

The University of Chicago

**Discrepancies Between International
Human Rights Considerations and Its Application**

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June 2022

A paper submitted in partial fulfillment of the requirements for the Masters of Arts degree in the Masters of Arts Program in the Committee on International Relations

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Introduction

In 2018, under the rule of President Donald J. Trump, the United States government reestablished immigration detention at the border between the United States and Mexico. ¹A year beforehand, Xi Jin Ping of China put "re-education" labor camps to detain and hold the ughyur Muslim population (and others). ² In both cases, individuals being detained are being wrongfully treated, abused, and their human rights are in considerable violation. Government leaders are justifying these immoral acts to their citizens under the excuse that this is occurring for the betterment of the state. These violations include the separation of children from their parents and a lack of essential needs like food and water. Resulting in long-term harm for not only the children but the parents. Despite the realities of these harmful actions, the international community has remained in close partnership with the United States, but, consequently, the same could not be said for China. In the case of China, "The United States sanctioned officials and blacklisted dozens of Chinese agencies linked to abuses in Xinjiang. In 2021, it determined that China's actions constitute genocide and crimes against humanity." ³ moreover, other nations within the west have sanctioned China, including Canada, the United Kingdom, and the European Union. On the other hand, the United States has seen no international repercussions to the extent that sanctions were imposed. The most severe consequence faced by the United States would be a shifting perspective of international legitimacy. These states even currently hold similar economic strength and presence in international organizations. I want to emphasize that just because

¹ Dow, Mark. "Designed to Punish: Immigrant Detention and Deportation."

² Soliev, Nodirbek. "CHINA: Xinjiang Province." 2020

³ "China's Repression Of Uyghurs In Xinjiang". 2022.

there are unequal consequences to these violations does not imply that one side is less guilty. The human rights violations are equally as deplorable, making the lack of adequate repercussions the problem that it has become. This thesis aims to dive into these discrepancies by asking: What explains the increased legal prosecutions for Human Rights Violations within non-western nations compared to western countries despite similar levels of Human Right Violations occurring in both?

To elaborate on why inequalities persist within international human rights applications, first, let us establish the legitimacy of the claims mentioned above using real-world examples combined with statistical data of international courts prosecutions. Using international court prosecutions will demonstrate whether or not non-western states, despite adherence to the same international treaties, are disproportionately prosecuted by the international community (which has been established as inherently positively biased towards the west). Then using a brief case analysis of what is considered western nations where human rights violations have occurred, but few legal prosecutions took place will further develop these presuppositions. This court analysis is not meant to analyze whether specific nation-states are trying one another, but it is intended to show how the criminal courts, which are reflections of the system itself, have predisposed biases towards specific nations. Therefore, concluding that the international system has unequal applications of human rights law and human rights as a whole. After this, I will dive into the overarching question of this thesis paper *What explains the increased legal prosecutions for Human Rights Violations within non-western nations compared to western countries despite similar levels of Human Right Violations occurring in both?* This project hypothesizes that these incongruities result from implicit negative biases on the part of western states toward

non-western states as a result of structural inequalities. If it were the case that this world is equal, this bias would have no effect on human rights and their applications, but due to extraneous factors, this disparate reality exists. These factors include the lasting psychological and concrete impact of colonialism on the world and differing rates of industrialization depending on the area of the world, which ultimately affects the economic status of countries. Western nations have historically industrialized more rapidly; therefore, regardless of the current status of these states, they still have a lot of power over other nations due to reputation matters. Efforts for reparations have been made by the western states, but this does not diminish the lasting implicit pre-dispositioned opinions western states have towards non-western states, which are reflected in the international world order: whose power lies primarily within western states. There are contesting perspectives on why this disparity occurs and even opinions that refute these realities. Some of these arguments I will look at include Global Hierarchies Propagated by Financial Disparities, Norm Adherence, and Implicit bias resulting from structural inequalities. After situating the discussion, this paper will dive into the research contribution I will be making. This will include an effort to concretely demonstrate the existence of implicit biases within international institutions by using human rights reports of individual countries from the United Nations Universal Periodic Review. These human rights reports are made by seemingly neutral parties meant to analyze the number of human rights violations and discuss the nation's reactions to such abuses. Natural language processing and sentiment analysis through python programming will hopefully reveal these biases reflected in critical human rights papers achieving the opposite. In addition, there will be a relational comparison of the results to the psychological underpinnings of both instances of implicit

biases on a large scale—Homing in onto the psychological aspects of International Relations and the psychology behind human rights. Explicitly referring to previous studies done that corroborate the hypothesis. In doing so, I hope to bring the usual state-to-state relationship analysis within international relations to the individual level to focus on interpersonal relationships within the study.

Western Vs. Non-Western Perspectives

When discussing inequality within the international sphere, there is a consistent distinction between states considered “less developed” compared to other states despite adhering to the same treaty standards. These states are referred to as non-western states and include Africa, South and Central America, and Asia. Culturally and ethnically, these states are outside of the international standard (from the perspective of western states, that is). I am looking at these states within the context in which international relations scholars and institutions view them, which is most often through a west is the best lens. To distinguish such large and diverse not only nation-states but whole continents into a divide between “west vs. the rest” is problematic in itself. What worsens this factor is that international institutions such as the United Nations did not purposely create the divide but, in their creation as an organization by western states for western states that perpetuate western standards, these divisions came as a result because non-western states were seen as too different. In the case of defining western states, I will be distinguished by what international relations scholars define as western. In short, this will primarily include eurocentric states that historically tend to be the colonizer rather than the colonized. These states include all of Europe, Canada, The United States, Australia, and Russia.

Now being different does not imply that their standards of human rights in themselves are different since the fundamental notion of human rights is one that in its nature is universal, but to attempt to define this concept to apply it to international institutions that are meant to accommodate all differing nation-states in the world is limiting the impact of and delegitimizing the very upholding of human rights. I want to emphasize this once more it is not that the concept of human rights itself that differs but to create and apply this concept into a singular global standard made within a world that in itself is unequal⁴ severely undermines the importance of the notion. As a result, biases and stereotypes towards non-western states are perpetuated due to the inequality that exists and is reflected within international treaties, analyses, and organizations —creating further divides and negative implications for the aforementioned countries. Inconsistencies in international human rights legislation between the verbatim content of legislation and its application call into question the effectiveness of human rights legislation and treaties⁵. In othering these nations, there is a downplay in their abilities to progress, there is increased interference and violations of sovereignty, and there is a propagation of racist ideologies. International Human Rights law is an “interrelated, rights-protecting process.”⁶ If there are holes in this enforcement process, the legitimacy of treaties that bind states to abide by these laws is lost. Despite the purpose of International Human Rights Legislations to effectively help those and uphold fundamental rights for all individuals, if biases and discrepancies are present when creating laws exist, the opposite will occur. If legitimacy is

⁴ Gráinne de Búrca, *Not Enough: Human Rights in an Unequal World* (2018)

⁵ Cassel, Doug. “Does International Human Rights Law Make a Difference.” *Chicago Journal of International Law* 2 (2001)

⁶ Cassel Doug. (2001)

lost, the very fundamentals for global order and stability – when it comes to consideration of the rights of persons instead of only the rights of government figureheads -- will shift in the balance of power of the international world order. Moreover, if these disparities continue permeating through new international treaties and laws, the citizens of these countries will be the ones being disproportionately affected. The study and creation of international relations were created to secure the safety of citizens within these states, and allowing inequalities to permeate within this system is to undermine the intention of the study within itself.

Concrete Examples of Established Distinctions

International Criminal Court (ICC)

The International Criminal Court “investigates and, where warranted, tries individuals charged with the gravest crimes of concern to the international community: genocide, war crimes, crimes against humanity and the crime of aggression.”⁷ moreover, the legitimacy of this institution lies within the influence of and the power of its nation-state members. Despite this factor, the ICC’s seventeen years of running include nine legal convictions and forty-five total proceedings. Within these proceedings, almost all have been toward African nations. This has spurred backlash from the international community and the nation-states being disproportionality affected by this bias. African countries gathered together to propagate and create the ICC and its binding treaty body, the Rome Statute: With Senegal being the first to join.⁸ “Jean Ping, former President of the African

⁷ International Criminal Court. 2022. About the Court.

⁸ Cole, Rowland. Africas relationship with the international criminal court: More political than legal. (2013)

Union Commission, has slammed the Court, arguing that “we are not against the ICC, but there are two systems of measurement ... [T]he ICC seems to exist solely for judging Africans”⁹ The discontent of African nations was exacerbated by the case of President Omar Hassan Ahmad Al Bashir in which they were charged with several crimes against humanity. What created the most significant backlash was that he was currently in power and president of Sudan while being charged. The African Union negotiated with the security council to push back the hearings until after a period of conflict is over so that the inner mechanisms of Sudanese governance could have time to recuperate, but this was denied.¹⁰ It is not the case that Al Bashir was not guilty, but it is the overt rigidity and hyperfocus the ICC has on African nations that creates a problem. The issue with the ICC’s impartiality has reached the United Nations, and many states support the expansion of the Rome stat application towards countries outside of Africa.¹¹ I want to add to the point that was implied during this discussion that it is not the case human rights violations are excusable in any sense. The focus on only the violations of these nations inherently proves bias within this court. Emily Rowe articulates this point concisely in her article *The ICC-African Relationship: More Complex Than a Simplistic Dichotomy*. “Despite all African ICC Proprio motu investigations and prosecutions being justifiable, the Court’s structure remains biased, for it has overtly failed to investigate and then prosecute warranted cases against nationals from affluent, developed states.”¹² Below I have attached a map that depicts all nations that have ratified the Rome statute and where criminal procedures have

⁹ Cole, Rowland (2013)

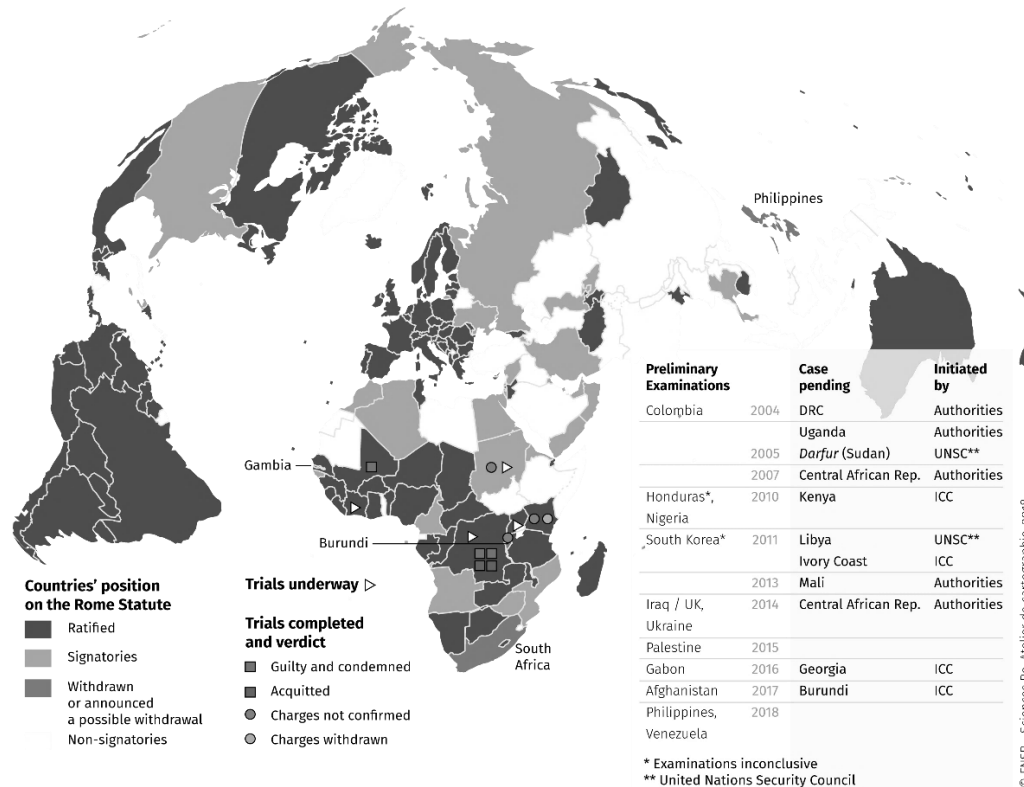
¹⁰ Cole, Rowland (2013)

¹¹ Un.org. 2022. Speakers Stress Need for Impartiality at International Criminal Court, as President Briefs General Assembly on Recent Milestones in Prosecuting Atrocity Crimes

¹² Rowe, Emily. *The ICC-African Relationship: More Complex Than a Simplistic Dichotomy*

mostly taken place. The map gives a better sense of the inequalities within the court due to its visual contribution.

Figure 1: ICC Cases



Inter-American Court of Rights

The Inter-American Court of Rights aims to enforce the American Convention, which holds American nation-states accountable for human rights violations. As seen in the ICC, there is a discrepancy between its intention and the enforcement procedures. In this case, the court has a different structure where states first post petitions against nations, which are then reviewed and see if these petitions have merit to go to court regarding the conflict. From the statistical data set available on the inter-American court of rights official website, there is a disparity between the merited cases accepted in states that are considered

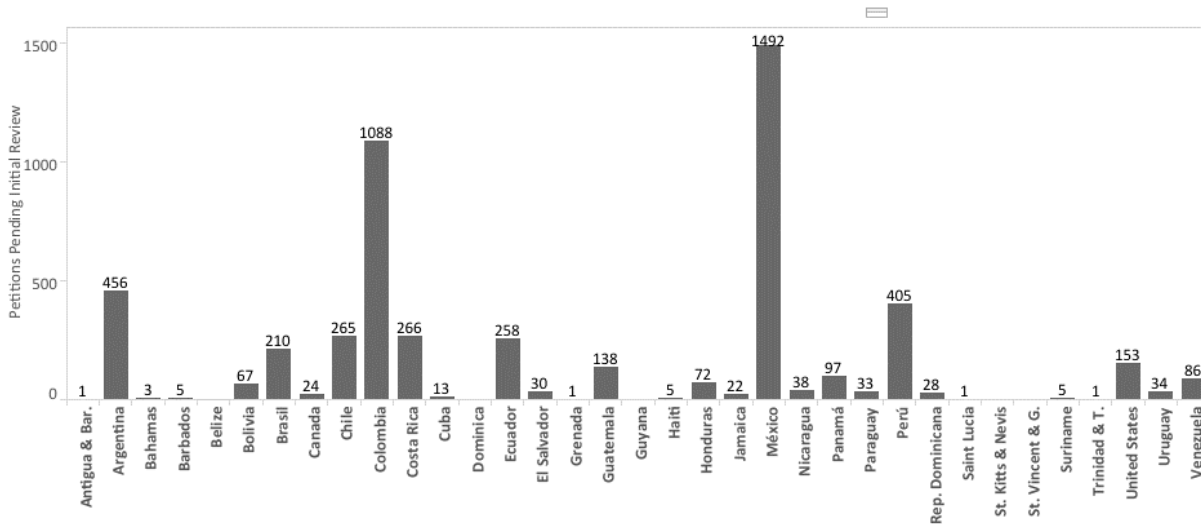
“western (i.e., the United States and Canada) and the “non-western” states.¹³ As Figures 2, 3, and 4 demonstrate, various petitions have been made towards and or by the United States, which exceeded 100 per year every year. This would cause one to assume that there is an

Select statistics to display:
Petitions Pending Initial Review

Select the Year:
2016



2016: Petitions Pending Initial Review



equal application of international human rights.

Figure 2: 2016 IACHR

Standards regardless of the nation-state, but when comparing the petitions pending and cases that have made it to the merit stage, the difference is clear. In its history (despite having multiple petitions against it), the United States has had zero merit-based cases against it. Therefore, no *actual* legal prosecutions have taken place: despite the U.S. history of rights infringement towards not only other states but their citizens as well. Amnesty International states the current violations for the United States include Discrimination,

¹³ IACHR: Inter-American Commission on Human Rights. 2022. Statistics of the Inter-American Commission on Human Rights

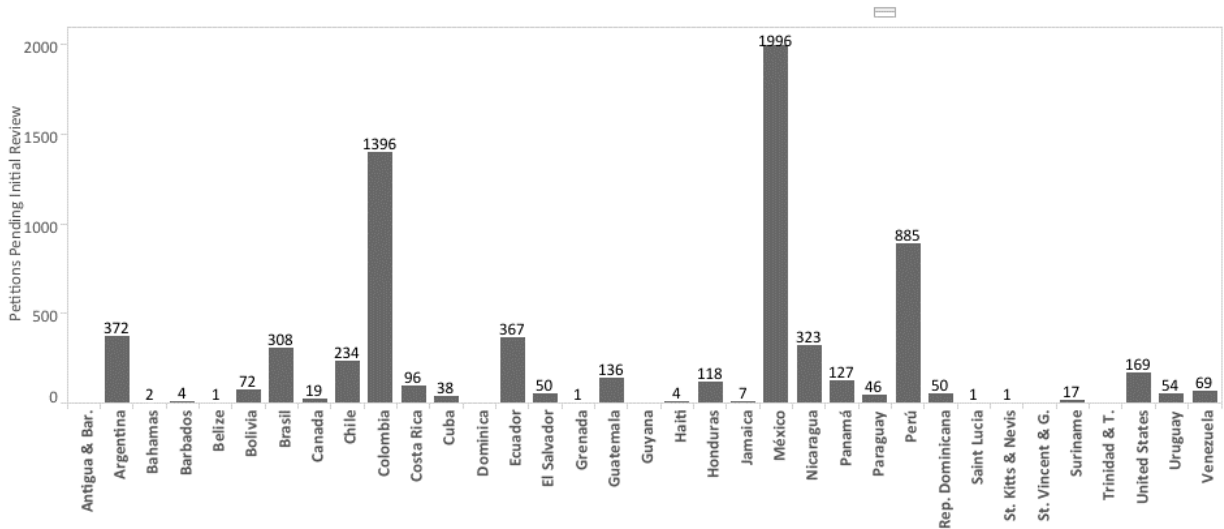
excessive use of force, freedom of assembly restrictions, restrictions on the right to health, and the rights of refugees and asylum seekers.¹⁴ This is only observing one year, but when

Select statistics to display:
Petitions Pending Initial Review

Select the Year:
2018



2018: Petitions Pending Initial Review



looking at the 2017 and 2018

Figure 3: 2018 IACHR

petition reviews, one can come to the same conclusion since there was no concurrent merit analysis towards the United States. Canada is the other Western state within the Inter-American court of rights, and this pattern is also consistent. It differentiates in the number of petitions per year: Canada has only twenty-four as opposed to the United States' one hundred sixty-nine petitions. Again, despite these multiple petitions, the court has found no merit behind them. One could come to the conclusion this is simply because there are more valid violations that have merit for prosecution in other states. A more logical explanation is that more affluent nations over those without have more influence or power

¹⁴ Human Rights Watch. 2022. World Report 2021: Rights Trends in United States.

over the decision-making processes of international institutions. Especially considering the United States case. The country has had a history of Human Rights Violations and war crimes¹⁵. Due to its status as a hegemonic state with significant influence (primarily monetary power), there have been no tremendous repercussions to these violations. In the context of the paper, the significance would imply a legal substance in which trial and eventual prosecution are taking place. ¹⁶The Inter-American Court of Rights is one of the criminal courts whose responsibility is to keep these powerful countries with influence in check. Still, instead, the court propagates the inequalities that already exist within the global system.

International Court of Justice

The International Court of Justice is the longest-running court I am analyzing today and the one with the most extensive scope internationally. It is the primary judicial body within the UN, implying direct jurisdiction over almost all sovereign entities within the world.¹⁷ It has a long-standing dispute resolution history and is very credible in its decision-making process. Despite the ICJ's reputational implications, that does not imply its actual impartiality in its prosecutorial decision-making process, especially those that exist within the inner structure of the United Nations. The University of Chicago's own Eric Posner conducted a study that evaluates all ICJ cases to determine whether or not there is a bias within the court depending on several factors, including democracy, GDP per capita, and whether or not the judge and defendant are from the same nation-state. He did this by using

¹⁵ "The Record Of Human Rights Violations In The United States". 2022.

¹⁶ Lagon, Mark P. "REFLECTIONS ON GLOBAL JUSTICE AND AMERICAN EXCEPTIONALISM: The United States as a Model for the World?"

¹⁷ Posner, Eric A., and Miguel F. P. de Figueiredo. "Is the International Court of Justice Biased?"

logistic regressions and simple data analysis of all historical cases that the ICJ has had a say in. Posner and Figueiredo found that:

As the GDP per capita variable increases from its minimum to its maximum, the probability that the judge favors the applicant increases by 29 percentage points.

: We also have not shown that judges—consciously or unconsciously—vote in a manner that promotes those strategic interests of their home states; it is possible that the judges vote in a manner that reflects their own psychological or philosophical biases.

And: it is possible that the judges vote in a manner that reflects their own psychological or philosophical biases. (Posner, 2005, Pg.624)¹⁸

They are statistically proving that there is considerable differentiation depending on the court judges' predisposed bias as applied to the ICJ, of course. Posner states that although there was proven bias that international judges within the ICJ have, the determinate factor as to why is still up at arms. Let us fill this gap by doing a comparative perspective analysis of different answers to this question that previous scholars have established.

Posner's conclusions support the assumptions propositioned at the beginning of this thesis paper. Alongside the other analysis of the ICC and the Inter-American Court of rights, a pattern between varied international criminal courts displays an asymmetry between their impartiality claims and the de facto application of human rights treaties.

¹⁸ Posner, Eric A., and Miguel F. P. de Figueiredo. "Is the International Court of Justice Biased?"

Specifically concerning the disparate difference in rates of upholding human rights treaties standards between western and non-western states. With Non-Western nations, are disproportionality prosecuted compared to their western counterparts for a theoretically equal number of violations being committed? This proves that there are, in fact, differences in how Western and Non-Western states are treated within the international system. Now it is time to explore further why and get into the substantive material of this thesis paper.

Literature Review

Posner proposed statistical reasonings which depict how bias affects international court institutions and their eventual prosecution processes (specifically relating to the International Court of Justice).¹⁹ Towards the end of his paper, Posner discusses that although these discrepancies occur, there is a gap in his conclusions that address why the discrepancies arise in the first place. He gives multiple proposed ideas but no concrete conclusions²⁰. As stated before, this thesis aims to find and fill this gap within the international human rights literature. I will explore different perspectives that have been established in order to come to a solid conclusion that will then be backed by my statistical findings. I aim to find some answers to the question. Why is it the case that international human rights have varied applications dependent on the simple geographical location of the state? The explanations I will explore as possible answers include: global hierarchies propagated by financial disparities, international norm adherence, and implicit psychological biases resulting from structural inequalities due to historical underpinnings.

¹⁹ Posner, Eric A., and Miguel F. P. de Figueiredo. "Is the International Court of Justice Biased?"

²⁰ Posner, Eric A., and Miguel F. P. de Figueiredo

Norm Adherence

Normative evaluations of human rights standards have been a topic of debate by many international relations scholars. Norm development is an intrinsic aspect of the global system that gives consistency and order to a complex world. Normative standards shape how the international system works and, consequently, their applications. When discussing international human rights law, this discussion is widespread due to the origin of modern human rights standards. Ramesh Thakur discusses these norms and argues that “international humanitarian law has its roots essentially in Europe. The status of the law is not as clear-cut in international relations as it is in the domestic system.”²¹ implying that the norms which have been propagated are not consistent with actualities of the international system. Therefore, norms have negative results despite supposedly positive normative standards. For example, taken into this context, the role of the United States as an everpresent consolidating form of power severely has impacted the way in which legal standards are applied to the state (as I have discussed). Steven Ratner discusses this by stating, “Even as the United States seeks to strengthen the enforcement of international law for its own ends, it has often recoiled at the prospect that these norms might be enforced against it.”²² Ratner employs the WTO example in which the United States aims to forgo environmental protection standards towards itself but impose them within outside nation-states.²³ Ratner and other scholars see the reason for these discrepancies to be deep-rooted in the normative structure of the international norms of the courts, which means that as a result of norms imposed by national courts and international organizations, there are

²¹ Icrc.org. 2022. Global norms and international humanitarian law: an Asian perspective

²² Ratner, Steven R. “International Law: The Trials of Global Norms.”

²³ Ratner, Steven R. “International Law: The Trials of Global Norms.”

differences in the application of human rights law dependent on the nation²⁴. There is validity in these statements, of course, but what is lacking in the assumption of the impact of global norms is why these norms exist and who exactly is propagating these norms?

Hierarchies

Certain human rights scholars view inequality within the international sphere as one of the main factors that drive discrepancies in human rights applications. Specifically when referring to the propagation of existing hierarchies. Hierarchies are defined as “clearly established systems of super- and subordination in which there is a supervision of the lower offices by the higher ones.”²⁵ In modern society, this hierarchical structure is seen between western “developed” states and non-western “under-developed” states. Theodor Meron establishes this by doing a case analysis of the Barcelona Traction case, which, “a famous dictum that “basic rights of the human person” (droits fondamentaux de la personne humaine) create obligations erga omnes.”²⁶ What differentiates his argument is that Meron explicitly supports the hierarchization of Human Rights in the international sphere. Meron’s reasoning behind this is “ The use of hierarchical terms in discussing human rights reflects the quest for a normative order in which higher rights could be invoked as both a moral and a legal barrier to derogations from and violations of human rights.”²⁷ In one sense this argument makes sense due to the innate hierarchical structure of the international system itself, but in pushing this narrative forward, instead of making

²⁴ Druscilla Scribner & Tracy Slagter, 2017. “Recursive Norm Development: The Role of Supranational Courts,”

²⁵ Weber, Max. 1968. *Economy and society; an outline of interpretive sociology*

²⁶ Meron, Theodor. “On a Hierarchy of International Human Rights.” *American Journal of International Law*

²⁷ Meron, Theodor. “On a Hierarchy of International Human Rights.”

efforts to rectify inequalities in the system, the people being most harmed are those in need of the most protection. Harold McDougall states these concepts of the hierarchy are “Utilitarian ideologies are imagined realities that suppress the empathic impulses that would draw us back from the exploitation of nature and hu-manity necessary for “bigger and better.”²⁸ In order for an elite class to exist within the global system, there is a need specificcific states that can easily be taken advantage of. In the International System, there is no doubt that it is non-western states that fall victim to these disadvantages, especially as we have seen before from the very institutions meant to protect these peoples.

These hierarchies exist due to a multitude of reasons. I will be looking specifically at the impact of financial hierarchies and how they then reflect on the international system. Logical thinking would assume that if a nation-state is financially wealthy in the modern-day capitalist system, there would, therefore, be fewer persecutions. This argument has validity, but its limitations come into play with the missing sub-context of why these hierarchies exist and how they persist within the international system²⁹. For example, if it were the case that finances matter to the most extreme extent of hierarchical power, then would it not be the case that China would have enough legal exemptions for human rights violations due to their economic status? This is not the case (While we see this within the United States). Some may bring the rising influence of China in the economic sphere, or it’s part of the United Nations security council to dispute this truth. Looking at past persecutions and instances of human rights violations in China, there have been effective punishments for this. One instance is, after The Tiananmen Square Massacre in 1989, there

²⁸ NLG Review - Social Justice Law Journal by the National Lawyers Guild. 2022

²⁹ Suárez Müller, F. The Hierarchy of Human Rights and the Transcendental System of Rights

was significant backlash from the international community that persisted to 2000 during the Olympics bid where China was rejected from hosting the Olympics. In modern Chinese diplomacy, they are more included within the international system economically. When it comes to matters of diplomatic courtesy in actions, there are still hints of ostracization from other states not only because of their violations but also because of their cultural differences. In addition, China itself is an outlier that found its way to development through a different path outside of the traditionally capitalistic progress, which enforces the ineffectiveness of a distinct west vs. rest divide.³⁰ Again this hierarchical perspective is missing substantive underpinnings that explain the disparities I am examining within this thesis. Most importantly, it reflects that it is not the actual development/validity of a nation that indicates its place within the international system; therefore, there must be another rationale that delineates this.

Implicit Bias

In this paper, I argue that implicit bias as a result of structural differences that stem from historical interchanges causes the differences in international human rights law applications in western states compared to non-western states. This covers how normative applications arose and therefore affect the international structure as well as the reason for hierarchical differences that permeate regardless of whether or not tangible power increases. Let us begin by establishing what exactly implicit bias can be defined as. The term was coined in 1995 by scholars Anthony Greenwald and Mahzarin Banaji, who described it as “implicit bias refers to attitudes or stereotypes that affect our understanding,

³⁰ Balakrishnan, Rajagopal. (2012). *International Law and Its Discontents: Rethinking the Global South*.

actions, and decisions in an unconscious way, making them difficult to control.”³¹ the aspect of this theory that will be emphasized is the unconscious nature of it, implying that regardless of the intention these international institutions to promote inclusivity on the global scale it is not achievable as a result, of their unconscious stereotypes towards non-western states. These manifest on the interpersonal communication level from cultural and social interactions, and as these diplomats, government officials, or judges grow up, they carry these preconceived notions onto their work. Therefore reflecting on the processes of the international system itself.

Colonialism set forth a precedent within the International Community that western nations were more affluent, culturally superior, and knowledgeable. These nation-states in the west were the main ones making colonizing efforts to spread religious ideas and determine which of these “lesser” regions were worth exploiting.³² These individuals being colonized were not seen in good light but the “civilized” Europeans due to their different forms of governmental, life, and cultural styles.³³ Sewpaul summarizes the direct impact of colonists’ ventures: “The footprint of colonialism and contemporary forms of imperialism affect conceptualizations of the West and the Rest, with each segment of the divide being attributed distinctive cultural and socio-political characteristics.”³⁴ This inherently is then reflected in the systemic order of modern international organizations and structures. Neoliberalist thought is a conclusive extension of this ideology propagated in

³¹ Greenwald, Anthony. G., & Banaji, Mahzarin. R. (1995). *Implicit social cognition: attitudes, self-esteem, and stereotypes.*

³² Conklin, Alice L. “Colonialism and Human Rights, A Contradiction in Terms? The Case of France and West Africa, 1895-1914.”

³³ Conklin, Alice L.

³⁴ Sewpaul, V. *The West and the Rest Divide: Human Rights, Culture and Social Work*

the contemporary global system. Revolving around the existence of “an unregulated market; trade liberalization; the rarefication of individual freedom and choice; and faith that market fundamentalism, not state intervention, would promote economic growth, progress, and distributional justice, primarily through trickle-down effects”³⁵In summary neoliberalist thought aims to consolidate the ideal democratic state based on western ideals and norms. If a state deviates slightly from these ideals, they are reprimanded, and consequently, the majority of decolonized states defect in some way or another. This thought demonstrates the systematic effects that colonialism has on the international system as a whole. This way of analyzing modern structures falls into a postcolonialist-centered international relations theory. This theory suggests that “in order to better understand how global class relations emerge and are maintained we must address ideas about why these relations appear normal”³⁶which is the overarching thought framework used within this thesis paper. It is an undisputed fact that history affects how the world is structured today, but, often the why? and the how? Are overlooked.

Consequently, these implicit biases as a result of structural inequalities are seen within the law, institutions, and organizations. It is essential to consider that when looking at state interactions and with institutions, these nations are not omnipresent power holders; there are individuals within the framework that directly impact these systems. Individual policymakers, diplomats, and judges are those that run the international system. As human beings, these persons are subject to implicit biases and stereotypes about how the world works. Therefore, this reflects the overarching international sphere and persists despite

³⁵ Sewpaul, V.

³⁶ "Introducing Postcolonialism In International Relations Theory". 2022

efforts to dispel preconceptions. The legitimacy of international law lies within the ability of impartiality by judges or organizations. Without addressing the role of implicit bias in these courts and the international system, then the objectivity of the courts is conclusively invalid.³⁷ These forms of bias manifest and indirectly harm those being tried. Implicit bias manifests in individual mannerisms, ways of speaking, and reactions in observable yet unconscious patterns.³⁸ In actuality, these unconscious ways of discrimination are equally as harmful as explicit forms of discrimination because it is almost like individuals are ashamed of their attitudes but make no genuine efforts to shift these preconditioned notions for fear of being in the wrong.³⁹ It is not only the case that lasting biases from colonialist rhetoric persist, but the structural inequalities persist therefore propagating these biases and creating a cycle of discrimination towards non-western individuals that is uncontainable. Suppose international relations scholarship, organizations, and high-powered leaders do not address this underlying issue that is often overshadowed by the loud explicit biases seen. In that case, true equality in the global world order cannot be effectively achieved.

Research Methods and Findings

My contribution to the overarching literature will be to fill in narrative gaps whilst simultaneously giving numerical backing for the claims made within this thesis: the significant negative or positive impact of implicit bias in the inequalities of the

³⁷ Kanetake, Machiko. "Blind Spots in International Law." 2018

³⁸ "How Subtle Bias Infects the Law." 2019

³⁹ "How Subtle Bias Infects the Law." 2019

international system. This paper aims to contribute concrete examples that demonstrate the everpresent existence of implicit bias despite international “efforts” to dispel these. Specifically using the most prominent international body to date, the United Nations. The United Nations has existing claims against them for outright misuse of power regarding Human Rights. Little has been done to address how intrinsically and therefore unconscious these perceptions are.

Table 1: State Selection Process

Nation-State	<i>Romania</i>	<i>Ecuador</i>	<i>Greece</i>	<i>Bolivia</i>	<i>Bulgaria</i>	<i>Liberia</i>
Population	19,653,969	16,785,361	10,569,450	11,192,855	7,102,444	4,702,226
Human Rights Scores (2015)	0.94	0.54	0.68	0.94	0.87	0.67
Human Rights Scores (2016)	0.94	0.55	0.66	0.93	0.78	0.84
Human Rights Scores (2017)	0.94	0.64	0.72	0.99	0.62	0.98
GDP (2017)	211,883,923,504	104,295,862,000	203,085,551,429	37,508,642,113	58,220,973,783	3,285,455,000
GDP Per Capita (2017)	10,781\$	6,214\$	19,214\$	3,351\$	8,197\$	699\$
Government Type	Semi-Presidential republic	Presidential republic	Parliamentary republic	Presidential republic	Parliamentary republic	Presidential republic

In order to have statistical backing for implicit bias affecting the actuality of human rights considerations, this research will provide a comparative analysis between states in the west with high, medium, and low populations compared to states in non-western states with high, medium, and low populations. This is to garner a level playing field or consideration of statistical differentiations that are affected by population size when talking

about human rights. The main factor that indicates why I am choosing these nations is the Human Rights Scores per country per year from 2015 to 2017—coming into these analyses with the idea that if it is the case that these nations have similar levels of human rights scores, then, in theory, their perspective from the international community should be equal as well. As previously shown, this is not the case. As a result, the states Romania, Greece, and Bulgaria were chosen to represent western states. While Bolivia, Ecuador, and Liberia were selected to represent non-western states. This project will analyze the united nations periodic review as the analytical human rights report. The United Nations is the main leading international body that focuses on upholding human rights for its member states. The periodic review is a reflection of this status and is meant to provide a comprehensive, neutral analysis of the quality of human rights within nations. Implying that this review theoretically should give a conclusive, unbiased report on the status of a state's human rights. To the theory of implicit bias, which I have been discussing, it is often the case that the reality of impartiality is lost regardless of the intended natural outcome. To emphasize once again, this is just as harmful as outright explicit bias in the international system.

Table 2: Documents Being Analyzed

Nation States	UN Periodic Review	Universal
Romania	2 nd and 3 rd	
Ecuador	2 nd and 3 rd	
Greece	2 nd and 3 rd	
Bolivia	2 nd and 3 rd	
Bulgaria	2 nd and 3 rd	
Liberia	2 nd and 3 rd	

From these, I will use natural language processing to compare how the international world order regards states in the west versus the non-western states—explicitly taking into account sentiment analysis coding strategies within the program text blob. Text blob measures sentiment through the polarity and subjectivity of the words being used. Polarity defines whether the sentiment is positive or negative by assigning numerical values between [1,-1], where -1 is the negative sentiment, and 1 is a positive sentiment. Subjectivity detects the presence of personal opinion as compared to factual content. The higher subjectivity, the more personal opinions are present within the specific text. This standard is measured from [0,1] with the closer to one; the more subjectivity exists within the text. When regarding international relations documents based on neutrality, the presence of these factors is detrimental. In addition, I have created word clouds that will give insight into the contents of these periodic reviews that will corroborate the sentiment analysis findings.

This will theoretically show a difference in narrative focus dependent on the international institutions' consideration of states outside the West. These narrative shifts ultimately affect the actual state of non-western nations regarding human rights. This project will also incorporate a brief discussion on previous psychological studies that corroborate the hypothesis I am trying to prove: implicit biases impact international human

rights legislation, which causes discrepancies that ultimately exacerbate global inequalities between western states and non-western states.

Psychological Studies

Machiko Kanetake emphasizes “that people behave in a certain biased way, even if they become aware of social and political assumptions that surround them and even if they try to act in a politically neutral, unbiased, and impartial manner.”⁴⁰ That being said, if they are, in fact, unaware that these biases are occurring, how can one then prove that this is an aspect affecting international law as a whole. It could be the case that these discrepancies between applications exist within the conscious reality of international lawmakers or organizations that is then reflected within legislation, human rights considerations, and the structural aspects. Susan D. Franck et al. tackled this difficult to prove reality through the usage of survey data with a test explicitly made to analyze the decision-making of due process.⁴¹ The study was conducted between international arbitrators and judges to determine their logical reasoning over intuitive decision-making. In addition, they found that these international actors are “susceptible to cognitive illusions including anchoring, framing effects, representativeness, and egocentrism.”⁴² They concluded that “The insight that adjudicators, whether judges or arbitrators, will commit decision errors should inform those designing dispute systems, whether domestically or internationally.”⁴³ These conclusions can further be applied on a larger scale to international institutions, including

⁴⁰ Kanetake, Machiko. “Blind Spots in International Law.” 2018

⁴¹ “Inside the Arbitrator’s Mind,” 2017

⁴² “Inside the Arbitrator’s Mind,” 2017

⁴³ “Inside the Arbitrator’s Mind,” 2017

those supernational courts. Now when these international institutions have negative implicit biases that are ingrained as a result of colonist rhetoric then it results in an observable discrepancy between how human rights are considered in the western colonizers and the non-western colonized states.

Sergio Puig and Anton Strezhnev are another pair of psychologists who intertwine international relations topics with their field of study. In their paper “The David Effect and ISDS,” they conducted a survey to answer how arbitrators use the financial information of states to either propagate a biased connotation or not.⁴⁴ ISDS is shorthand for Investor-state dispute settlement, which correlates with this thesis discussion in that it addresses the interplay between states. It might not be on the broad international dispute we have handled, but the economic aspect is valuable for the discussion. They incorporate “257 fully completed survey results, Puig and Strezhnev identified evidence of arbitrators’ bias towards economically weaker states when it comes to the reimbursement of those states’ legal costs.”⁴⁵ This concept from one faction of international relations theory can then be applied to broader concepts with the same basic foundations. One part I want to begin to discuss that Puig and Strezhnev bring up is how “an aversion to unequal resource distributions” and “a preference to allocate resources only to ‘deserving’ individuals.”⁴⁶ is the main proponent of the ‘David Effect’ in which economically weaker states receive more aid from international arbitrators as a tool for relieving structural differences. This once more is an aftereffect of colonialist tendencies that seep their way into the mindset of

⁴⁴ Sergio Puig, Anton Strezhnev, *The David Effect and ISDS*. 2017

⁴⁵ *Kanetake*, Machiko. “Blind Spots in International Law.” 2018

⁴⁶ Sergio Puig, Anton Strezhnev, *The David Effect and ISDS*. 2017

international actors. During the colonialist period, economically weaker states depended solely on the empire that decided to conquer them. These nations were then forced to adhere to the colonizers' religious, cultural, and systematic structures. What the 'David Effect' is inherently commenting on or as a result of, are these lasting structural inequalities that colonialism has created.

The United Nations' third periodic review of Bulgaria was conducted in February 2020. After running the python analysis, the polarity of the text resulted in 0.7395932777347475 . This means that within the document, the writers had positive word choices regarding Bulgaria's human rights standards. The Subjectivity of the text resulted in 0.31778573945702965 . As we have seen so far, this number implies that personal opinion affected the text and its validity. Equally, as time goes on, this factor does not change and remains consistent.

Ecuador

Figure 8: UN Ecuador 2



Figure 9: UN Ecuador 3



The United Nations' second Periodic review of Ecuador was conducted in March 2012. After running the python analysis, the polarity of the text resulted in 0.12555940245871655 . This implies that the sentiment within the text is at a neutral tone and word choice. The Subjectivity of the text resulted in 0.35497045892068774 . At this

point, we can see a consistent pattern in the subjectivity of these United Nations reviews. They all include a statistically significant amount of personal opinion within the text.

The United Nations' third periodic review of Ecuador was conducted in April 2017. After running the python analysis, the polarity of the text resulted in 0.12555940245871655 . The polarity shows that this third round of the periodic review of Ecuador is textually neutral. The Subjectivity of the text resulted in 0.35497045892068774 . Once again no change in the personal opinion present within the text; it is still prevalent.

Greece

Figure 10: UN Greece 2



Figure 11: UN Greece 3



The United Nations' second Periodic review of Greece was conducted in February 2016. After running the python analysis, the polarity of the text resulted in 0.8205354133564456 . This implies that there was positive subtext and sentiment within the text. The Subjectivity of the text resulted in 0.33519457960307303 .

0.7048072021531442. This implies a positive leaning sentiment within the text. The Subjectivity of the text resulted in 0.31725666865843843.

Reflections

Table 3&4: United Nations Periodic Review Results

<i>Western</i>	<i>Human Rights Scores</i>	<i>Polarity 2</i>	<i>Polarity 3</i>	<i>Subjectivity 2</i>	<i>Subjectivity 3</i>	<i>Positive or Negative</i>
<i>Romania</i>	0.94	0.60831	0.70048	0.325298	0.31726	Positive
<i>Bulgaria</i>	0.75	0.70739	0.70395	0.31778	0.31778	Positive
<i>Greece</i>	0.68	0.80205	0.77143	0.33519	0.34123	Positive

<i>NonWestern</i>	<i>Human Rights Scores</i>	<i>Polarity 2</i>	<i>Polarity 3</i>	<i>Subjectivity 2</i>	<i>Subjectivity 3</i>	<i>Positive or Negative</i>
<i>Liberia</i>	0.83	0.08215	0.09958	0.33152	0.34199	Neutral
<i>Bolivia</i>	0.95	0.10651	0.10074	0.34079	0.35845	Neutral
<i>Ecuador</i>	0.57	0.12555	0.12555	0.35497	0.35497	Neutral

Now that the results of the test are cohesively demonstrated, let us analyze what the implications of these mean. Looking at these results, one could come to the conclusion that these disparities do not exist and that the findings are primarily neutral. In reality, if you take into consideration the human rights scores in relation to the positive or negative sentiment, the text demonstrates the difference between how the world sees states in the west vs. the rest is overtly apparent. Take the example of Greece and Ecuador. Their human rights scores are on an equal playing field, but Greece has an overall positive sentiment

score whilst Ecuador's is neutral. In the case of Bolivia, their human rights scores are the highest overall implying that in terms of upholding basic rights standards for their citizens, Bolivia is the best which is observed in this study. Despite this factor, the polarity analyzed within the text demonstrates a neutral sentiment that is close to negative sentiment. Now taking into account the factor subjectivity has on the text, this is even more cause for concern. These findings solidify that in all the reviews, regardless of western or non-western, there is a constant level of personal opinion within the text. Giving way to implicit bias that – according to Franck et al. survey data –supernational judges, organizations, and high-powered individuals have intrinsically. Matters of personal opinion which these judges have effectively reflect on the important documents which define the very basis of human rights documentation. It is not overt discrimination that causes the most harm within the international sphere; it is the unconscious ambivalence towards the struggles and positive aspects of non-western states that create and propagate the structural inequalities within the international sphere towards non-western nations.

Limitations

Although I have found significant results from the test, there are still some setbacks that are important to consider before applying these conclusions to other works. First, the sample size is limited. Ideally, I would run tests on every country a part of the international system and do a comparative analysis through that. This way, I can have formative demonstrations of the western vs. non-western narrative being at play. Second, the UN Periodic Review is not the only human rights report being done. In fact, Amnesty International and the U.S. Department of State do yearly human rights reviews. The

periodic review is every couple of years; hence the word periodic whilst these other international organizations structure yearly to discuss human rights conditions. This would give better continual progress over time if one were to do a time-based analysis of the work. That being said, for the purposes of this paper, the data, in combination with previous psychological studies the data corroborates the influence that implicit bias has within the international system and how it is then reflected within the legal texts. Especially when analyzing the role of subjectivity seen within these documents demonstrating how much personal opinion leaks into the text.

Conclusion

Within this thesis paper, I have tackled the concept of the application of human rights legislation within the unequal structures of the world. I am homing in on why this reality exists within contemporary international structures. First, by establishing that disparity between regard for western states and non-western states exists through concrete examples such as that of supernational human rights courts. In doing so, I found solidified foundations for the hypothesis explored during this paper. I hypothesized that discrepancies in international human rights law were a result of implicit biases that stem from the structural inequalities which arose during the colonist period. After taking a look at previous psychological case studies by Franck et al.⁴⁷ and Sergio Puig⁴⁸ we saw how implicit bias could affect seemingly impartial judges and international powerheads. Next, we took a numeric approach to look through implicit biases using sentiment analysis on the United Nations Periodic Review. This review happens once every couple of years and

⁴⁷ "Inside the Arbitrator's Mind," 2017

⁴⁸ Sergio Puig, Anton Strezhnev, The David Effect and ISDS. 2017

for all states a part of the United Nations. In this thesis, I looked at the nations Liberia, Greece, Ecuador, Bolivia, Romania, and Bulgaria. This corroborated the implicit biases hypothesis by looking not at what is evidently presented but at what I can see in relation to other factors like the human rights scores of each country and the sentiment of one country compared to another. When looking deeper into the subjectivity (the personal opinion over fact present within the documents) in relation to the human rights scores, it is prevalent how this personal opinion affects how states are regarded—in turn, demonstrating on the numerical level the presence of implicit bias. Regardless of having it be a favorable or unfavorable implication, if there is bias present in a system that is meant to uphold equal human rights for all persons. This negates the universal approach to human rights, which are so perverse within the international system.

December 10th, 1948, marked the day the international community established the foundational treaty for human rights and its application: The Universal Declaration of Human Rights (UDHR).⁴⁹ The UDHR delineates a comprehensive evaluation of human rights which theoretically are universal in their standards and enforcement and are equally applied to all nation-states. These rights include but are not limited to rights to education accessibility, protest, fulfilling life, protection from torture, adequate food, and liberty and security.⁵⁰ Despite efforts to properly include all nation-states under the veil of universality, multiple factors offset the universal application of human rights. First, covering a vast amount of different complex countries into an all-encompassing uniform treaty creates conflicts between nation-states that have cultures outside of normative institutional

⁴⁹ United Nations. Universal Declaration of Human Rights. (1948)

⁵⁰ United Nations. UN Human Rights Indicators: A Guide to Measurement and Implementation (2013)

frameworks and the concept of human rights as a whole, which eventually leads to a hesitance to implement these standards by some nations. Universal ideas of human rights overlook the nuanced implication of culture on how a nation-state operates. Second, in having a multitude of nations apart of a singular human rights treaty, the status of a particular country which might be smaller, have less influence on the global world order, or is not as financially abundant can be disregarded and not aided as effectively if human rights violations are occurring. It is not the concept essential concept of universality that is an issue but trying to uphold these rights in a world that is in itself unequal is counterintuitive in its nature. These inequalities are a result of the implicit biases I have proven simultaneously exist and are structurally ever-present within the global system.

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