such a conflict⁸³. In looking specifically at armed conflict, international humanitarian law aims at both limiting the amount of violence and in regulating the treatment of all people affected by armed conflict. In this way, humanitarian law seeks to strike a balance between humanitarian needs and military necessity. These different areas of international law are not mutually exclusive and the application of one does not cancel out the application of the other. In fact, they should be seen as complementary sources of information concerning the obligations of states towards their people.⁸⁴

The reason why these two branches of international law are important is because they outline what human rights states cannot derogate (cannot limit or downplay), and what ones can be limited in times of conflict. Non-derogable laws apply at all times and include the right to life, right to be free from subjugation to torture or cruelty, the right to be free from inhuman or degrading treatment, the right to a fair trial and the right to be free from discrimination. These rights are enforceable at all times but a State, in a situation which threatens the life of the nation, has the right under human rights law provisions, to limit certain rights pertaining to its population. These rights include freedom of movement, the right to liberty and security and freedom of association (...). The State can suspend these rights only during a public emergency and only to the “extent strictly required by the demands of the situation.”⁸⁵ Moreover, this Covenant sets out the requirement that limitation of rights must only be done in accordance with State obligation under international law and cannot involve discrimination of any kind on grounds of race, sex, gender, language, religion or social origin.⁸⁶

In the last couple of decades, armed conflict has and continues to affect the lives of millions of people all around the world. These conflicts bring with them serious violations of international human rights law and international humanitarian law.⁸⁷ While these bodies of law do allow for lawful derogation of rights in times of public emergency, most situations of armed conflict impose upon civilians unlawful and unjust violations of human rights. It is undoubted that participation in armed conflict affects a government's respect of human rights with respect to its own people and the people it is fighting against. The question, however, remains whether or not the severity of an armed conflict will affect the extent to which a government respects human rights? Will the severity of the conflict change the degree of respect a government has for human rights? In looking specifically at the case of Albania and Israel, the hypothesis is that Albania has a better Physical Integrity Index score than Israel because of the less severe nature of the conflicts it has been involved in between 1995-2010.

⁸² Office of the High Commissioner for Human Rights, “INTERNATIONAL LEGAL PROTECTION OF HUMAN RIGHTS IN ARMED CONFLICT,” *United Nations Human Rights*, (2011): https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ United Nations General Assembly, “International Covenant on Civil and Political Rights,” *Office of the High Commissioner for Human Rights*, Article 4-1, (1996): <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

⁸⁶ Ibid.

⁸⁷ Office of the High Commissioner for Human Rights, “INTERNATIONAL LEGAL PROTECTION OF HUMAN RIGHTS IN ARMED CONFLICT.”

Conflict history in Albania 1995-2010:

Before exploring how the severity of the conflicts in which the two different countries participated affected government respect for human rights, it is first important to explore the history and nature of the conflicts in both cases. Looking first at Albania, between the years of 1995-2010, the State was involved in two different conflicts, the first directly and the second one by proxy. Starting in 1996 and lasting until the end of 1997, Albania suffered from high levels of civil violence due to the crash of a pyramid scheme whose liabilities amounted to almost half of the country's GDP.⁸⁸ It was estimated that around two thirds of the Albanian population was invested in this pyramid scheme.⁸⁹ Its power and scale is attributed to the recent collapse of the communist regime in Albania which led the country to be unfamiliar with financial markets, lacking a strong formal financial system, and developing informal markets, like the pyramid scheme, due to the failures and fragility of the government. Throughout 1996, as the pyramid scheme that had supported millions of Albanians started to collapse, the country began to fall into chaos. By early 1997, uncontained rioting had erupted all over the country.⁹⁰ The Albanian government lost control of the south and an estimated 1 million weapons were stolen from armories as many in the police force and army started to desert. 2000 people were killed in the near civil war conditions after the pyramid scheme collapsed and amid the failing economy, the government was forced to resign and declare an interim coalition government to take their place.⁹¹ It was only when the dust started to settle in 1998 that Albania was hit again by destabilizing factors as millions of Kosovar refugees crossed over the border into Albania trying to escape from the conflict in their home country. This by proxy involvement in the Kosovo War further destabilized the country as its already fragile economy was dragged down by millions of refugees seeking asylum.⁹²

In response to the civilian uprising and concerning levels of violence, Sali Berisha, Albania's then President, started clamping down on the press and arrested many leaders of civilian protest and organized groups.⁹³ He continued his harsh measures by denying attempts to form a coalition government and to hold new elections. On March 2nd 1997, Berisha went so far as to declare a state of emergency, giving police and government troops the ability to shoot any civilian rioter on site.⁹⁴ His attempts to stabilize the situation violated the human rights of millions of Albanians and caused even more violence and unrest as thousands of state troops and police defected from their ranks to join the anti-government movement. It wasn't until the apprehensive intervention of the international community, namely the European Union and the Organization for Security and Cooperation in Europe, that the situation started to calm down and stability and democracy were restored in Albania.⁹⁵

⁸⁸ Paul Kubicek, "Albania's collapse and reconstruction," *Perceptions: Journal of International Affairs* 3, No.1, (1998): <https://dergipark.org.tr/tr/download/article-file/817177>.

⁸⁹ Ibid.

⁹⁰ Christopher Jarvis, "Rise and Fall of Albania's Pyramid Schemes," *Finance and Development* 37, No.1, (2000): <https://www.imf.org/external/pubs/ft/fandd/2000/03/jarvis.htm>.

⁹¹ Ibid.

⁹² Paul Kubicek, "Albania's collapse and reconstruction."

⁹³ Ibid.

⁹⁴ Ibid.

⁹⁵ Ibid.

This armed conflict in Albania, while resulting in the unjustifiable and tragic deaths of 2000 individuals and the violation of the human rights of millions, is relatively low on the scale of magnitude according to the Center for Systemic Peace Major Episodes of Political Violence scale.⁹⁶ It scores a 2 on the magnitude scale that ranges from 1 (smallest effect on society) to 10 (greatest effect on society). This undeniably shows that the extent of the civil and political unrest in Albania during this time was relatively small. Even though the Albanian economy suffered a great deal and many people were affected by the violence that unfolded, the nature of the conflict in Albania was less severe than others. This evidence tends towards supporting the hypothesis that links the less severe nature of the conflict in Albania to a better human rights record than Israel. However, before reaching a definite conclusion, the armed conflict in Israel must be analyzed in order to draw the direct connection between severity of conflict and human rights respect.

Conflict history in Israel 1995-2010:

The Israeli state has long been part of conflict within the region of the middle east. After the second World War, the idea of creating a safe haven for Jewish people where they could live free of persecution came to fruition. In 1947, the United Nations adopted Resolution 181, also known as the Partition plan, which created an Israeli state by dividing previously British ruled territory into Arab and Jewish land.⁹⁷ The creation of the State of Israel sparked the first Arab-Israeli war which Israel won in 1949 but which caused the displacement of 750 000 Palestinians. From this, the territory was split up into 3 separate parts: the State of Israel, the Gaza Strip and the West Bank. Over the following years, tensions rose between Israel, Egypt, Jordan and Syria as multiple wars broke out. Finally in 1979, after many cease-fires and negotiations, Israel and Egypt signed the Camp David Accords which ended three decades of conflict in the region.⁹⁸ Although these accords improved relations between Israel and the neighboring states, the question of independence for Palestinians living in Gaza and the West Bank still remained.

Tension has existed between Israelis and Palestinianans since the creation of the Israeli state after the war. This tension came to its first breaking point in 1987 when hundreds of thousands of Palestinians from Gaza and the West Bank rose up against Israeli authority in what is known as the first intifada. In response to the uprising, the Oslo I Accords were signed in 1993 and then the Oslo II Accords were signed in 1995.⁹⁹ These accords established the Palestinian Authority which was put in charge of governing the West Bank and Gaza. Israel was also asked to withdraw its settlements from the Palestinian territory. During this time, the Palestinian extremist group Hamas was created which opposed the existence of the Israeli state. Hamas tried to sabotage the signing of the Oslo Accords through suicide bombing. Israeli extremists too were not happy with the Oslo Accords and rose up against their government for having

⁹⁶ Integrated Network for Societal Conflict Research, "Major Episodes of Political Violence," *Center for Systemic Peace*, (2020), <https://www.systemicpeace.org/warlist/warlist.htm#>.

⁹⁷ Center for Preventive Action, "Israel-Palestine conflict," *Global Conflict Tracker*, last updated August 15, 2024: <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict>.

⁹⁸ Ibid.

⁹⁹ Ibid.

allowed the Palestinians to keep their land.¹⁰⁰ Violence was used on both sides to try to derail peace agreements between the two people. Eventually, when the second Camp David summit in 2000 failed, Palestinians started to believe that peace was not possible and rose up in a second intifada. This uprising lasted until 2005 and was much more violent than the first one.¹⁰¹ By the time it fizzled out, about 1000 Israelis and 3200 Palestinians had died.¹⁰² The second intifada changed the course of the conflict as the Israeli people started to see Palestinians as aggressors who would never accept peace. In response to Palestinian violence, the Israeli government started construction of a barrier wall around the West Bank.¹⁰³ The Palestinian people started to factionalize as Hamas won the Palestinian Authority elections in 2006, giving the militant extremist group control of the Gaza Strip. The Israeli State responded by building a blockade around the Gaza Strip in 2007.¹⁰⁴ Peace talks had broken down, the people were as divided as ever and violence was frequent and brutal.

In response to the violence and unrest with Israel and the Occupied Territories, Israeli officials bared down upon the rights of Palestinians.¹⁰⁵ The brunt of the limitations comes in the form of the barrier walls and blockades that cut off the West Bank and the Gaza Strip from the rest of the world. The blockade imposed upon the Palestinian people in the Gaza Strip impeded upon Palestinian freedom of movement and access to food and water. Israeli officials controlled the flow of goods and people going in and out of the territory. The United Nation claimed that Israeli control of the borders around Gaza deepened the humanitarian crisis within the region as thousands of Gazans turned to live in refugee camps.¹⁰⁶ Palestinians in the West Bank were also subject to limited rights and freedoms as, with the construction of the wall, they were cut off from their families and their livelihood and subject to settler violence. Israel further beared down upon the Palestinian people after a military attack on Gaza in response to rockets being fired at an Israeli town.¹⁰⁷ During the 22-day military offensive, 1400 Palestinians were killed alongside 13 Israelis.¹⁰⁸ Violence beget violence within the region as brutality is present on both sides. There was a clear disrespect for the rights and lives on both sides, even as the International Court of Justice opposed Israeli construction of the wall and saw the settlement of Jewish people within Palestinian territory as unlawful and in violation of international law.¹⁰⁹

¹⁰⁰ Ibid.

¹⁰¹ Al Jazeera and Reuters, "Timeline: Israel's attacks on Gaza since 2005," *Al Jazeera*, (2022): <https://www.aljazeera.com/news/2022/8/7/timeline-israels-attacks-on-gaza-since-2005>.

¹⁰² Center for Preventive Action, "Israel-Palestine conflict."

¹⁰³ Ibid.

¹⁰⁴ Al Jazeera and Reuters, "Timeline: Israel's attacks on Gaza since 2005."

¹⁰⁵ OXFAM International, "Timeline: the humanitarian impact of the Gaza blockade," *OXFAM*, accessed August 2, 2024: <https://www.oxfam.org/en/timeline-humanitarian-impact-gaza-blockade>.

¹⁰⁶ United Nations Relief and Works Agency, "Gaza blockade causes 'near ten-fold increase' in food dependency, says UN agency," *UN News*, (2019): <https://news.un.org/en/story/2019/05/1038401>.

¹⁰⁷ Center for Preventive Action, "Israel-Palestine conflict."

¹⁰⁸ Al Jazeera and Reuters, "Timeline: Israel's attacks on Gaza since 2005."

¹⁰⁹ International Court of Justice, "Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," *United Nations*, (2004): <https://www.un.org/unispal/document/auto-insert-178825/>.

Comparison:

Whether justified or not, the escalation of violence with Israel and the Occupied Territories caused the Israeli government to limit the rights and freedoms of Palestinian people. The violence within the State of Israel was not only more severe than that which occurred in Albania at the time, but it also came with a lot of historical significance and political and religious divide. Moreover, while the Albanian conflict has resolved itself since then, the Israel-Palestinian conflict is still ongoing today and without any real resolution in sight. The comparison between these two cases shows that there is a correlation between the severity of a conflict and the respect a government has for human rights. While there was disrespect for the rights of Albanians on the part of the authorities, that conflict was relatively short lived and with the help of the international community, has been resolved. The conflict in Israel, on the other hand, has been long, violent and bloody. While the actions of Hamas and Palestinian extremists have cost the lives of hundreds of Israelis, thousands of Palestinians have been killed and thousands more live under Jewish occupation with limited rights and freedom. Justifiably or not, the Israeli government limited the rights of Palestinians in response to the violence of Hamas and other extremists. This evidence supports the hypothesis that Albania has a better Physical Integrity Index score than Israel because of the less severe nature of the conflict it was a part of between 1995-2010. Whether by limiting the rights and freedoms of its own people or of the people it is fighting against, the severity of a conflict will affect the amount of respect a government has for human rights.

Conclusion:

This paper has examined the effects, if any, of the International Criminal Court, domestic civil society and conflict severity on governmental respect for human rights. In using the CIRI Physical Integrity Rights index as a measurement of respect for human rights, the states of Albania and Israel were investigated to determine whether the three factors above could explain their staggeringly different PIR scores given the countries similar features. The results showed that the International Criminal Court, while it has the potential to be effective, does not have as big of an effect on governmental respect for human rights as was hypothesized. The ICC has the potential to deter individuals from committing crimes but when it comes to the practical application of the Rome Statute laws, there is no evidence that they have a significant effect on human rights scores. A similar conclusion was drawn for the domestic civil society hypothesis where, for different reasons, civil society and NGOs did not have as big of an effect on government respect for human rights as hypothesized. For Albania, the impact was not as significant because of widespread corruption within the legal and political systems of the country. For Israel, NGOs and domestic civil society could not have as big of an impact because of an existing bias within Israeli authorities that disfavored any NGO or foreign influence that acted against their agenda. Finally, the results did show, however, that the level of conflict severity within a country had an impact on the level of respect a government has for the human rights of its own people, and those it is in conflict with. While violent conflict was present in both cases, it was abundantly clear that the conflict in Israel was of a different magnitude than that of Albania which caused the Israeli government to have a lower respect for human rights and which contributed to the country's worse Physical Integrity Rights score.

The findings of this paper are in no way all encompassing and intend only to contribute insight into a very specific situation. What is revealed in this research, however, could offer us an important look at the effects of different factors on governmental actions. It is imperative that more work be done in this field to understand what can be done to mitigate the harmful effects of unchecked self-regarding state sovereignty. Especially as our world becomes more and more interconnected, the conflicts that affect some of us end up affecting all of us. In this way, it is imperative that we gain a better understanding of how to avoid the violence and terror that comes with conflict and human rights violations.

Bibliography:

- Al Jazeera and Reuters, "Timeline: Israel's attacks on Gaza since 2005," *Al Jazeera*, (2022): <https://www.aljazeera.com/news/2022/8/7/timeline-israels-attacks-on-gaza-since-2005>.
- Amal Jamal, "The Rise of 'Bad Civil Society' in Israel," *German Institute for International and Security Affairs*, (2018). https://www.swp-berlin.org/publications/products/comments/2018C02_jamal.pdf.
- American Jewish Community, "What You Need to Know About the ICC and the Israel-Hamas War," *Global Voices*, accessed August 2, 2024. <https://www.ajc.org/news/what-you-need-to-know-about-the-icc-and-the-israel-hamas-war>.
- BBC News, "Albania profile - Timeline," *BBC*, 2022, <https://www.bbc.com/news/world-europe-17681099>.
- Boris DeWeil, "A Conceptual History of Civil Society: From Greek Beginnings to the End of Marx," *Past Imperfect* 6, 3 (1997). <https://journals.library.ualberta.ca/pi/index.php/pi/article/download/1422/963/4577>.
- Bousian, Mark. "No Place to Hide." *The World Today* 56, no. 8/9 (2000): 37–39. <http://www.jstor.org/stable/40476838>.
- Center for Preventive Action, "Israel-Palestine conflict," *Global Conflict Tracker*, last updated August 15, 2024: <https://www.cfr.org/global-conflict-tracker/conflict/israeli-palestinian-conflict>.
- Christopher Jarvis, "Rise and Fall of Albania's Pyramid Schemes," *Finance and Development* 37, No.1, (2000): <https://www.imf.org/external/pubs/ft/fandd/2000/03/jarvis.htm>.
- "CIRI Human Rights Data Project," Human Rights Data, last modified November 29, 2021, <http://www.humanrightsdata.com/>.
- Council of Europe, "Human Rights Activism and the Role of NGOs," *Council of Europe*, accessed August 1, 2024. <https://www.coe.int/en/web/compass/human-rights-activism-and-the-role-of-ngos#:~:text=In%20addition%20to%20demonstrations%20of,as%20in%20the%20story%20below>.
- Economides, Spyros. "The International Criminal Court: Reforming the Politics of International Justice." *Government and Opposition* 38, no. 1 (2003): 43. <http://www.jstor.org/stable/44483015>.
- European Parliament, "Draft Bill of Israel NGOs (debate)," *European Parliament*, (2010) https://www.europarl.europa.eu/doceo/document/CRE-7-2010-09-08-ITM-012_EN.html.
- Gerald m. Steingberg, "The Role of NGOs in the Palestinian Political War Against Israel," *Jerusalem Center for Security and Foreign Affairs*, accessed August 1, 2024. https://jcpa.org/overview_palestinian_manipulation/role_of_ngos_in_the_palestinian-political_war/.
- Gjergji Vurmo, "Civil Society Index for Albania," *CIVICUS*, 2010: https://www.civicus.org/images/stories/csi/csi_phase2/csi%20albania%20acr_eng.pdf.
- Global Affairs Canada, "Canada's Policy for Civil Society Partnerships for International Assistance – A Feminist Approach," *Government of Canada*, accessed August 1, 2024. https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/priorities-priorites/civil_politique_civile.aspx?lang=eng.
- Global Giving Atlas, "List of NGOs in Israel," *Global Giving Atlas*, accessed August 1, 2024. <https://www.globalgiving.org/atlas/country/israel/>.
- Goel, Vaibhav, and Manoj Kr. Tripathi. "THE ROLE OF NGOs IN THE ENFORCEMENT OF HUMAN RIGHTS: An Overview." *The Indian Journal of Political Science* 71, no. 3 (2010): 769–93. <http://www.jstor.org/stable/42748408>.
- Integrated Network for Societal Conflict Research, "Major Episodes of Political Violence," *Center for Systemic Peace*, (2020), <https://www.systemicpeace.org/warlist/warlist.htm#>.

- Integrated Network for Societal Conflict Research, “State Fragility Index and Matrix,” *Center for Systemic Peace*, (2018), <http://www.systemicpeace.org/inscr/SFI/matrix2018c.pdf>.
- International Criminal Court, “About the Court,” *International Criminal Court*, accessed August 2, 2024, <https://www.icc-cpi.int/about/the-court>.
- International Criminal Court, “How the Court works,” *International Criminal Court*, accessed August 2, 2024, <https://www.icc-cpi.int/about/how-the-court-works>.
- International Criminal Court Project, “Albania,” *International Criminal Court Project*, accessed August 3, 2024, <https://www.aba-icc.org/country/albania/>.
- International Criminal Court, “The Rome Statute of the International Criminal Court,” *International Criminal Court*, (1998), <https://www.icc-cpi.int/sites/default/files/2024-05/Rome-Statute-eng.pdf>.
- International Court of Justice, “Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” *United Nations*, (2004): <https://www.un.org/unispal/document/auto-insert-178825/>.
- International Social Service USA, “Non-governmental Organizations,” *International Social Service*, accessed August 1, 2024. <https://www.iss-usa.org/international-social-service-celebrates-world-ngo-day-2019/#:~:text=According%20to%20The%20Globe%20Journal,formed%20United%20Nations%20in%201945>.
- James M. McCormick, and Neil J. Mitchell. “Human Rights Violations, Umbrella Concepts, and Empirical Analysis.” *World Politics* 49, no. 4 (1997): 510–25. <https://doi.org/10.1017/S0043887100008030>.
- Jo, Hyeran, and Beth A. Simmons. “Can the International Criminal Court Deter Atrocity?” *International Organization* 70, no. 3 (2016): 444. <http://www.jstor.org/stable/24758127>.
- JTA, “US rejects likening Israel’s NGO law to lobbying registry,” *The Times of Israel*, (2016): <https://www.timesofisrael.com/us-rejects-likening-israels-ngo-law-to-lobbying-registry/>.
- Nitza Machmias, “The Government of Israel’s Control of NGOs: Legal Dilemmas and Structural Constraints,” *The International Journal of Not-for-Profit Law* 3, (2000): <https://www.icnl.org/resources/research/ijnl/the-government-of-israels-control-of-ngos-legal-dilemmas-and-structural-constraints>.
- Noam Schimmel, “Preaching Without Practicing: Legal Accountability for NGOs to Respect Human Rights,” *Center for Human Rights and Legal Pluralism*, (2019). <https://www.mcgill.ca/humanrights/article/70th-anniversary-universal-declaration-human-rights/preaching-without-practicing-legal-accountability-ngos-respect-human-rights>.
- Office of the High Commissioner for Human Rights, “INTERNATIONAL LEGAL PROTECTION OF HUMAN RIGHTS IN ARMED CONFLICT,” *United Nations Human Rights*, (2011): https://www.ohchr.org/sites/default/files/Documents/Publications/HR_in_armed_conflict.pdf.
- Oona A. Hathaway, “Do Human Rights Treaties Make a Difference?” *Yale Law Journal* 111, No 02-03, (2002). https://papers.ssrn.com/sol3/papers.cfm?abstract_id=311359.
- Our World In Data, “Democracy index,” *Our World In Data*, last updated May 13, 2024, <https://ourworldindata.org/grapher/democracy-index-polity>.
- OXFAM International, “Timeline: the humanitarian impact of the Gaza blockade,” *OXFAM*, accessed August 2, 2024: <https://www.oxfam.org/en/timeline-humanitarian-impact-gaza-blockade>.
- Parliamentarians for Global Action, “Albania and the Rome Statute,” *Parliamentarians for Global Action*, accessed August 3, 2024, <https://www.pgaction.org/ilhr/rome-statute/albania.html>.
- Paul Kubicek, “Albania’s collapse and reconstruction,” *Perceptions: Journal of International Affairs* 3, No.1, (1998): <https://dergipark.org.tr/tr/download/article-file/817177>.

- Republic of Albania, “Article 74 - Crimes against humanity,” *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.
- Republic of Albania, “Article 211 - Provocation of war,” *Criminal Code of The Republic of Albania*, (1995): 72, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.
- Republic of Albania, “Article 73 - Genocide,” *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.
- Republic of Albania, “Article 75 - War crimes,” *Criminal Code of The Republic of Albania*, (1995): 35, https://adsdatabase.ohchr.org/IssueLibrary/ALBANIA_Criminal%20Code.pdf.
- Ryan Irwin, “Non-governmental Organizations,” *History Faculty Scholarship*, (2015). https://scholarsarchive.library.albany.edu/cgi/viewcontent.cgi?article=1025&context=history_fac_scholar.
- Sinisa Milatovic, “Survey on Access to Justice in Albania,” *United Nations Development Programme*, 2017: https://www.undp.org/sites/g/files/zskgke326/files/migration/al/FINAL_DRAFT_SURVEY_EN.pdf.
- Steven C. Poe, and C. Neal Tate. “Repression of Human Rights to Personal Integrity in the 1980s: A Global Analysis.” *American Political Science Review* 88, no. 4 (1994): 853–72. <https://doi.org/10.2307/2082712>.
- The Embassy of the Republic of Albania, “Information on International Criminal Court (ICC) in regard to full implementation of the Rome Statute,” *The Republic of Albania*, (2012): 6, https://asp.icc-cpi.int/sites/asp/files/asp_docs/ASP11/ICC-ASP11-POA-2012-ALB-ENG.pdf.
- The State of Israel, “Penal Law,” *The State of Israel*, (1997): 18 <https://www.ici.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf>.
- The State of Israel, “Penal Law,” *The State of Israel*, (1997): 40 <https://www.ici.org/wp-content/uploads/2013/05/Israel-Penal-Law-5737-1977-eng.pdf>.
- Thomas Adams, “The Efficacy Condition,” *Legal Theory*, (2019): <https://ssrn.com/abstract=3610005>
- United Nations General Assembly, “International Covenant on Civil and Political Rights,” *Office of the High Commissioner for Human Rights*, Article 4-1, (1996): <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.
- United Nations Relief and Works Agency, “Gaza blockade causes ‘near ten-fold increase’ in food dependency, says UN agency,” *UN News*, (2019): <https://news.un.org/en/story/2019/05/1038401>.
- Wade M. Cole, “Mind the Gap: State Capacity and the Implementation of Human Rights Treaties.” *International Organization* 69, no. 2 (2015): 405–41. <https://doi.org/10.1017/S002081831400040X>.
- Worldwide NGO directory, “NGOs in Israel”, *WANGO*, accessed August 1, 2024. <https://www.wango.org/resources.aspx?section=ngodir&sub=list®ionID=0>
- Yonatan Green, “The Peculiar Case of the Israeli Legal System,” *The Federalist Review* 24, (2023): <https://fedsoc.org/fedsoc-review/the-peculiar-case-of-the-israeli-legal-system>.