

States, Non-State Actors, and the Imposition of Restrictions on NGOs

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Declaration

I, Dominic Rohan Perera confirm that the work presented in this thesis is my own. Where information has been derived from other sources, I confirm this has been indicated in the thesis.

Abstract

Through “naming and shaming” strategies, non-governmental organisations (NGOs) play a vital role in holding states to account. In response, an increasing body of work has focused on state restriction of civil society operation and advocacy. While existing evidence highlights the role of states in closing space for critical NGO advocacy, comparatively little is known about state collusion with non-state actors to impose restrictions on NGOs. This research assesses the frequency and importance of state collusion with non-state actors in this policy area and argues that there is a strategic advantage for states to enable, allow or even delegate more severe restrictions to non-state actors. To do this, it draws on over 150 hours of in-depth interviews with activists and case evidence from a ten-year period (2009 to 2019) in Bangladesh, Israel and the Occupied Territories, and Zimbabwe. Using process tracing, its main finding is that non-state actors in close proximity to the state have a more drastic impact on NGO activity than restrictions from states. These results pose important questions for a growing body of literature examining the global phenomenon of shrinking space for civil society.

Impact Statement

This research contributes to the academic and policy literature on the phenomenon of closing civil society space. Drawing on UCL's partnership with the global civil society alliance CIVICUS, the analysis contained in the following chapters examines the restrictions levelled at human rights NGOs and activists. By working with leading practitioners on the issue of closing civil society space, it provides an empirical account of this dynamic issue involving states, non-state actors, multilateral institutions, and NGOs. Most importantly, drawing on testimonial evidence gathered through CIVICUS' extensive global network of activists and NGOs, this research analyses the important but under-researched role of state collusion with non-state actors or potential delegation to non-state actors of restrictions on local human rights NGOs. Beyond academia, the findings in this research will benefit NGOs, states with a concern for civil society space, the international community, and transnational advocacy networks by evaluating the range of restrictions and the variety of actors involved in imposing them.

This study's primary contribution is to reveal that states tend to collude with non-state actors to impose restrictions that violate non-derogable rights. This is an area of innovation for states and, in some cases, these measures can disrupt the work of local NGO's work on human rights issues and place local activists' physical and mental well-being at risk.

In a contribution to future research, the results of this research pose questions for the efficacy of transnational advocacy networks. By investigating the repertoire of restrictions imposed by both states and non-state actors, it challenges the assumptions behind current approaches that view the key dynamic in restrictions as being between states and NGOs. It reveals the multiple actors that can impose restrictions on NGOs and

activists, challenging international NGOs (INGOs) to find new responses to protect local NGOs from these threats. These are pressing issues for global human rights progress. The conclusions generated through this research should drive future studies beyond the traditional state-centric approach used by the existing scholarship on civil society space.

Fieldwork for this study was funded by the Netherlands Ministry for Foreign Affairs and the Netherlands Organisation for Scientific Research (NWO-WOTRO). This funding was won through a competitive bidding process which aimed to explore assumptions in the Netherlands Ministry for Foreign Affairs' flagship €925 million civil society space programme "Dialogue and Dissent" (2015-2020), which covers 65 countries. This research was selected by the Netherlands Ministry for Foreign Affairs and NWO-WOTRO for its innovative and novel approach. Through fieldwork and presentation of results to the Netherlands Ministry for Foreign Affairs, the results generated by this study scrutinised the framework's assumption that states are the sole perpetrator of restrictions on NGOs. The findings generated from this research have also been used by other funding agencies including the Belgian Ministry for Foreign Affairs and the European Instrument for Democracy and Human Rights to inform policy. CIVICUS, an INGO, has also used the results generated through this research to raise international awareness of delegated restrictions on NGOs by non-state actors at the United Nations.

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Chapter 1
Introduction

21 March 2017 was an unusually mild day in Washington DC. As the Kenyan activist and – at the time – United Nations (UN) Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, stood up to address the assembled crowd of diplomats he did not have long to make his intervention. The theme of the discussion, “closing civic space”, was ahead of the curve. The phrase had barely entered the vocabulary of many state officials in attendance. Yet, through his work as an activist and his mandate with the UN, Kiai needed to convey the severity of the situation he had seen. Having spent the past six years meeting with activists and organisations fighting for social justice in all corners of the globe, he had witnessed first-hand the hostility they were facing. He began:

“We are in the midst of an epic global struggle, and it is not just civil society space, assembly rights, or any other human right in isolation. It is about our freedom writ large – a global clash between tyranny and intolerance on the one hand, and self-determination and dignity on the other that could shape the course of our world for generations to come.... I could give many examples – including from the UK, France, Russia, and Kazakhstan – but the point today is not to highlight specific trees; it is to show the forest – and to underscore that this forest is quite literally on fire” (Kiai, 2017).

Kiai’s message was unmistakably simple. The hard-won space for independent civil society around the world was growing smaller and smaller. The conceptual space that Kiai spoke of related to the steady creep of restrictions imposed by states on non-governmental organisations (NGOs) working on human rights issues. As civil society, particularly NGOs, had flourished following the end of the Cold War, their informational links with transnational actors had enabled them to become formidable watchdogs to monitor state compliance with domestic and international human rights commitments (cf. Brysk, 1993; Keck and Sikkink, 1998; Risse, Ropp and Sikkink, 1999).

Emerging evidence would appear to support Kiai's provocative words. In all corners of the world, there is growing consensus in the literature that critical human rights NGOs have been shown to face aggression from states seeking to restrict their work (Van der Borgh and Terwindt, 2014: 93; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Brechenmacher, 2017: 15-16, 44-47, 70-72; Bakke, Mitchell and Smidt, 2020: 89; Smidt et al., 2020: 15). As NGOs have used transnational networks to highlight state violation of human rights (cf. Keck and Sikkink, 1998: 12-13; Risse, Ropp and Sikkink, 1999: 259), states have imposed legal measures, such as restrictions on foreign funding, as well as extra-legal measures including the abduction and torture of activists to silence criticism (*see* Gershman and Allen, 2006: 38). However, with the notable exception of Van der Borgh and Terwindt (2014: 133), Brechenmacher (2017: 96), and Nah (2020b: 3) this small but growing body of research literature is yet to examine state whether states collude with non-state actors to impose additional restrictions on NGOs.

As a result, a gap exists in the current literature because it largely views restrictions as a two-sided confrontation between states and human rights NGOs. This dissertation examines whether the focus on this two-sided relationship – between state and civil society – overlooks additional restrictions on NGOs from non-state actors which are brought about through collusion with states. It does so with detailed case comparisons of restrictions imposed by non-state actors and argues that there is a strategic advantage for states to be complicit in allowing complementary restrictions to be imposed on human rights NGOs by state-aligned agents. The central argument advanced in this thesis is that states can benefit from working with non-state actors to restrict NGOs, and these restrictions often target activists and prove effective at reducing NGO advocacy activity. I argue that the delegation of restrictions enables plausible deniability for states wishing to impose harsher restrictions, which may include physical integrity violations, on critical

human rights activists.¹ In doing so, this project aims to broaden knowledge on this important policy issue by arguing that restrictions on human rights NGOs involve multiple actors and complex relationships.

It is important to note that it is extremely challenging to prove delegation. It requires a high evidentiary threshold to prove delegation conclusively. My dissertation will explore how well my data meets this threshold or where my analysis suggests a looser form of collusion between states and non-state actors. The central contribution of this thesis is to investigate a distinct subsection of restrictions that are imposed by apparently “independent” non-state actors that may be working in collusion with, or on the direct orders of, the state. By drawing on case evidence from Bangladesh, Israel and the Occupied Territories, and Zimbabwe, I examine whether human rights NGOs have experienced restrictions from these actors and if so, how these restrictions differ from state restrictions.

Key Concepts and Definitions

Throughout this dissertation, I use several key concepts to examine my central argument. For clarity, I now introduce each of these terms and briefly situate them in relevant literature. Firstly, I view civil society as an arena for contestation of state power (Mann, 1984: 186; Hadenius and Ugglå, 1996: 1621; Janoski, 1998: 12), within which human rights NGOs are a particular type of actor that are characterised by their objectives, tactics, and informational links to transnational actors (*see* Keck and Sikkink, 1998;

¹ The characterisation of “physical integrity” violations is a distinction made in the literature to define internationally recognised human rights abuse that violates personal integrity or the right to enjoy civil or political liberties. For further definitions and applications, see Cingranelli and Pasquarello (1985: 546), Mitchell and McCormick (1988: 483) and Poe and Tate (1994: 868). The expressions “life rights”, “civil rights”, and “personal integrity rights” have also been used to describe this grouping of individual rights (*see* Abouharb and Cingranelli, 2007: 7). In light of the aforementioned contributions, the expression “physical integrity” is used specifically to refer to the violations of extrajudicial killings, enforced disappearances, torture or ill-treatment, and arbitrary or politically motivated imprisonment (Kaufmann, 2005: 358; *see also* Abouharb and Cingranelli, 2007: 41).

Risse, Ropp and Sikkink, 1999). As described by Keck and Sikkink (1998: 8), human rights NGOs are actors that “...plead the causes of others or defend a cause or proposition.” When discussing the objectives of human rights NGOs, I specifically refer to activism that seeks to “promote and protect internationally recognized human rights; document and encourage action to redress violations.” (Nelson and Dorsey, 2008: 18). This is often done through actions that “name and shame” perpetrators of human rights violations through “information exchange” with domestic and international audiences (cf. Keck and Sikkink 1998). In practice, human rights NGO activity and advocacy means “mobilizing shame” (Nelson and Dorsey, 2008: 18) through human rights investigation, documentation, human rights education, litigation, and solidarity partnerships.

When discussing restrictions on civil society, I refer to the variety of actions by both states and non-state actors that aim to disrupt these advocacy activities by human rights NGOs. Throughout this research, I view restrictions as encompassing a variety of legal and extra-legal actions that are designed to prevent the dissemination of information on human rights violations by NGOs (Smidt et al., 2020: 1). For precision and during my empirical analysis, I propose a distinction in the types of restrictions that can be imposed on NGOs.² On the one hand, I assess measures that are imposed against organisations, which can include but are not limited to the freezing of bank accounts, legal challenges over NGO activity, or smears against NGOs.³ On the other, I also survey restrictions that are

² To develop this argument, I draw from earlier work investigating restrictions on civil society, which is discussed at greater length in the next chapter. For further information on the repertoire of restrictions that states have been documented to use against civil society see Carothers (2006: 57), Gershman and Allen (2006: 38), Christensen and Weinstein (2013: 78), Carothers and Brechenmacher (2014: 5), Van der Borgh and Terwindt (2014: 133), Dupuy, Ron and Prakash (2015: 420), Wolff and Poppe (2015: 4) and Buyse (2018: 978).

³ When discussing organisational restrictions I am specifically referring to the following measures: funding restrictions (including frozen bank accounts and legislative restriction on funds), increased competition from state-controlled civic actors, disruption of domestic NGO networks or transfer of resources between NGOs, legal challenges over NGO activity or bureaucratic restriction, e.g. the revocation or suspension of existing licences, co-optation of staff, internet and communication restriction or censorship, office raids and destruction or confiscation of NGO equipment, threats, smears, or public vilification of an NGO, criminal defamation of an NGO and surveillance of an NGO.

imposed against individuals, which can include actions such as torture, enforced disappearance, and extrajudicial killing.⁴

When referring to non-state actors, I examine groups that are not identifiably state agents. In doing so, I examine death squads including out-of-uniform personnel (Mitchell and Carey, 2013: 6, 12), pro-government militias (*ibid.*: 5), and government-sponsored NGOs (*see* Pousadela and Perera, 2021: 34-35). Over the course of my empirical analysis, I adopted an inductive research strategy to identify these groups as non-state agents that have been documented to restrict civil society in each of the case studies. In the following chapters, I examine if and how these actors have been documented to restrict human rights NGOs as well as exploring their links to the state.

Why Do States Restrict Civil Society?

Seminal contributions on human rights organisations have highlighted the interconnected and transnational nature of advocacy on human rights violations (Keck and Sikkink, 1998: 12-13; Risse, Ropp and Sikkink, 1999: 259). As states commit human rights violations, their actions can be exposed by internationally networked human rights NGOs to “name and shame” states on a global stage. Emerging evidence would suggest this informational role of civil society has driven state restrictions such as the freezing of NGO bank accounts or the arrest of activists (Carothers and Brechenmacher, 2014: 7; Brechenmacher, 2017: 40; Smidt et al., 2020: 15). Consequently, state restrictions on human rights NGOs have been explained as a tactic used by states to impede this flow of critical information to domestic and international audiences.

⁴ When referring to individual restrictions I am specifically referring to the following measures: personal harassment and intimidation (including of family of activists), travel bans and restriction of access, threats and smears, public vilification and incitement to hatred or violence, criminal defamation, surveillance of activists, illegal detention of activists, abduction and kidnapping, torture and ill-treatment, violent physical attack on activists, killing and deaths of activists, and sexual and other gender-based assault and harassment.

Yet it would be wrong to assume that human rights groups are passive when faced with restrictions by states. Existing studies note that when faced with restrictions NGOs are forced to adapt their operation or shift activity to avoid further confrontation (e.g. Van der Borgh and Terwindt, 2014: 145; Dupuy, Ron and Prakash, 2015: 436; Smidt et al., 2020: 10). As a result, conventional wisdom regarding tactical innovation (cf. McCarthy and Zald, 1977) both by both states and NGOs suggests there will be a pattern of restrictions increasing in severity, prompting NGO adaption until a threshold of tolerance is reached (*see* Smidt et al., 2020: 10). It would also be intuitive to suggest that the more severe the restrictions, the more effective they are at silencing NGOs. But the more severe the restrictions, and especially if they endanger the safety of individual activists, the higher the reputational costs for the states imposing them, for failing to protect civil society space. These reputational costs may include not only “naming and shaming” not only from NGOs, but also from other states or multilateral human rights mechanisms which could drive further measures against the state for backsliding on commitments to human rights (*see* Cingranelli and Pasquarello, 1985: 562; Mitchell and McCormick, 1988: 488-489; Carey and Mitchell, 2016: 4). In consideration of the reputational impacts of more severe restrictions, my study’s starting point is a simple question: what if there were additional restrictions being imposed on civil society by non-state actors with links to the state?

This research set out to provide a systematic account of confrontations of state-aligned non-state actors with human rights NGOs. The central contribution of this thesis is to show that states can draw benefits from working with non-state actors to impose restrictions on NGOs and that these additional restrictions can impact on NGO activity. It advances existing studies by analytically assessing the variance between state and non-state actor restrictions and the links of non-state actor restrictions to the state. I shift focus

to not only look at state restrictions but also to assess restrictions imposed by non-state actors with links to the state. In doing so, I document whether and how these two actors' restrictions differ and therefore have varying impacts upon NGO activity. Further, I explore whether collusion with non-state actors may also offer states the opportunity to mobilise more severe restrictions on NGOs and activists to add to their own. By identifying non-state actors that restrict civil society, I document and uncover links between these groups and the state to test the depth of the relationship between the two.

The central finding of this dissertation is that restrictions imposed by non-state actors tend to be more severe in their effect on individuals, and consequently are more feared by activists and organisations, than those imposed by states. As a result, the interview material and other evidence presented in this dissertation suggests that restrictions from non-state actors are effective at reducing NGO activity.

Argument

I argue that states can benefit from colluding with non-state actors to impose restrictions on their behalf to curtail NGOs engaging in “naming and shaming”. I draw from Staniland's (2021: 4) contribution that states can delegate violence to non-state actors, collude with non-state actors, be complicit in non-state actor violence, or oppose violence committed by non-state actors.⁵ I argue that collusion offers states the ability to deny knowledge of violence committed by non-state actors for their own gain.

I argue that there is a strategic advantage for states to collude with non-state actors to impose additional restrictions by proxy actors in addition to their own restrictions, with the aim of preventing critical information from human rights NGOs reaching domestic

⁵ Staniland (2021: 4) terms these categories as Alliance, Limited Cooperation, Containment and Total War. I discuss the observable features of these categories in greater detail in the next chapter.

and international audiences. While my thesis aligns with growing consensus that states restrict civil society, I add to these conclusions by expanding the scope of actors who can restrict civil society. I do this by assessing the impact of restrictions from government-sponsored NGOs, death squads, including out-of-uniform personnel, and pro-government militias.

I view collusion with non-state actors as a method of augmenting the state's own restrictive capability. The grounding for this approach comes from the wider policy literature suggesting that states can mobilise additional restrictions to complement their own and to act as "force multipliers" (Donahue and Zeckhauser, 2011: 4), the logic being that the state can supplement its own efforts by working with non-state actors to formulate additional policy responses. In sum, by working with non-state actors, a "force multiplier" (Donahue and Zeckhauser, 2011: 4) enables the state to draw benefits from different actors' strengths to formulate and amplify its policy responses (Donahue and Zeckhauser, 2011: 15).

Throughout this dissertation, I argue that there are two key incentives for states to collude with non-state actors with the objective of restricting human rights NGOs. Firstly, I align with Donahue and Zeckhauser's (2011) reasoning to view delegation of restrictions on civil society as a way of expediting the policy outcome of reducing "naming and shaming" by human rights NGOs. In doing so, a state can draw benefits from collusion as a "force multiplier" (Donahue and Zeckhauser, 2011: 4) through drawing upon an agent's specialist skills (Hawkins et al., 2006: 13) such as local knowledge or specific intelligence to complete tasks more effectively than it could on its own. Alternatively, through the use of collusion as a "force multiplier" (Donahue and Zeckhauser, 2011: 4), a state can also achieve efficiency gains. Even in strong states, delegation of violence to

non-state actors has proven an effective way for states to maintain power (*see* Kleinfeld and Barham, 2018: 229-230). In practice, efficiency through collusion may mean responding to threats and challenges with more agility than a state might achieve through the use of state agents (Staniland, 2015b: 772-777; Eck, 2015: 928-930). In its simplest form, using delegation as a “force multiplier” (Donahue and Zeckhauser, 2011: 4) means mobilising external non-state agents to achieve a policy outcome more efficiently than a state could achieve on its own (Alvarez, 2006: 21).

Secondly, the research within this dissertation draws on literature that views plausible deniability as a key incentive for states to delegate the delivery of violence (Carey, Colaresi and Mitchell, 2012: 4-6; Staniland, 2012: 17; Carey, Colaresi and Mitchell, 2015: 851-852). In this case, if a state wishes to impose restrictions that violate physical integrity rights, such as enforced disappearance and torture, collusion with a proxy actor may provide a convenient way to bypass the reputational costs of using state apparatus. Crucially the state can claim these groups are independent actors and attribute any blame to them.

Throughout this dissertation, I view these two incentives as interlinked. If a state mobilises external forces to restrict human rights NGOs, it can then also draw the benefit of deniability if the actions of its non-state agent are unearthed. Anecdotally, there is evidence of this phenomenon happening across the world.

Take Brazil, for example. Marielle Franco was a champion for the human rights of people living in favelas. Through her work as an activist and as a local politician, she had gained prominence for criticising Rio’s police for their corrupt, lethal, and largely ineffective drugs policies. As she grew in prominence, her criticism of Brazilian authorities grew

bolder and resonated with an increasingly receptive domestic audience. In March 2018, masked gunmen belonging to a militia with direct links to Brazil's president pulled up alongside her car at a set of traffic lights in Rio. The unknown assailant raised his pistol and fired nine bullets into the car, leaving Franco and her driver dead. Conveniently, her execution was ordered shortly after she had publicised links between human rights-violating militias and ruling Brazilian officials. Brazilian authorities stalled their investigations and to this day, Franco's murderers are yet to be brought to justice (Amnesty International, 2019a).

For another example, take North Macedonia in 2016, when in response to growing criticism of the then ruling VMRO-DPME party, mysterious civic organisations started forming with no members or observable mandate. Their only mission seemed to be coordinating campaigns of public vilification against independent and well-established NGOs. Uranija Pirovska, the executive director of the Helsinki Committee for Human Rights, an NGO critical of the government's human rights record, was left aghast. Newly formed state-aligned NGOs with seemingly endless funding and limitless access to government used their platform to promote VMRO-DPME while alleging corruption among established and credible NGOs like hers. For Pirovska's NGO, day-to-day work plummeted as staff were deployed to defend its reputation both domestically and internationally. Unsurprisingly, the North Macedonian authorities seemed unconcerned about their enthusiastic new supporters (Front Line Defenders, 2016a).

In Cameroon in 2015, human rights activist Alice Nkom was shocked to hear her name on the radio over breakfast. She had gained prominence for holding the Cameroonian authorities to account for repressive laws that targeted the lesbian, gay, bisexual, transsexual, intersex, and queer/questioning (LGBTIQ+) community. The host of the

programme on the state-aligned station called for Cameroonians to rise up against Nkom and her organisation REDHAC (Central African Network of Human Rights Defenders) on the grounds that they worked for foreign governments and promoted homosexuality (Front Line Defenders, 2015). It was not the first time she had been targeted. Earlier that year, another pro-government television channel had called for REDHAC to be “burnt if necessary”. Despite a backlash, Cameroonian authorities defended the comments on the grounds of freedom of expression. If anything, the campaign against her NGO was emboldened.

The examples of Brazil, North Macedonia, and Cameroon hint that there may be incentives for states to collude with non-state actors to impose restrictions on vocal and critical civil society. Further, the brief vignettes presented above would suggest that states can use collusion to impose harsher restrictions on NGOs and activists than they would if imposing them alone. As such, this research sets out to provide a systematic account of the actors, processes, and mechanisms at play when NGOs face restrictions from non-state actors.

Non-State Actors and Restrictions

My thesis explores whether states outsource human rights violations to complement their own restrictions *and* to deny knowledge of their actions. I focus on the types of restrictions imposed both by states and non-state actors to examine whether the evidence collected in this dissertation supports the claim that states collude with non-state actors to restrict civil society or even delegate restrictions to non-state actors. I also examine whether, if collusion or delegation indeed take place, states are complicit in allowing severe restrictions to be imposed on NGOs by non-state actors.

Too little is known about whether states collude with non-state actors to restrict NGOs, or the types of agents they are likely to cooperate with. I aim to remedy this gap. Drawing on case evidence collected in Bangladesh, Israel and the Occupied Territories, and Zimbabwe my study explores questions about restrictions, cooperation with non-state actors, delegation of restrictions and the impact of restrictions on NGO activity. My thesis seeks to answer three core and interrelated questions:

1. What restrictions are imposed on NGOs?
2. Do states collude with non-state actors to delegate restrictions? If so, which restrictions and why?
3. How do restrictions impact on the activities of NGOs?

To address these questions, I draw on data collected in Bangladesh, Israel and the Occupied Territories, and Zimbabwe over a period of five months in 2019. I studied civil society in all three cases over a ten-year period between 2009 and 2019, to understand fully the evolution of non-state actor actions and NGO responses over a substantial period. The study benefitted from access to a wide range of human rights defenders in all three cases due to the support of global civil society alliance CIVICUS and the Dutch Ministry of Foreign Affairs. By working with local interlocutors made available through insider access to CIVICUS' extensive membership network, I was able to gather interview data from the staff of a range of NGOs working in the field of human rights. I then corroborated this interview data with a survey of academic literature and communications by international and domestic human rights NGOs. During extensive fieldwork in each country, I was also directly exposed to the harsh realities of human rights activism in three cases where independent NGOs are openly targeted by states.

Assumptions and Alternative Explanations

While this project builds on the existing literature, it is essential to outline possible alternative explanations for the phenomena that I seek to investigate. In this section I provide a brief overview of the various assumptions that will be tested through my research and consider alternative explanations.

Perhaps the largest assumption in this thesis is that delegation – or the transfer of authority – between state and non-state actor has taken place. It requires a high evidentiary threshold to prove delegation conclusively. My thesis therefore also explores whether states simply cooperate with non-state actors to impose restrictions on NGOs. Throughout the following empirical chapters, I explore whether my data meets this threshold, and under which conditions states and non-state actors obscure their real connections.

To prove direct delegation of restrictions there would have to be sufficient evidence to support links between the state and non-state actor. This presents perhaps the biggest challenge to the evidence presented in the following chapters. States may simply collude with non-state actors who already restrict civil society when it suits their interest. It is also equally plausible to expect that non-state actors, such as pro-government militias or government-sponsored NGOs, may seek to restrict civil society independently of states, meaning that the state may simply be absent. To address these challenges, in Chapter 4, I examine the potential links between states and non-state actors that are known to restrict civil society. By examining these, I aim to present evidence to support the existence of links between the state and non-state actors and therefore transfer of resources between the state and non-state actors. I do this with a view to understanding both activists' perceptions of the difference between the state and non-state actors and understand why

activists might claim that the two are linked. In addition to this, in Chapter 5, I empirically examine the frequency of restrictions by non-state actors and systematically analyse the difference between non-state and state restrictions. I do this to understand the targets of non-state actor restrictions and examine whether human rights NGOs were targeted.

Chapter Overview

Chapter 1: *Introduction*

Chapter 2: *States, Non-State Actors and Non-Governmental Organisations: Why Would States Collude with Non-State Actors to Restrict NGOs?* In this chapter, I present the theoretical argument for my dissertation. Drawing on contemporary approaches in the principal agent literature, I propose a theoretical framework to understand why states may choose to collude with non-state actors or delegate restrictions to non-state actors and not use state apparatus. I then link this framework with the small but growing body of work looking at restrictions on civil society and draw from older approaches in the social movement literature regarding adaption and innovation. I finish this chapter by presenting an overview of my argument and propositions that I examine in my empirical chapters.

Chapter 3: *Research Design: Civil Society Confrontations in Bangladesh, Israel and the Occupied Territories, and Zimbabwe.* This chapter discusses my case selection by describing how each of my cases test the theoretical frameworks set out in the previous two chapters. In doing so, I briefly outline the key characteristics and attributes of civil society in each of my cases by discussing their similarities and differences and the rationale for selecting them as case studies. I also clarify how and why I selected participants to study as well as the ethics of conducting research in all three contexts. This

chapter concludes with a discussion of the challenges faced when gathering data for this dissertation.

Chapter 4: *State and Non-State Actor Restrictions in Bangladesh, Israel and the Occupied Territories, and Zimbabwe:* This chapter examines the central assertion in my thesis that states target NGOs that “name and shame” with both state restrictions and through collusion with non-state actors. Drawing on case evidence, I use process tracing to identify how key advocacy by NGOs on human rights issues has driven state restrictions. I then survey existing data to understand the types of restrictions that were used by states against critical NGOs. Using testimonies from activists and documentary evidence, I explore whether these same organisations also experienced restrictions from non-state actors. In this chapter, I focus my attention on activists’ perceptions of the interplay between state and non-state actor restriction. I conclude my case analysis with an examination of each of the identified agents and their links to the state.

Chapter 5: *What Type of Restrictions do States Allow Non-State Actors to Impose?* This chapter shifts focus from agents to the types of restrictions that non-state actors have been documented as imposing. Drawing on local documentary evidence of the incidence of non-state actor restrictions, I assess the frequency and severity of restrictions documented by the agents identified in Chapter 4. I then use testimonial evidence from activists to corroborate these data and unpack how activists view the difference between restrictions from states and non-state actors. I conclude the chapter with a survey of evidence to understand what steps the state took to quell the activities of non-state actors.

Chapter 6: *How do Restrictions Influence NGO Activity?* In this final empirical chapter, I seek to understand how restrictions from both states and non-state actors influence NGO

activity. In my analysis, drawing primarily from activists' testimonies, I seek to understand how the various restrictions influence activists' and organisations' abilities to continue human rights activity. By making a distinction between organisational restrictions and individual restrictions, I assess the costs of adaptation for NGOs to state restrictions and non-state actor restrictions. I conclude this chapter with a discussion of the disproportionate impact of restrictions on specific types of activists, i.e. women human rights defenders and LGBTIQ+ activists.

Chapter 7: Conclusion. I conclude this thesis by considering to what extent my study answered my research questions. I evaluate the study's contribution to academic literature in understanding restrictions on civil society, state collusion with non-state actors, and complicity in repression, while assessing the broader implications of my research conclusions for future studies. I also explore the policy relevance of the findings contained in this research and how these findings could be used to formulate better policy responses to state collusion with non-state actors to impose restrictions. I end the thesis by reflecting on shortcomings of the study and provide recommendations for further research.

Conclusion

There is compelling evidence to suggest that states restrict critical NGOs to prevent "naming and shaming". These restrictions pose important questions about the viability of transnational human rights networks. Yet the studies conducted to this point have only focused on state repertoires of restriction against NGOs. Therefore, there is a surprising gap in the literature concerning cooperation between state and non-state actors to restrict NGOs. In the following chapter, I systematically engage with relevant literature to

identify the parameters of this gap while proposing an alternative theory for some of the unknowns and assumptions highlighted in previous studies.

States, Non-State Actors and Non-Governmental Organisations: Why Would States Collude with Non-State Actors to Restrict NGOs?

Introduction

On 25 April 2016, a gang of six masked men broke into a flat in downtown Dhaka, Bangladesh (Hammadi and Gani, 2016). Wielding machetes, the assailants quickly located the flat's owner and by the end of the evening Xulhaz Manan lay dead on his living room floor (CIVICUS, 2017: 9). The perpetrators – although never found – were alleged to be members of an organised religious-extremist group operating in Bangladesh (PEN America, 2016). It later transpired that Xulhaz Manan had been singled out by the Bangladeshi authorities for his human rights activism on LGBTIQ+ issues (Amnesty International, 2017b). He was prominently involved with the only human rights group focused on defending LGBTIQ+ rights in the country, Boys of Bangladesh (Article 19, 2016), and the editor of Bangladesh's only LGBTIQ+ magazine, *Roopban*.

Roopban's first issue had caused a moral outrage among senior members of Bangladesh's ruling Awami League party for, as it was described, promoting homosexuality. Media reports speculated that the magazine had even been discussed during a cabinet meeting and shown to President Sheikh Hasina (Rahman, 2016). Restrictions on the magazine's production quickly followed. Death threats were sent to authors, editors, and printers. Manan reported that Bangladesh's military intelligence were looking for him but, despite the mounting pressure, vowed to continue his work (Rahman, 2016). He was murdered before a second edition of *Roopban* could be published.

The work of the violent extremists who killed Manan cannot be viewed in isolation. During this time, Bangladeshi authorities were orchestrating their own crackdown on

critical voices. Between 2013 and 2016, the government of Bangladesh summoned and detained over 100 critical journalists on various fabricated charges (PEN America, 2016). It was not only journalists who were harassed. In 2012, the government cancelled the registration of 6,000 NGOs (Human Rights Watch, 2012b). Many of the most critical human rights NGOs were forced to close and never reopened. In this context, non-state actors stepped up their activities. The ensuing violence left 39 of Bangladesh's most critical bloggers, journalists, activists and academics hacked to death in towns and cities across Bangladesh (Anand and Manik, 2018). Despite a wide-reaching police investigation involving 11,000 arrests (Human Rights Watch, 2016), to this day the majority of these killings remain unsolved.

My study will provide a systematic account of the various actors and processes found in such cases as the killing of Xulhaz Manan and many others, through an empirical analysis that extends beyond Bangladesh by including case evidence from Israel and the Occupied Territories and Zimbabwe. In doing so, I will examine state restrictions on human rights NGOs while interrogating the incentives that may drive states to complement their own restrictions through collusion with non-state actors. In particular, I focus on the severity of restrictions imposed by states and non-state actors to understand how these actions impact on NGOs' activity. A review of literature highlights that there is no other research that directly examines this issue or its implication on human rights activism.

In this chapter, I review the current literature related to civil society, NGOs, human rights, and both state and non-state actor restrictions on civil society. I then engage with literature on the relationships that states can have with non-state actors and identify incentives for states to work with non-state actors to impose restrictions on civil society

to develop my argument and propositions that I test in this dissertation's empirical chapters.

Civil Society, NGOs, and Human Rights Progress

To understand restrictions on NGOs, it is first important to clarify what is meant by civil society and how NGO advocacy activity can initiate confrontations between states and human rights advocates. Civil society has attracted considerable research attention in academia (Mann, 1984: 187-190; Bratton, 1989a: 409; Putnam, 1993: 167; Salamon, 1994: 112-115; Hadenius and Ugglä, 1996: 1621; Janoski, 1998: 12; Edwards, 2004: 25). However, competing definitions in the literature highlight the lack of consensus over a precise characterisation of what civil society is, from approaches that view civil society as simply a space or public sphere (*see* Habermas, 1992, 1996), to definitions that focus on individuals' attitudes, values and norms (Putnam, 1993: 167; Fukuyama, 2001: 7), to others that focus on the associational characteristics of groups that promote collective interests (Salisbury, 1984: 65-67; Bratton, 1989a: 409; Salamon, 1994: 112-115).

This research uses a definition that emphasises interactions between autonomous non-state actors and the state. It is best captured by Janoski (1998: 12):

“Civil society represents a sphere of dynamic and responsive public discourse between the state, the public sphere consisting of voluntary organizations, and the market sphere concerning private firms and unions. This conception of civil society can be applied to all countries if they have private organizations between the state and the family.”

Janoski's (1998: 12) definition builds on earlier work that views civil society as not only a space, but a distinct arena for contestation (Mann, 1984: 186; Hadenius and Ugglä, 1996: 1621).⁶ More specifically, Edwards (2004: 25) notes the “grey area” of political civil society, which seeks to influence politics through associational life. In this arena, it

⁶ Others have highlighted nuance in this approach, indicating that civil society operates in multiple arenas of contestation for dominance over the state (Migdal, 2001: 99-103).

is broadly acknowledged that one actor in this “grey area” of civil society has outshone all others in terms of political influence: NGOs (Frantz, 1987: 121-126; Vakil, 1997: 2058-2060; Coston, 1998: 258; Banks, Hulme and Edwards, 2015: 708-710).

Although there are many types of NGOs, my research focuses on human rights advocacy NGOs. Contributions by Brysk (1993), Keck and Sikkink (1998), and Risse, Ropp and Sikkink (1999) regarding connections between local human rights organisations and powerful INGOs have organised much of the research literature (*see also* Cardenas, 2004; della Porta and Tarrow, 2005; Simmons, 2013). In Keck and Sikkink's (1998: 12-13) “*boomerang*” model and the subsequent “*spiral*” model, Risse, Ropp and Sikkink (1999: 259) argue that resources are passed between local NGOs and international allies to advance claims by “naming and shaming” states for failing to uphold human rights. Using advocacy through human rights investigation, documentation, human rights education, litigation, and solidarity partnerships (Nelson and Dorsey, 2008: 18), NGOs seek to publicise failure to uphold human rights while holding perpetrators of violations to account.

Connections to international allies enable human rights advocates to apply pressure from “above” by using international connections as well as “below” by mobilising domestic populations to contribute to social justice, even in repressive contexts where local civil society lacks power to change state behaviour (Brysk, 1993: 261). Evidence suggests that this strategy has been successful (*see* Simmons, 2013: 57), as studies find that “naming and shaming” by INGOs is an important tactic to constrain human rights violations or encourage respect for human rights (Franklin, 2008: 205; Krain, 2012: 584; Murdie and Davis, 2012: 13; *see also* Stroup and Murdie, 2012).

Given the success of “naming and shaming”, recent investigations have used assertions by Keck and Sikkink (1998) and Risse, Ropp and Sikkink (1999) to propose that the informational role of local civil society in mobilising domestic and international audiences may drive state restrictions on their activities (Smidt et al., 2020: 15). Others have simply explained state restriction as a logical consequence of the efficacy of human rights advocacy (*see* Dancy and Sikkink, 2017: 40-41; Vinjamuri, 2017: 117). As local NGOs document and publicise state human rights violations, states use restrictions, such as freezing bank accounts, imposing travel bans, or arresting activists, to diminish resources (Smidt et al., 2020: 4; cf. McCarthy and Zald, 1977), which impede NGO advocacy. Following this reasoning, and building on contributions by Franklin (2008), Krain (2012), and Murdie and Davis (2012) regarding the effectiveness of “naming and shaming”, one explanation for state restrictions on civil society focuses on a backlash against the effectiveness of NGO advocacy.

In this study, I draw from the conventional wisdom that “naming and shaming” by NGOs drives restrictions by states (cf. Van der Borgh and Terwindt, 2014: 93; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Brechenmacher, 2017: 15-16, 44-47, 70-72; Bakke, Mitchell and Smidt, 2020: 89; Smidt et al., 2020: 15). Throughout this research, I argue that state collusion with non-state actors to impose restrictions is an understudied but highly significant method of restricting human rights NGOs. There is a wide repertoire of state restrictions described in the literature, some of which may or may not have also been imposed through collusion with non-state actors.

State Relations and Repertoires of Restrictions on NGO Activity

While NGO and state relations have long attracted interest, state restrictions on NGO activity are a relatively new area of study and little research has investigated the types of

restrictions used against NGOs. In this section, I provide an account of the restrictive measures that states have used against civil society.

Although earlier studies have highlighted that NGOs experience a variety of relationships with the state, including collaboration, co-optation, and repression (Bratton, 1989b: 576-580; Salmen and Eaves, 1989: 67; Carroll, Humphreys and Scurrah, 1991: 104; Bebbington and Farrington, 1993: 204; Coston, 1998: 361; *see also* Casey, 2004) there is consensus in the literature that NGOs can experience hostile state relations dependent on their area of focus, leverage with populations, or success.⁷ During the 1980s and 1990s, studies looking at NGO and state relations primarily assessed service delivery organisations (e.g. agriculture NGOs, *see* Salmen and Eaves, 1989: 67; Carroll, Humphreys and Scurrah, 1991: 104; Bebbington and Farrington, 1993: 204), which came into conflict with the state after their provision of public goods began to rival or outperform the state.

The more recent research literature that specifically investigates restrictions on NGOs and that moves beyond a focus on service delivery organisations can be broadly split into two categories. On the one hand, some authors have concentrated on restrictions in law. The majority of these studies focus on legal provisions that challenge or reduce NGOs' ability to access foreign funding (Christensen and Weinstein, 2013: 78; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Wolff and Poppe, 2015: 4; Buyse, 2018: 978).⁸ Others have assessed broader legal provisions that regulate civil society, such as the legal

⁷ It has also been argued that although NGOs are not part of the state, they are not “beyond” the state’s sphere of influence. Therefore, NGOs (and by extension their strategies) are shaped by the characteristics of the state and vice versa (Wapner, 1995: 339). Similarly, for “blurred lines” between NGOs and the state in decision making see Brass (2016: 217). For an alternative perspective on how NGOs can take advantage of state fragility to promote human rights, with a focus on justice for victims of sexual violence, see Lake (2018: 112-126).

⁸ For a broader discussion on the proportionate limits of state restrictions on foreign funding to NGOs and imprecision regarding the application of these measures see Breen (2015: 67).

registration process for NGOs with the government, and that are selectively imposed against certain NGOs (International Center for Not-for-Profit Law (ICNL), 2018; *see also* Bloodgood, Tremblay-Boire and Prakash, 2014: 719; Bolleyer, 2018: 9-10).⁹

On the other hand, a number of authors have viewed restrictions as a combination of legal, extra-legal, and “informal” (Carothers and Brechenmacher, 2014: 5) measures. Carothers (2006: 57) and Gershman and Allen (2006: 38) were the first authors to highlight an evolving repertoire of legal and extra-legal restrictions on NGOs working to promote democracy.¹⁰ In particular, Gershman and Allen (2006: 38) noted that these groups were being subjected to “co-optation, coercion or even closure” through both legal and extra-legal measures. Gershman and Allen (2006: 40 - 45) note that legal restrictions curtailed freedom of association, including by restricting NGO funding, or placing impediments before NGOs attempting to achieve legal status, threatening NGOs with closure often for political gain, and granting the state arbitrary oversight powers that left NGOs vulnerable to bureaucratic “red tape”. Importantly, Gershman and Allen (2006: 40 - 44) cite that states were able to do this through the imposition of laws that created bureaucratic state institutions to regulate NGOs which then pursue NGOs and activists for non-compliance through legal means. Conversely, when discussing extra-legal restrictions, Gershman and Allen (2006: 44 - 45), identify the security services and affiliated security agencies as organising and perpetrating extra-legal restrictions on activists. While the authors do not explicitly draw a link between the two types of state actors behind legal and extra-legal restrictions, it is implicit throughout that they coordinated in their approach.

⁹ It is important to acknowledge the global climate prior to the publication of the studies assessing legal restrictions on NGOs. Rutzen (2015: 28-30) argues that the “colour revolutions” in the early 2000s, the 11 September attacks on the United States of America and the “Arab Spring” were drivers of increased legal restriction and regulation of NGOs.

¹⁰ One explanation for this shift revolves around the changing focus of donor agencies and the increase in transnational funding for NGOs working on human rights and democracy in the early 1990’s. For a fuller discussion of this dynamic see Fox and Gordillo (1990).

Van der Borgh and Terwindt (2014) built on these conclusions by conducting a cross-national comparison of restrictions on NGOs. Their study documents threats and intimidation from both state and non-state actors, which escalated to physical attacks on activists and office raids if NGOs continued advocating on sensitive human rights issues (Van der Borgh and Terwindt, 2014: 133). Crucially, Van der Borgh and Terwindt's (2014) contribution does not attempt to draw a link between the restrictive activities of non-state actors and restrictions by the state. Consequently, while this important study acknowledges the restrictive role that some non-state actors can and do play against civil society, it does not explore state and non-state actor collusion to restrict human rights NGOs.

A contribution with a similar cross-national research design by Carothers and Brechenmacher (2014: 7-16) expands the range of measures used to restrict civil society by acknowledging a spectrum of legal and extra-legal restrictions.¹¹ This study stresses an intersection between “formal and informal”, or legal and extra-legal restrictions used against civil society organisations, which delegitimised their activities on contentious issues such as democracy with the aim of discouraging activism (Carothers and Brechenmacher, 2014: 5).

This list of restrictive measures is further refined in Brechenmacher's (2017: 92) second cross-national study, which views these actions as “...efforts aimed at bringing civil society under greater state control.” Brechenmacher (2017: 95) outlines the “sustained” and unpredictable targeting of a key group of human rights and pro-democracy

¹¹ Carothers and Brechenmacher (2014: 7-16) identify the following restrictions: funding bans, vilification and harassment of foreign-funded NGOs, and targeting of international groups providing support to local civil society.

advocates.¹² In another cross-national contribution, Nah (2020b: 3) also highlights the use of both legal and extra-legal measures which can be used against human rights defenders.¹³ Crucially, this study highlights that threats against the human rights defenders not only come from the state, but also from non-state actors such as “...corporations, criminal gangs, paramilitaries, and fundamentalist groups” (Nah, 2020b: 1).

Most recently, Bakke, Mitchell and Smidt (2019: 89) have broadened this repertoire of restrictions further to include previously unexplored measures, such as travel bans and censorship, to curtail the operation of civil society.¹⁴ Their evidence also supports the assertion that restrictions are selectively imposed on NGOs that expose human rights violations (*see* Bakke, Mitchell and Smidt, 2020: 92).

A common theme linking the aforementioned literature is the selective targeting of NGOs working on issues of human rights, good governance, and democracy. These findings are confirmed by evidence from practitioners working to promote human rights. For example, the United Nations General Assembly (2016: 2), Amnesty International (2017a: 5-7, 2019: 25), CIVICUS Monitor (2017: 7, 2018: 7, 2019: 8), Article 19 (2018: 15), International Center for Not-for-Profit Law (ICNL) (2018), and Hossain et al., (2018: 20)

¹² Brechenmacher (2017: 92-96) views restrictions on civil society in terms of delegitimisation, sweeping legislative measures, selective targeting, varying levels of violent repression, and the creation of alternative civic actors.

¹³ Nah (2020b) investigates threats against human rights defenders in Egypt, Indonesia, Kenya, and Mexico. This contribution sees threats against human rights defenders as falling into three categories: firstly, “physical security – that is, the bodily integrity and liberty of human rights defenders” (ibid.: 14); secondly, the digital security which includes “digital surveillance; the hacking and tracking of devices; breaches of confidentiality and security of data; doxxing and the use of social networking sites to attack defenders” (ibid.); and thirdly, the “psycho-social wellbeing of defenders...[which includes] burnout, fatigue, anxiety, depression, anger and post-traumatic stress disorder among human rights defenders” (ibid.).

¹⁴ Bakke, Mitchell and Smidt (2019: 89) take a broader approach to viewing restrictions on civil society by assessing a range of legal and extra-legal measures. These include NGOs being banned, travel restrictions, restricting visits to government sites, limiting domestic and international funding sources, creating difficulties in obtaining or denying visas, creating difficulties in registering as civil society organisations, censoring publications, harassing civil society activists, and surveillance of civil society activists.

all reiterate the disproportionate targeting of individuals and organisations that play “watchdog” roles in society by monitoring and challenging states’ non-compliance with human rights and democracy standards.¹⁵ Evidence suggests that NGOs working on human rights issues are the most likely to be targeted with severe restrictions.¹⁶

A review of existing research material highlights that restrictions can include both legal and extra-legal measures that are used to coerce, disrupt, or prevent civil society advocacy activities. My review shows that legal restrictions are often imposed to empower bureaucratic agencies within the state to regulate, monitor, inspect, and at times harass NGOs or pursue them through legal means. This contrasts with extra-legal restrictions that are imposed by state security apparatus, i.e., police, military, or intelligence services. There is also a distinction to be made between restrictions that target organisations (e.g. laws targeting foreign funding) and restrictions that target individuals (e.g. enforced disappearance, torture, extrajudicial killing, or arbitrary detention).¹⁷ Yet, with the exception of Van der Borgh and Terwindt (2014: 105), Brechenmacher (2017: 96), and Nah (2020b: 3), a survey of the current research literature fails to provide an account of whether states collude with non-state actors to restrict human rights NGOs.

¹⁵ United Nations General Assembly (2016) refers to the United Nations Human Rights Council Resolution on “Civil Society Space”, A/HRC/RES/32/31, which highlights that the body is “deeply concerned” over increasing measures which restrict civil society (ibid.: 2).

¹⁶ It is important to acknowledge the relatively small number of studies looking specifically at this niche area. Evidence from practitioners would suggest that specific constituencies of human rights NGOs are more likely to be targeted than others. For example, women human rights defenders (Association for Women’s Rights in Development (AWID), 2014: 18-25), LGBTIQ+ people (OutRight Action International, 2018: 53-54), and environmental defenders (Global Witness, 2018: 6-8) have all been highlighted as communities that are selectively targeted with severe restrictions.

¹⁷ Restrictions targeting activists may include those that violate “physical integrity”, such as torture, enforced disappearance, extrajudicial killing, and arbitrary detention (Kaufmann, 2005: 358; *see also* Abouharb and Cingranelli, 2007: 41). As discussed in Chapter 1, “physical integrity” is a term used to define the abuses of internationally recognised human rights, which violate personal integrity or the right to enjoy civil or political liberties. For further definitions and applications, see Cingranelli and Pasquarello (1985: 546), Mitchell and McCormick (1988: 483), and Poe and Tate (1994: 868). For the purpose of clarity, it is important to state that while restrictions that target activists may include physical integrity violations, they may also include other restrictions such as surveillance, smears, threats, or travel bans. This dynamic is discussed at length later in this chapter. Van der Borgh and Terwindt (2014: 105) cite sporadic collusion between states and non-state actors, including “powerful elites or persons that see their interests affected by NGOs’ growing influence.”

I now focus my attention on how state restrictions have been shown to impact on NGO activity.

Consequences of Restrictions on Activists, NGOs, and Networks

Given the diversity of restrictive measures proposed by Carothers and Brechenmacher (2014: 7-6), Brechenmacher (2017: 92-95), and Bakke, Mitchell and Smidt (2019: 89), it is clear that different types of restrictions vary in nature and severity. The relevant literature regarding the impact of restrictions on organisations and activists includes work on contentious politics, which examines how social movements respond when faced with repression (Tilly, 1978: 80; McCarthy et al. 1996: 342; McAdam, Tarrow, and Tilly 2001: 29 *see also* Tilly, 2008: 72-73). The contentious politics literature primarily assesses non-violent civil disobedience as a tool for social progress. Perhaps the overarching contribution of this body of work is to argue that non-violent civil disobedience is an effective tool for progress on social justice, and this has been argued to be more effective than violent civil disobedience (*see* Stephan and Chenoweth, 2008). Despite this, studies analysing political violence present more complex conclusions (*see* Lichbach, 1987: 268-271). In particular, the possibility of a “backlash effect” of state violence has attracted attention and produced some contrasting findings, with some studies finding suppressive effects on mobilisation (Lyal, 2009: 338), adaptation in tactics (Lichbach, 1987: 293), or an escalatory effect in participation (Kalyvas and Kocher, 2007: 183). Importantly, both the contentious politics and political violence literature use Olson's (1965: 65) collective action theory to argue that repression raises the costs of participating in dissident activities against the state. Therefore, as the severity and frequency of repression increases, so does

the propensity for individuals to “free-ride” by stopping participation in dissident activities.¹⁸

More narrowly focusing on restrictions on NGOs and NGO networks, Van der Borgh and Terwindt (2014: 137) note that “pressures” can provoke “defensive” responses that seek to defend staff and organisational property or “proactive” approaches where NGOs lobby the state for protection.¹⁹ Brechenmacher (2017: 15-16, 44-47, 70-72) documents the impact of sequential restrictions on critical groups, which ultimately forced NGOs to retreat on criticism of the government through the reduction of advocacy campaigns. This study stresses the layered impact of legal measures on organisational resources (Brechenmacher, 2017: 97-101), something that aligns with studies assessing legal restrictions on funding (Christensen and Weinstein, 2013: 78; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Wolff and Poppe, 2015: 4; Buyse, 2018: 978). In some instances, the cumulative impact of these restrictions was so severe that NGOs were forced to halt activities or operate in exile (Brechenmacher, 2017: 97).

Smidt et al. (2020: 10) go further by examining the relationship between the cumulative impact of restrictions and transnational advocacy. In doing so, they find a threshold effect of restrictions that sees a decrease in international collaboration dependent on the number of restrictions and their severity.²⁰ With low levels of restrictions local groups can adapt

¹⁸ These literatures follow Olson's (1965: 2-6) assertion that links group size, the provision of public goods and participation outcomes to challenge the notion that individuals with shared interests will automatically work together. If collective action provides a public good, then individuals may choose to “free-ride” and allow others to absorb the costs of providing the public good. Restrictions and repression are therefore viewed as a way of encouraging “free-riding” by discouraging participation.

¹⁹ For Van der Borgh and Terwindt (2014: 137) “defensive” strategies primarily refer to protection for staff, such as hiring guards or installing fences. While the study does not provide a typology of restrictions it instead provides evidence of “pressure” that includes physical integrity violations. Van der Borgh and Terwindt (2014: 137) argue that “proactive” strategies are where NGOs lobby for the repeal of restrictions and renegotiate “pressures” that impede their operation.

²⁰ Smidt et al. (2020) find that on average six or more restrictions on local civil society disrupts flows of information from local NGOs to transnational allies.

their activities (Smidt et al., 2020: 15-17). However, as a threshold is reached, restrictions interrupt the flow of information from local NGOs that is used to “name and shame” states, by halting local documentary information passed to transnational allies (Smidt et al., 2020: 17). Most relevant to this study, Smidt et al. (2020: 17) note that as different types of restrictions were bundled together and imposed on civil society, it became harder for civil society to adapt and innovate (cf. Tilly, 1978: 80; McCarthy et al. 1996: 342; McAdam, Tarrow, and Tilly 2001: 29; *see also* Tilly, 2008: 72-73). One explanation for this finding might be that when a combination of restrictions are used, the corresponding adaption costs for NGOs and activists increase.

Importantly, and in contrast to Smidt et al. (2020: 5-6), who assess the impact of restrictions on transnational collaboration, Brechenmacher (2017: 99) notes the impact of restrictions on national networks. In particular, Brechenmacher (2017: 99) highlights the fragmentation of national networks of NGOs that found it too dangerous to coordinate joint advocacy as restrictions increased. As a result, her study finds that in Ethiopia, collective action between NGOs dwindled as restrictions increased. Continuing with the example of Ethiopia, Dupuy, Ron and Prakash (2015: 436) still consider the consequence of restrictions but shift focus to investigate the attributes of NGOs that were able to adapt to restrictions. Importantly, their study found that the characteristics of NGOs played a pivotal role in influencing their resilience. For example, “briefcase” NGOs (cf. Hearn, 2007: 1102), described as NGOs with no members created as a result of international funding, were the least resilient to restrictions (Dupuy, Ron and Prakash, 2015: 444).

Consequences of Restrictions on Activists

The case evidence also proposes that restrictions deter activists from continuing their work. For example, Brechenmacher (2017: 15-16, 44-47, 70-72) highlights that activists were afraid to continue their work after being summoned for questioning by the police or

subjected to other individual restrictions. Similarly, Brechenmacher (2017: 95) also hints at the impact of these restrictions on activists' mental health, citing the additional burden of "unpredictable" targeting that deterred advocacy.

Nah (2020) provides an account of how promoting human rights in dangerous contexts can negatively impact on the mental health of activists (cf. McAdam, 1986).²¹ This can be compounded by the culture within human rights activism, which has been characterised as one that "valorises risk-taking, fearlessness, bravery and sacrifice, prompting defenders to downplay risks." (Nah, 2020b: 13). Nah (2020: 12) interrogates the impact of "deterrence" measures on activists' mental and physical well-being, which supports Carothers and Brechenmacher (2014: 5) and Brechenmacher's (2017: 92) assessment of the multidimensional impact of "informal" restrictions. In particular, the constant threat and unpredictability of individual restrictions is evidenced to be an additional burden for the mental well-being of activists working in hostile contexts (Nah, 2020: 6; *see also* Bennett et al., 2015: 890).

Further, issues of mental health may also be more acute if activists are part of the aggrieved community, for example, gender justice advocates or "menstrual activists" (Bobel, 2007: 154) and LGBTIQ+ defenders. Vaccaro and Mena (2011: 340) cite activists feeling obliged to give selfless sacrifices despite the risks, leading to a decline in mental health and in some cases the contemplation of suicide.

Similarly, it is important to acknowledge that in hostile contexts, even if an activist is not from the aggrieved community, the work of documenting severe physical integrity

²¹ Nah's (2020) study does not explicitly look at restrictions on NGOs; instead, the paper frames aggression against human rights defenders by viewing their activities as "challenging those in power, going against societal norms, holding state authorities accountable, demanding justice..." (ibid.: 1).

violations through testimonial evidence has also been shown to have an adverse impact on an activist's mental health (Knuckey, Satterthwaite and Brown, 2018: 270). This may manifest in feelings of powerlessness or despair when their activism fails to translate into policy change or human rights progress. Sikkink (2018: 172) highlights evidence of "elevated levels of depression and post-traumatic stress disorder" among human rights activists because of their work.

Restrictions that target activists' personal physical and mental well-being have been noted to have the largest impact on advocacy activity. This is because enduring and then adapting to these restrictions carries a very high cost for activists, which may make it harder for them to participate in human rights activism. In this study, I argue that collusion offers a way for states to achieve this threshold while avoiding the reputational costs of imposing individual restrictions.

Types of Restrictions

To develop a typology of restrictions, I build on contributions by Tilly (1978: 80), McCarthy, McAdam and Zald (1996: 342), McAdam, Tarrow and Tilly (2001: 21), Lyall (2009: 338), Lichbach (1987: 293), and Kalyvas and Kocher (2007: 183) to use Olson's (1965) reasoning on the theory of collective action to view restrictions as an additional cost of participation for individuals. To align with these arguments, I posit that restrictions on NGO activity encourage free-riding and reduce participation in contentious activities like human rights activism.

The documentation of the range of restrictions on NGOs by states and non-state actors in a variety of settings is a unique contribution of this study. In the following chapters of this dissertation, my empirical evidence will offer a systematic account of how restrictions are used against NGOs working to promote human rights. Emerging evidence

would suggest that restrictions are a growth area for states, as they continuously innovate in this area to use new measures (*see* Bakke, Mitchell and Smidt, 2020).

A key objective of this dissertation is to examine the differences between state restrictions and non-state actor restrictions on civil society. Existing work in this area helps provide a useful and initial distinction. There are some restrictions – mainly legal – that can only be imposed by states (*see* Christensen and Weinstein, 2013: 78; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Wolff and Poppe, 2015: 4; Buyse, 2018: 978). For example, the revocation of NGO operating licences or the banning of NGOs from receiving funding from abroad are examples of restrictions that only states have the power to impose. These take the form of organisational restrictions, which are primarily aimed at preventing the operation of human rights NGOs.²²

Other more severe restrictions can be imposed by states, but not without incurring reputational costs. Restrictions such as enforced disappearance, torture, arbitrary detention, or extrajudicial killing impose severe costs on activists for their human rights work. They immediately prevent individuals from participating in human rights activism by placing activists' physical and mental well-being at risk, by violating international and domestic commitments to human rights. Yet they also impose reputational costs on states if they are found to have perpetrated these severe violations, especially if information on

²² I discuss these restrictions in greater length in the next chapter. For clarity, I view organisational restrictions as: funding restrictions (including frozen bank accounts and legislative restriction on funds), increased competition from state-controlled civic actors, disruption of domestic NGO networks or transfer of resources between NGOs, legal challenges over NGO activity or bureaucratic restriction, e.g. the revocation or suspension of existing licences, co-optation of staff, internet and communication restriction or censorship, office raids and destruction or confiscation of NGO equipment, threats, smears, or public vilification of an NGO, criminal defamation of an NGO, and surveillance of an NGO.

their actions reaches domestic and international audiences. As a result, I term these “individual restrictions” aimed at activists.²³

Restrictions have costs as well as benefits for states and these costs may help develop an understanding of the decision of states to work with non-state actors to restrict human rights NGOs. For example, individual restrictions may have a direct impact on activists’ mental and physical well-being, but at the expense of increased reputational costs for imposing them as opposed to organisational restrictions. These increased reputational costs are because some individual restrictions violate “non-derogable” commitments to human rights (*see* Koji, 2001: 938-939). Therefore, distinguishing between organisational and individual restrictions assists this study by offering an indication of the potential reputational costs of different types of restrictions.

A clearer understanding of these differences between organisational and individual restrictions is vital when identifying possible incentives that may drive a state to collude with non-state actors to impose restrictions.

State Reputation, Regime Type and Restrictions on Civil Society

There is a tension between the benefits in restricting civil society – and therefore reducing “naming and shaming” – and the reputational costs of restricting civil society. Domestic and international awareness of state restriction on NGO activity may encourage states to collude with non-state actors to restrict NGOs. As the severity of restriction increases, so do reputational costs, and this may incentivise collusion with a non-state actor. To

²³ I discuss these at greater length in the next chapter. For clarity, I view individual restrictions as: personal harassment and intimidation (including of family of activists), travel bans and restriction of access, threats and smears, public vilification and incitement to hatred or violence, criminal defamation, surveillance of activists, illegal detention of activists, abduction and kidnapping, torture and ill-treatment, violent physical attack on activists, killing and deaths of activists, and sexual and other gender-based assault and harassment.

explain this process, I now briefly analyse evidence from practitioners to explore the reputational impacts of restrictions on NGOs.

It is important to note that states do have legitimate grounds to defend some restrictions on NGOs. As identified by Rutzen (2015: 31-33), states have justified the selective legal targeting of NGOs by using four broad categories: 1) protecting state sovereignty; 2) promoting transparency and accountability in the civil society sector; 3) enhancing aid effectiveness and coordination; and 4) pursuing national security, counterterrorism and anti-money laundering objectives.²⁴ But, crucially, there is an inverse correlation between the severity of the restriction and the state's ability to justify these actions. As the severity of restriction increases, it is harder for states to justify their actions to domestic and international publics.

For example, in response to growing testimonial evidence from practitioners, multilateral organisations have passed resolutions urging states to reverse unwarranted restrictions on civil society.²⁵ In three separate resolutions at the UN Human Rights Council, the United Nations General Assembly (2013: 2, 2014: 2, 2016a: 2) urged states to ensure a “safe and enabling environment in which civil society can operate free from hindrance and insecurity.” Similarly in 2017, the European Union's (EU) Human Rights Special Representative declared restrictions on civil society and shrinking space to be his “top priority” (European Parliament, 2017: 18).

²⁴ Rutzen's (2015: 31-33) categories only relate to legal restrictions and do not consider extra-legal restrictions.

²⁵ The expression “unwarranted” is used in the context of state violation of international human rights law to restrict civil society. For a broader discussion of proportionate and disproportionate restrictions on civil society see United Nations Human Rights Office of the High Commissioner (2014: 11-13).

However, there is diversity in the severity of restrictions that are imposed on civil society by states. For example, the CIVICUS Monitor offers a contemporary snapshot and classification of state restrictions on civil society. Following a five-point rating scale – Closed, Repressed, Obstructed, Narrowed, and Open – the global alliance rates the types and severity of restrictions faced by civil society across the world (CIVICUS Monitor, 2020). A cursory glance at Figure 2.1 and the state of civil society freedoms as rated by CIVICUS in 2021 highlights the global diversity in the severity of restrictions imposed on civil society.

Figure 2.1: Global Civic Space in 2021 as Rated by Global Civil Society Alliance, CIVICUS.

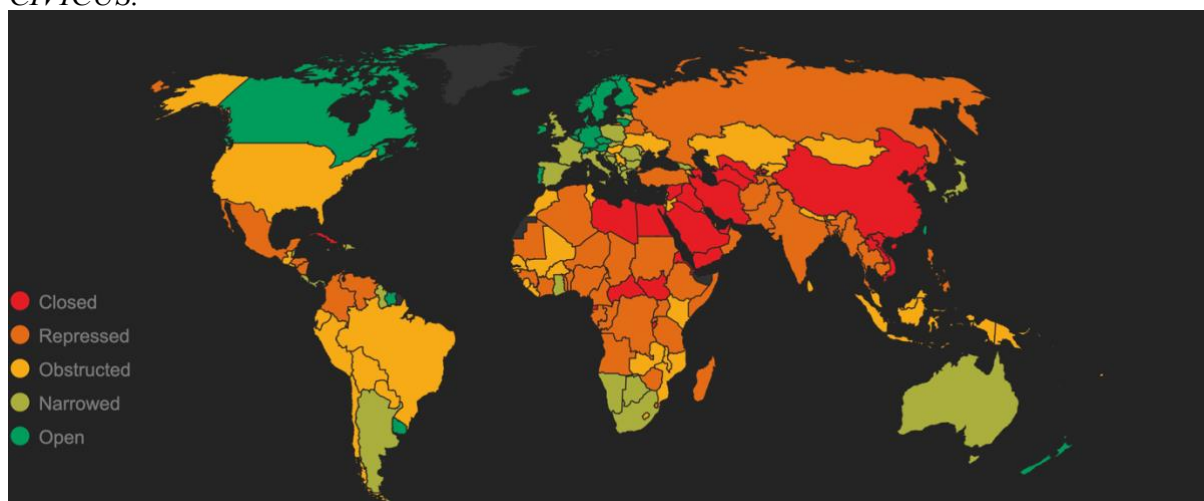


Figure 2.1 outlines the CIVICUS Monitor's (2020) evaluation of global trends in civil society. A pertinent question to ask is what accounts for variation of respect for civil society space across between countries? Perhaps the simplest explanation may be regime type. Previous research findings would suggest that less democratic countries with low levels of economic development are more likely to violate human rights (Mitchell and McCormick, 1988: 497; Poe and Tate, 1994: 855-856; Whitten-Woodring, 2009: 603; Hendrix and Wong, 2013: 657-658). This is frequently explained by highly democratic countries being sensitive to the “audience costs” of escalating conflict, waging war, or violating human rights (Fearon, 1994: 580; Schultz, 1998: 834; Choi, 2010: 446). These

“audience costs” may take the form of protest by concerned citizens or increased leverage by opposition parties seeking to exploit the erosion of democratic or human rights standards to challenge power (*see* Choi, 2010: 446). The same logic may apply to restrictions on human rights NGOs. It is plausible to theorise that highly democratic states may be reluctant to be viewed both domestically and internationally as imposing severe individual restrictions on NGOs. Conversely, the opposite logic may apply to autocratic states that may have little concern for the reputational costs of imposing severe restrictions. As a result, highly democratic states may be more likely to impose organisational restrictions whereas autocratic states may be more likely to impose individual restrictions.

Collusion with non-state actors to impose restrictions may alter this dynamic. To draw the benefits of a “force multiplier” (Donahue and Zeckhauser, 2011: 4) or deniability (Mitchell, 2004: 32, 2012: 34-38), it is likely that states will collude with non-state actors to impose individual restrictions, since non-state actors cannot easily impose organisational restrictions such as funding bans or revocation of NGO licences.

It is important here to appreciate the diversity of individual restrictions and view them on a spectrum of severity. For example, highly democratic states may be reluctant to collude with non-state actors that carry out serious individual restrictions such as enforced disappearance, torture, or extrajudicial killing of activists, or may be constrained from doing so. Independent institutions that characterise highly democratic states make it harder for these states to draw the benefit of plausible deniability. Independent judiciary, competitive elections, strong respect for the rule of law, and independent media may tie states’ hands, making it more challenging to hide evidence of individual restrictions such as torture (*see* Powell and Staton, 2009: 151; Conrad and Moore, 2010: 473). Instead,

these states may prefer to collude with non-state actors to smear or intimidate activists to coerce them and dissuade dissent. These are still individual restrictions, but if links between state and non-state actor are discovered the reputational costs are lower.

Less democratic states may follow a similar logic but be less concerned about links between them and the non-state actors being uncovered due to having weaker independent institutions. In doing so, they may be able to use collusion as an extra tool to repress civil society while drawing the benefit of deniability to maim, murder, or disappear activists. Highly autocratic states may not need to work with non-state actors at all. If a state has no concern at all for domestic or international reputation, then a state may use its own power to restrict NGOs. Instead, collusion may only be used as a “force multiplier” to mobilise additional forces in different locations that the state cannot reach easily.

Delegation, Collusion, Complicity, or Opposition?

Proving state delegation of restrictions to non-state actors requires a high evidentiary threshold that will be tested in the following chapters. Over the course of this study, I explore resource links and the timing of restrictions between states and non-state actors to assess whether my case evidence reaches this threshold. As discussed in this section, delegation of restrictions to a non-state actor would imply orders for a particular restriction being imposed on a specific NGO, or an activist, by a state, which is supported by accompanying evidence. Yet it is important to acknowledge that other forms of cooperation exist. These may include more fluid forms of collusion that may not necessarily reach the threshold of delegation. In this section, I engage with the existing literature on state relationships with armed actors to propose a theoretical framework which explains the diversity of interactions that can exist between state and non-state actor.

In his recent contribution, Staniland (2021) built on his earlier work (*see* Staniland 2015b: 779) to explore the variety of relationships that states can have with militias when delivering violence. He finds that states and armed groups can share “...tactical incentives to work together – even across ideological divides...” (Staniland, 2021: 2) but that these interactions can change over time. The central point of this contribution is that there is “...important variation in armed orders” and these relationships are dynamic dependent on the states’ perception of threat or the task at hand (Staniland, 2021: 41, 260). Crucially, Staniland (2021: 43) argues that interactions between states and armed actors interactions can change as threats against the state emerge, develop, or evolve.

Staniland (2021) explores these state and armed actor interactions by proposing four distinct categories of relationships between the state and militias. These categories are Alliance, Limited Cooperation, Containment, and Total War (Staniland, 2021: 4). In an Alliance, Staniland (2021) views the relationship as involving “tight, institutionalized cooperation between armed group involving targeting of a shared enemy, observable coordination of policies and sharing of resources” (Staniland, 2021: 6). Or, put more simply, this would mean the direct delegation of violence by the state to an armed actor involving the provision of resources and information to complete the task, including information on the intended target and desired outcome.

Limited Cooperation “...occur[s] through informal, but still stable and even prolonged, mutual understandings between governments and armed actors” (Staniland, 2021: 5). Staniland (2021) goes on to clarify that “These understandings [are] not codified in formal, written deals; nevertheless, there is ongoing communication...to avoid misunderstandings and unnecessary conflict” (Staniland, 2021: 6). This looser form of collusion enables the state to work with an armed actor but limits the sharing of resources

or information. The existence of a partnership between state and armed actor may not even be formally documented.

In the Containment category, Staniland (2021) highlights that “...the regime has lower levels of resolve to destroy the group and can tolerate its existence as long as it is kept below a particular threshold” Staniland (2021: 4). In this category, a state may choose to allow an armed actor to exist, if it is useful to the state and does not threaten the state’s hold on power.

Finally, Staniland's (2021: 4) final category of Total War would imply “...large amounts of violence and huge state resources in repression. The resolve to destroy the group is high...” (Staniland, 2021: 5). This final category means that the state takes observable steps to destroy a group that may threaten its hold on power and in doing so, uses state resources to destroy the group.

Below, I offer an overview of Staniland's (2021) framework of the variety of relationships between the state and armed actors and their observable features.

Table 2.1: Staniland's (2021:4) Distinctions of Armed Orders.

Order	Observable Features
Alliance (Delegation)	Close, visible coordination of state and non-state policy; substantial sharing of resources and information.
Limited Cooperation (Collusion)	Managed boundaries of influence along functional and/or territorial lines; restricted sharing of information and resources; occasional clashes and continual bargaining. Formal agreements: ceasefires, signed deals; Informal agreements: communicated, mutually

	acknowledged arrangements without documentation.
Containment (Complicity)	Mutual combat but with relatively low intensity and substantial restraint shown in the application of military force.
Total War (Opposition)	A high level of military effort by each side aimed at the other, with few discernible restraints – large deployments, leadership decapitation (or efforts thereof), and broad targeting.

Staniland's (2021:4) work is directly relevant to this dissertation as it allows the exploration of the variety of relationships between state and armed actor. When placed against the central argument of this work, this approach is useful in highlighting that a state may work with a non-state actor to restrict civil society or tolerate its activities without directly delegating restrictions. This variation is a theme that is returned to in the empirical chapters of this dissertation. In doing so, I use this typology to see whether my data meet the observable features of Staniland's (2021:4) typology of armed orders. I argue that collusion offers states the ability to draw from non-state actors' strengths, while maintaining distance to protect their reputation if links between them and non-state actors are discovered. However, if a state is transferring agency through delegation or collusion then this relationship may be fraught with risks. In the next section, I systematically discuss literatures on the transfer of agency to theorise these risks and incentives.

The Downsides of Transferring Agency

If the reputational cost of restricting civil society encourages states to work with non-state actors, then this strategy may also bring additional risks. Once it has granted agency, how can a state be sure that a non-state actor will work in its best interest? Conventional wisdom proposes that once the transfer of agency has taken place, it can be highly challenging to control both the agent and the outcome and this can make the transfer of agency counterproductive. To understand the risks involved in the transfer of agency

from one party to another, I turn to the rich and extensive literature examining delegation. In this section, I offer a brief overview of risks during delegation and methods of control. The factors at play in this complex relationship are best described by Ross (1973) as a situation where:

“...an agency relationship has arisen between two (or more) parties when one, designated as the agent, acts for, on behalf of or as a representative for the other, designated as the principal, in a particular domain of decision problems.” (Ross, 1973: 134).

Principal agent theory has been used as a way to model the relationship that Ross (1973: 134) describes. The literature analysing this relationship can be defined by the assumption that agents will not necessarily act in the best interests of the principal once delegated agency (Jensen and Meckling, 1976: 308; Harris and Raviv, 1979: 232; Hölmstrom, 1979: 74; Myerson, 1982: 68). Given this basic assumption, Eisenhardt (1989: 59) highlights two central obstacles that prevent the principal from maintaining control. Firstly, the “desires or goals” of the agent differ from the principal, leading to variation in outcome and, secondly, it may be challenging or costly to verify what the agent has done (Eisenhardt, 1989: 59). Information is therefore central to the balance of power in this relationship (Arrow, 1985: 5-6; Spence and Zeckhauser, 1971: 380-381). The discrepancy of information between the principal and the agent is termed information asymmetry. This phrase describes the process where an agent may hide their character or actions and the principal may lack the resources or expertise to monitor the agent’s actions.

This dilemma is the “principal’s problem” (Ross, 1973: 138; Mitnick, 1975: 29; Eisenhardt, 1989: 59) and much of the literature focusses on the strategies that principals can employ to overcome this informational disadvantage and maintain control of their agent. To address the issues outlined by Eisenhardt (1989: 59), principals may use contracts to specify tasks and to ensure that their agents do not “diverge” from the

principal's goal once agency has been delegated (Jensen and Meckling, 1976: 308; Lake, 1996: 7).²⁶ But contracts cannot possibly anticipate all contingencies and as a result, principals may employ incentives and monitoring to try to maintain control (*see* Moore and Hart, 1998).

Given Arrow's (1985: 5-6) and Spence and Zeckhauser's (1971: 380-381) assertions over the centrality of information, principal monitoring after delegation is one method of overcoming agent divergence from the principal's goals. Harris and Raviv (1979: 257) note that even when "imperfect" monitoring is included in contracts, it yields superior results compared to those where an agent is left unsupervised. A principal may adopt a proactive approach to "police" an agent (Mitnick, 1975: 40), or use a "fire alarm" system of monitoring, which relies on third-party information on agent activities and outcomes (McCubbins and Schwartz, 1984: 171-173). However, the costs of monitoring the contract are weighed against the benefits of delegation in the first place (*see also* Grossman and Hart, 1986: 692-693).²⁷ Incentives are another mechanism that can be used by principals to control an agent by rewarding or punishing their performance (Shavell, 1979: 59-65; Holmstrom and Costa, 1986: 841-843; Sappington, 1991: 46-69).²⁸ Alternatively, principals can pre-screen agents prior to delegation to ensure that the principal has selected the right agent to prevent issues of goal divergence pre-emptively

²⁶ Lake (1996) defines a contract as "self-enforcing agreements that define the terms of the relationship between two parties." (*ibid.*:7). It is also acknowledged that contracts may be implicit (never formally acknowledged) or informal (based on an unwritten agreement) (Hawkins et al., 2006: 7). Similarly, both principals and agents can "completely or incompletely" specify contracts (Lake, 1996: 7). A completely specified contract would imply that all contingencies have been covered while an incomplete contract would imply that contracts "contain holes" that are filled in as necessary (*ibid.*: 7). For a further explanation of the increased "costs" of completely specified contracts see Grossman and Hart (1986: 716). Later work has argued that contracts are by nature necessarily incomplete (Hart, 1996: 373-375).

²⁷ Jensen and Meckling (1976: 308-310) argue that as the principal takes extra steps to monitor or supervise the agent, the "control costs" will rise.

²⁸ There is consensus in the literature that incentives are based on two factors. Firstly, as highlighted by Arrow (1985: 5-6) and Spence and Zeckhauser (1971: 380-381), information (or lack thereof) may influence or negate the effective use of incentives by the principal. Secondly, the predisposition for risk in both parties is also argued to be a key variable. For an overview on the variable of risk for both agent and principal see Shavell (1979).

(Hawkins et al., 2006: 28-29). Finally, as highlighted by Salehyan (2010: 502), if a principal has multiple agents, it can create competition between them to discourage divergence from the contract.

Given the attention in the principal-agent literature on contracts, it is clear that Eisenhardt's (1989: 59) narration of the "principal's problem" emphasises the issues first highlighted by Jensen and Meckling (1976: 308), Harris and Raviv (1979: 232), Hölmstrom (1979: 74), and Myerson (1982: 68), who take a pessimistic view of agent behaviour. Given that the transfer of agency can be fraught with risks, a pertinent question is: why delegate in the first place?

Incentives for States to Work with Non-State Actors

The principal-agent framework argues that the transfer of agency is useful for principals when they want to avoid the costs of a particular task, such as time, resources, and expertise (Hawkins et al., 2006: 13). It is therefore argued to be an advantageous strategy when the benefits of delegation exceed the costs of potential agent problems (Gould, 2006: 289). As a result, despite the risks outlined in the previous section, there are incentives for principals to transfer agency. In the case of my research, I seek to understand and explain why, despite the risks, a state may still choose to work with non-state actors to impose restrictions on NGOs.

To refine my focus, in this section I systematically engage with literature to identify several incentives to delegate. In doing so, I sort these incentives into two incentives – force multipliers and deniability – and discuss each in turn.

Force Multipliers

Literature studying restrictions on civil society (e.g. Carothers and Brechenmacher, 2014; Dupuy, Ron and Prakash, 2015, 2016; Brechenmacher, 2017; Bakke, Mitchell and Smidt, 2019) would indicate that states can and do use their own restrictive capabilities to curtail civil society. Yet the literature on the transfer of agency would suggest that delegation can also be a complementary tool to assist state policy. Donahue and Zeckhauser (2011: 4) use the term “force multiplier” to understand this dynamic.²⁹ This where the state has the power or ability to complete a task, but instead chooses to outsource it to a private actor to achieve a better outcome than it would on its own.

The authors highlight that through collaborative governance with other actors like the private sector, states can enhance their own efforts. This arrangement is described as:

“Agencies at all levels face a range of opportunities to collaborate with private actors to achieve public goals more effectively than government can on its own.” (Donahue and Zeckhauser, 2011: 4)

Donahue and Zeckhauser's (2011) central argument notes that states can formulate and implement more effective policy if efforts are complemented and amplified through collaboration with private actors. In doing so, the state adds to its own efforts. Importantly, Donahue and Zeckhauser (2011: 15) highlight the diversity “within the category of delegated delivery” that relates to the level of autonomy or “private discretion” that an agent is granted. This means the level of involvement of the state (the principal) may vary to achieve the objective of the project. Their argument posits that in some instances the state may benefit from granting its agent a “substantial” level of autonomy or involvement in project formulation to maximise agent strengths.³⁰ Put

²⁹ This term is usually used to describe military operations and the involvement of other actors. For a broader discussion of this term see Lischer (2007: 100-107).

³⁰ Donahue and Zeckhauser (2011) acknowledge that this is akin to riding a “unicycle” (ibid.: 45). This can be overcome through agent pre-screening by arguing the principal should “...recruit collaborators who are likely to use their discretion in the public interest even when unobserved and uncompelled.” (ibid.: 57).

simply, this means the state reduces controls over an agent to allow them maximum freedom to complete a task.

Perhaps most importantly, Donahue and Zeckhauser (2011: 27) use this approach to challenge the traditional application of the principal-agent dilemma set forth by Jensen and Meckling (1976: 308), Harris and Raviv (1979: 232), Hölmstrom (1979: 74), and Myerson (1982: 68), by moving beyond contract and control. Instead, Donahue and Zeckhauser (2011: 27) propose the benefits of a situation where the state willingly grants the agent “discretion” or autonomy to improve performance.³¹ This argument rests on a similar assertion to that put forth by Hawkins et al. (2006: 28-29) regarding careful agent selection to prevent goal divergence. Crucially, Donahue and Zeckhauser's (2011: 17) argument views delegation as a method to improve the provision of public services, such as education policy or the maintenance of parks, and therefore the “force multiplier” effect (Donahue and Zeckhauser, 2011: 4) is argued to have a positive influence on governance and the provision of public goods.

The objective of Donahue and Zeckhauser's (2011) contribution is to offer a blueprint for a more effective form of collaborative governance in the United States of America (USA). The suggestion of collaboration between state and private actor in a high-capacity democratic state would appear to challenge the arguments put forward by Weber (1946: 78) and Mann (1984: 188-194, 2008: 355-359). In these approaches and in relation to violence, the state would only need to delegate or collaborate with private actors in a severely weakened or failed state.

³¹ It is important to acknowledge that Donahue and Zeckhauser (2011) do make provisions in their theory for agency loss. They argue that states can and should “motivate, influence, and constrain” private actors (ibid.: 32). It is argued that for states, collaborative governance is usually more effective than the government acting alone, despite the inevitable issue of agency loss (ibid.: 60).

Yet, Weber (1946: 78) and Mann's (1984: 188-194, 2008: 355-359) assertions cannot account for the evidence found in the research literature. Case evidence from Colombia, El Salvador, and Mexico (Mazzei, 2009: 205), Indonesia (Cribb, 2001: 233), Bosnia and Herzegovina and Rwanda (Alvarez, 2006: 11, 13-14), and East Timor (Parry, 2002: 186; Robinson, 2002: 165; Trowbridge, 2002: 216) clearly show that states not usually characterised as “failed” can benefit from colluding with non-state actors to commit violence. This is further supported by Carey, Mitchell and Lowe's (2013: 254) global data on pro-government militias, which provides empirical evidence that these groups can be found across the world, not only in weak states. Carey, Mitchell and Lowe's (2013: 254) finding would appear to contradict that the traditional notion that the presence of armed groups alone is an indication of state failure or weakness (cf. Bates, 2008: 106-108).

States such as Colombia (Cousins and Schmitz, 2020: 133), Indonesia (Hernawan and Nah, 2020: 41), and Mexico (Bartley, Monterossas and Ruiz Pacheco, 2020: 107) have been cited as examples where states have colluded with non-state actors to restrict NGOs (Nah, 2020b: 4). Perhaps most importantly, in all three cases, the state also took steps to restrict human rights groups using state apparatus, but this was augmented and enhanced by coordination with armed non-state actors to target NGOs and activists. Although these studies were not theorised in this way, and the relationships between state and non-state actors were not explicitly investigated, these states could be argued to use collusion as a “force multiplier” (cf. Donahue and Zeckhauser, 2011: 4). This is because the activities of non-state actors helped the state to persecute activists while simultaneously providing the state with the opportunity to obfuscate or hide links between itself and the activities of non-state actors.

Consequently, while the idea of a “force multiplier” may have been developed by Donahue and Zeckhauser (2011: 4) to enhance governance in the USA, it can equally be applied to restrictive or repressive policies by states. As outlined by Alvarez (2006: 21), in a contribution prior to the publication of Donahue and Zeckhauser's (2011) more comprehensive theory, a “force multiplier” during a genocide may provide the state with “...quick and easy augmentation of the regular military forces.” (Alvarez, 2006: 21). I build on Alvarez's (2006: 21) and Donahue and Zeckhauser's (2011: 4) overall logic to view a “force multiplier” as the inclusion of additional forces by the state to complete a task.

In this instance, if a state is already restricting NGOs using legal or extra-legal means, then the logic behind “collaborative governance” could be extended to include collusion with non-state actors to impose additional restrictions on NGOs. Following the central argument put forward by Donahue and Zeckhauser (2011) and Alvarez (2006), it is therefore plausible to argue that states may use collusion to complement their own restrictions. By adding additional forces through collusion, a state may also draw additional benefits. I now discuss this.

Specialisation

Donahue and Zeckhauser's (2011) argument views collaborative governance or delegation to private actors as achieving better outcomes than a state could achieve on its own. In explaining this logic, the authors highlight two interrelated incentives for delegation, namely specialisation and efficiency, which they argue lead to improved policy outcomes. The authors clarify this tenet of their argument:

“Private organizations, as a group tend to outclass public organizations in operational efficiency. This observation neither implies contempt for the private

sector nor infatuation with the private sector. The two sectors simply have different strengths.” (Donahue and Zeckhauser, 2011: 63).

This assertion of state delegation to private actors aligns with a broader body of work in the principal agent literature. As highlighted by Hawkins et al. (2006: 13), through delegation, a principal may take advantage of an agent’s “expertise, time, political ability or resources” to complete a task. The authors go on to argue that a principal may be willing to tolerate greater losses to capture these gains (Hawkins et al., 2006: 14). This means that a principal’s willingness to accept a degree of goal divergence may increase if the task is particularly specialised.

At a practical level, studies have argued that state delegation of violence to non-state actors, such as pro-government militias, has several “specialised” advantages that states can leverage. For example, militias may have local intelligence (Lyall, 2010: 14; Staniland, 2012: 17), understanding of the terrain, or critical infrastructure (Salehyan, Gleditsch and Cunningham, 2011: 714) which enables them to complete operations more efficiently than state military (Carey, Colaresi and Mitchell, 2012: 5; Carey and Mitchell, 2016: 3).

Yet, as highlighted by Hawkins et al (2006: 13), it is generally argued that specialised tasks and the degree of agency loss are positively correlated. For example, studies assessing the use of militias have highlighted agent exploitation of contracts for private gain, using the example of sexual violence during war (Wood, 2012: 404; *see also* Butler, Gluch and Mitchell, 2007: 670; Cohen and Nordås, 2015: 888). Perhaps the most novel aspect of Donahue and Zeckhauser's (2011: 27) argument is that despite agency loss – even in the brutal terms put forth by authors assessing militias – the ultimate outcome of delegation would still exceed that of a state’s lone efforts.

This has been suggested to be a factor in studies directly relevant to this project. For example, the notion of agent specialisation aligns with Brechenmacher's (2017: 96) finding regarding state collusion with state-affiliated NGOs and the deployment of these to disrupt national networks of NGOs. An assumption underpinning this particular restriction is that only a state-affiliated NGO would be able to carry out this kind of restriction. Following the arguments set forth by Hawkins et al. (2006: 13), it is plausible to propose that in Brechenmacher's (2017: 96) study, states delegated tasks to state-affiliated NGOs to take advantage of their specialised nature.

More importantly, this may also provide an explanation for the delegation of restrictions by states, which may delegate restrictions if they are unable to impose certain restrictions on their own. Therefore, by delegation to an agent with a specialised skill set or expertise, a state may be able to overcome its deficiencies.

Efficiency

While there are risks involved, delegation also presents a way to respond quickly to changes or an escalating confrontation with civil society. In the case of restrictions, the efficiency and agility gains of delegation may aid states in responding to unexpected confrontations while avoiding further reputational harm or backlash (cf. Kalyvas and Kocher, 2007: 183). For example, in Donahue and Zeckhauser's (2011) argument for “collaborative governance” is proposed to provide better “public value, relative to the resources used, than the public sector could deliver on its own” (Donahue and Zeckhauser, 2011: 35).

This is not necessarily a new argument. For example, economic theories of production have been used to explain the economic advantage of delegation, which is argued to

provide a more efficient and agile way to respond to changes in the market. Bhagwati's (1984: 134) and Bhagwati, Panagariya and Srinivasan's (2004: 95) “splintering” theory has been used to explain why firms choose to outsource the production of goods. Their logic proposes that a firm may gain a competitive advantage by outsourcing production to another specialist firm or firms rather than making a component themselves. If the market changes, the firm simply changes supplier, rather than adapting internal operations (Bhagwati, Panagariya and Srinivasan, 2004: 95). Delegation therefore provides a competitive advantage, in both efficiency and agility, over a firm that chooses to produce all components using its own resources (Bhagwati, 1984: 138).³²

Carey, Colaresi and Mitchell (2012: 4) use Bhagwati's (1984: 134) and Bhagwati, Panagariya and Srinivasan's (2004: 95) arguments over “splintering” and apply them to the delivery of violence. Carey, Colaresi and Mitchell (2012: 4-5) argue that by using centralised security or intelligence agencies to respond to unexpected threats, a state may sacrifice agility and increase costs. This is further reinforced by the variety of political roles that armed non-state actors such as militias can play, as well as the diversity of relationships they can have with states (*see* Staniland 2015b: 772-776). The diversity of relationships, which can include suppression, containment, collusion, and incorporation, means that states can utilise militias in a variety of roles to achieve strategic objectives with agility and efficiency (Staniland 2015b: 779). Similarly, Eck (2015: 928-930) highlights that state vulnerability during internal political turmoil may drive delegation as the state lacks the agility to respond to the growing threat of political violence.

³² Williamson (1999) also confirms assertions made by Bhagwati (1984: 134) and Bhagwati, Panagariya and Srinivasan (2004: 95), but applies them directly to state procurement. Williamson (1999: 319) highlights that despite the inherent issues with efficiency, a public bureaucracy will still seek to lower procurement transaction costs. This translates to viewing a state decision to make or buy as simple. Outside exceptional circumstances such as global conflict, it is nearly always advantageous for a state to outsource products.

Therefore, delegation may be a more efficient way to respond to a rapidly changing threat level (Eck, 2015: 941).

When related to collusion between state and non-state actors to restrict civil society, efficiency and agility align with Eck's (2015: 928-930) findings regarding the state's ability to respond to threats. Given assertions by Staniland (2015b: 772-776) regarding the variety of political roles of militias, it is plausible to argue that states may choose to delegate restrictions if NGO activity has proved unexpectedly powerful in mobilising a domestic or international audience. Given the resulting increase in scrutiny on state actions, the state's mobilisation of apparatus to restrict NGOs may escalate participation, creating a backlash against state repression (cf. Kalyvas and Kocher, 2007: 183). Consequently, it may be faster and more efficient to quell an uprising through collusion or delegation rather than risking further unrest through the use of state apparatus.

Reputation and Evading Accountability for Restrictions

The second incentive that I identify is evading accountability. The logic for this incentive is rooted in the expectations of state respect for human rights as determined through a state's domestic and international commitments. In relation to the issues examined in this research, collusion or delegation is therefore likely to occur if a state wishes to carry out more severe restrictions, such as torture, enforced disappearance, or the murder of activists without alerting domestic or international publics to their actions.

Investigations examining state collusion with militias have highlighted that militias or unofficial military forces may provide benefits for states. The use of non-state actors to delivery of violence can offer plausible deniability (Mitchell, 2004: 32, 2012: 34-38) and enable states to achieve strategic objectives while avoiding direct accountability for repression perpetrated by non-state actors (Carey, Colaresi and Mitchell, 2012: 4-6;

Staniland, 2012: 17; Carey, Colaresi and Mitchell, 2015: 851-852). Importantly, this has implications for respect for human rights, as states create distance between themselves and human rights violations committed by their agents (Mitchell, Carey and Butler, 2014: 819). Aligning to Arrow (1985: 5-6) and Spence and Zeckhauser (1971: 380-381), information is a vital driver behind delegation. However, in this instance the role of information is inverted, with collusion as a potential method of suppressing evidence of state involvement in illicit activities. Forsythe (1992: 390) uses the expression “discreet distance” to explain how the USA took steps to bury its support for political dissidents and regime change around the world. When assessing state-sponsored terrorism, Byman and Kreps (2010: 6) argue that tenuous links between principal and agent are advantageous for avoiding retaliation or reputational costs for the principal. Moreover, Staniland (2015a: 695) views electoral violence by non-state actors as a method for states to manipulate elections while simultaneously evading international sanctioning.

As a result, information asymmetry becomes an asset rather than a liability, as states use delegation to shield their reputation from the actions of their agents. In doing so, these arguments align to the literature that stresses the importance of state sensitivity to “naming and shaming” and the reputational costs of domestic and international awareness of complicity in campaigns of repression (cf. Risse, Ropp and Sikkink, 1999; Franklin, 2008: 205; Murdie and Davis, 2012: 13).

When related to restrictions on NGOs, the issue of deniability and distance from restrictions is particularly compelling if applied to the type of restriction that is imposed. Following Mitchell's (2004: 32, 2012: 34-38) argument, deniability may be particularly important in relation to individual restrictions, which carry higher reputational costs. If

activists are subject to individual restrictions, then it is plausible to expect that states may delegate these to non-state actors to avoid reputational harm.

State Weakness?

There is also an alternative explanation in the literature that questions states' motivations to work with non-state actors. Thomson (1994: 108) highlights that in certain circumstances, violent and organised non-state actors such as pirates can exploit state weakness for private gain. Similarly, describing the descent of several post-colonial African nations into civil conflict, Bates (2008: 106-108) evidences how military and affiliated militias exploited weak states, leading to violence, extortion, and looting.³³ Both Thomson's (1994: 108) and Bates' (2008: 106-108) arguments stem from the Weberian (1946: 78) assertion that, by definition, only the state should have the legitimate monopoly on the use of force within its borders.³⁴ The logic tying these contributions together is that weak states lack the capacity to constrain and protect their populations from violent non-state actors.

Much of the research literature on state cooperation with armed non-state actors presupposes a weak state, on the basis that only the state has the legitimate monopoly on violence within its borders (Weber, 1946: 78). Some case material would appear to support Weber's (1946: 78) assertion. For example, studies of Afghanistan (Mukhopadhyay, 2014: 5), Somalia (Menkhaus, 2006: 78), and Sudan (Seymour, 2014: 93) all clearly demonstrate that due to severely weakened institutions (cf. Migdal, 1988: 90-91) and protracted conflict, the state was shown to enlist the support of armed non-state actors to maintain control over its territories.

³³ Bates (2008) uses the presence of militias as the sole indicator of state failure in his study.

³⁴ This notion is challenged by a rich literature beyond the scope of this dissertation. For an alternative perspective that challenges the Weberian (1946: 78) assertion, and views the state as a dynamic area of contestation and even violence, see Tilly, Tilly and Tilly (1975).

Yet, there is disunity in the literature regarding Weber's (1946: 78) central assertion. For example, Mazzei's (2009: 12-14) study of Colombia, El Salvador, and Mexico finds that the presence of death squads does not automatically indicate state failure. Instead, she argues that the emergence and use of death squads is more typical in *failing* states where their activities benefit the state (Mazzei, 2009: 205). Other case evidence from around the world would appear to support Mazzei's (2009: 205) work. Case research examining genocides in Indonesia (Cribb, 2001: 233), Bosnia and Herzegovina and Rwanda (Alvarez, 2006: 11, 13-14) and East Timor (Parry, 2002: 186; Robinson, 2002: 165; Trowbridge, 2002: 216) suggests that states that are not usually characterised as failed states can also draw observable incentives from the activities of armed non-state actors. This finding is further supported by Carey, Mitchell and Lowe's (2013) global study of the presence of pro-government militias, which finds that these groups are more frequently found in countries that are not experiencing civil conflict (Carey, Mitchell and Lowe, 2013: 254), which is often used as an indicator of state failure (*see* Bates, 2008).

Carey, Mitchell and Lowe's (2013) global data and analysis challenges the binary notion of “weak” and “strong” state to explain why medium-capacity and high-capacity states may tolerate non-state actor violence. Instead, this body of work suggests a more nuanced incentive structure for states of all types to collaborate with armed non-state actors. As a whole, the aforementioned literatures would suggest that any state can draw benefits from the activities of armed non-state actors, and the presence of these groups alone does not imply state weakness.

To explore this further, Risse (2017) proposes the concept of “limited statehood” as one explanation to theorise these findings. In doing so, Risse (2017: 141) argues that “most

states” have locations where they “...do not control the entire territory...[where they do not] enjoy the monopoly over the means of violence, and/or have limited capacities to enforce and implement decisions...” (Risse, 2017: 141).

In this approach, the state may be present, but lacks the ability to control non-state actors in locations beyond of state’s locus of power. Risse's (2017) argument is particularly useful in offering a potential explanation for non-state actor violence in rural areas. Yet, this notion is contested by Kleinfeld and Barham (2018). In their study, and as opposed to Risse (2017), Kleinfeld and Barham (2018) argue that high-capacity states with significant non-state actor violence, may instead deliberately weaken state security agencies and collude with non-state actors to maintain their hold on power (Kleinfeld and Barham, 2018: 220-221). In this explanation, elites purposefully “abdicate” the monopoly on force for fear that state security agencies will challenge them, or may do so in the future (Kleinfeld and Barham, 2018: 221). This is also a particularly effective strategy to “muddy the waters” of blame for violence committed for their own political gain (Kleinfeld and Barham, 2018: 221; *see also* Alvarez, 2006: 11; Carey, Colaresi and Mitchell, 2012: 4-6; Staniland, 2012: 17; Carey, Colaresi and Mitchell, 2015: 851-852).

Perhaps of crucial importance, Kleinfeld and Barham (2018: 229-230) move away from the explanation of state strength and instead focus on “complicity” as way to understand why a state would cooperate with armed non-state actors. They explain this assertion:

“Complicit states use violence to buttress political settlement based on maintaining extreme privilege for a few. These states rely on elite bargain [between state and armed non-state actor], which underpins political settlement. Within a state that outwardly resembles a competitive party system, factionalised elites compete among themselves for power...” (Kleinfeld and Barham, 2018: 230).

Kleinfeld and Barham's (2018) work posits that collaboration between states and non-state actors is simply a way to maintain the status quo. In this explanation, state

collaboration with armed non-state actors is a way to avoid empowering state agencies or officials within them, who may not share their interests. As an extension of this argument, they go on to highlight that this explains why activists representing the interests of marginalised communities or who work to promote human rights or labour interests face violence from both state and non-state actors (Kleinfeld and Barham, 2018: 230). When considering violence from non-state actors, this argument views the state as a complicit bystander in repression, while drawing the benefit of plausible deniability.

Yet state weakness is still a compelling explanation that cannot be discounted. Mann's (1984: 188-194, 2008: 355-359) contribution, which uses the term “infrastructural power” to refer to the “capacity of the state to penetrate civil society, and to implement logistically political decisions throughout the realm” (Mann, 1984: 189), helps to conceptualise this argument.³⁵ Drawing from Mann's (1984: 188-194, 2008: 355-359) characterisation of state capacity, it is plausible to explain the conclusions by Thomson (1994: 108) and Bates (2008: 106-108) to argue that if state capacity is low, a state may be unable to stop violence perpetrated by non-state actors. In the examples cited by Bates (2008: 106-108), lack of “infrastructural capacity” (Mann, 1984: 188-194, 2008: 355-359) led non-state actors to exploit state weakness for private gain.

This is relevant to states, non-state actors and restrictions on NGOs in two ways. Firstly, if a state is unable to protect activists or NGOs, then a non-state actor may repress them independently of the state. While “naming and shaming” is primarily used against states, it is equally plausible to expect that NGOs may also advocate against non-state actors,

³⁵ Mann (1984) offers a distinction between “despotic power” and “infrastructural power”, which can be viewed as the power of elites or the power of bureaucracy, which means the state can “enforce its will within the day almost anywhere in its domains” (ibid.: 89). This is further clarified in Mann (2008: 356-357).

which may in turn lead to restriction or repression. Mann's (1984: 188-194, 2008: 355-359) contribution would also suggest that this is more likely when states lack the power, intelligence, or infrastructure to pre-empt, respond to, or suppress restrictions by non-state actors. Secondly, it also may be relevant if a state is unable to control an agent after a transfer of agency has taken place. This may be true if a state has contracted a particularly violent non-state actor.

Given these assertions, it would be plausible to expect that if a non-state actor was exploiting state weakness for private gain, a state would attempt to constrain its activities. This would be particularly true if there were doubts over the loyalty of violent non-state actors who can then threaten the state (*see* Eck, 2015: 925). Staniland (2015b: 773-775, 2021: 43) notes that states may attempt strategies of “suppression” or “containment” if non-state actor violence reaches an unacceptable level or commits acts states wished to prevent. Consequently, if a non-state actor was exploiting state weakness and committing violence that the state wished to stop, existing research would suggest that the state would take observable measures to prevent its activities.

Defining Non-State Actors

Throughout this dissertation, I use the expression “non-state actors” to describe a group of actors that restrict civil society. As highlighted by Van der Borgh and Terwindt (2014: 133), Brechenmacher (2017: 96), and Nah (2020b: 3), case evidence would suggest that these actors – which are not formally part of the state – have been documented to restrict NGOs. Despite this, there is still a distinct lack of clarity regarding a concise definition of what a non-state actor is. In this section, I explore the existing literature to devise a working definition of non-state actors. Peters, Koechlin and Zinkernagel (2009) highlight the complexities of the term non-state actor, saying:

“It seems no coincidence that the term ‘non-state actor’ does not contain a positive attribute, but is – so to speak – an empty term. It comprises of actors which apparently only have in common that they are not the state, and not governmental.” (Peters, Koechlin and Zinkernagel, 2009: 14).

Peters, Koechlin and Zinkernagel's (2009) approach epitomises much of the literature on non-state actors: they are defined by what they are not. The fact that they are not formally part of the state is the unifying theme that links a disparate group of actors. Despite being an “empty term” (Peters, Koechlin and Zinkernagel, 2009: 14), non-state actors have been recognised to play a critical role in influencing both national and global political systems (Risse-Kappen, 1995: 4; Krasner, 1995: 260; Risse, 2007: 251). As a starting point, I follow the assertion found in the literature that NGOs themselves are distinct from the state and therefore should be included in the category of non-state actors (*see* Mann, 1984: 186; Hadenius and Ugglå, 1996: 1621; Janoski, 1998: 12; Edwards, 2004: 25).

Yet, with the inclusion of NGOs, this category of actors is diverse. For example, Nah (2020) notes that actors such as “...corporations and religious institutions or illegal actors such as organised crime, gangs, or drug cartels – have become increasingly powerful in determining political outcomes” (Nah, 2020: 4).³⁶ This is especially true for restrictions on NGOs, as Nah (2020: 4) goes on to highlight that these groups can “covertly” influence by “delegitimising” rights-based advocacy by NGOs with less power. Others have referred to non-state actors’ influence on the space for NGO activism as “shadow or hidden power”, which exists as opposed to the “visible and formal power” of the state (*see* Just Associates, 2017: 5). It is important to note that the

³⁶ It is important to note that Nah (2020: 4) uses the expression “non-state actor” to encapsulate all of these various groups.

actors highlighted by Nah (2020: 4) often have the capacity and motivation to restrict NGOs on their own and independently of states.

This assertion of non-state actors' "shadow or hidden power" (Just Associates, 2017: 5) has been shown to be particularly powerful against specific types of NGOs. For example, NGOs working promote women's rights, or the interests of the LGBTIQ+ community, or religious freedom, or the rights of minorities have been documented to be especially vulnerable to restrictions from "...vigilante groups, fundamentalist groups, religion-based organisations, militias, thugs, military or police-affiliated movements and armed separatist movements..." (Hernawan and Nah, 2020: 39-40). In this sense, Hernawan and Nah's (2020: 41) findings illustrate that activists' identities as well as their activities can be drivers of restrictions from both states and non-state actors.

Of critical importance in this study, Hernawan and Nah's (2020: 39-40) case evidence also emphasises that the interconnected web between states and non-state actors can have a powerful impact on NGOs. When also considering the impact of state restrictions, the addition of non-state actor restrictions on these groups may carry significant costs for activists and NGOs.

This assertion – of collusion between state and non-state actors to restrict NGOs and activists – is expanded to other locations by Bartley, Monterossas and Ruiz Pacheco (2020: 107), who explore the relationship between the state and drug-cartels in Mexico. In using this example, they draw attention to the "obscure" links between state and Mexican drug cartels. Bartley, Monterossas and Ruiz Pacheco (2020: 107) explore and question the chain of command in this dynamic relationship between state and non-state

actor when restricting NGOs and activists (Bartley, Monterossas and Ruiz Pacheco, 2020: 107; *see also* Leather, Bertrand and Evia, 2015: 8). This ambiguity makes it highly challenging to hold perpetrators of restrictions to account accurately as activists could not distinguish between state and non-state actor.

This ambiguity has benefits for states. Cousins and Schmitz's (2020) exploration of non-state actor repression of human rights NGOs and activists in Colombia adds further evidence to this assertion. Their study highlights that paramilitaries frequently work in “concert” with state forces to persecute human rights activists (Cousins and Schmitz, 2020: 133). Similarly, the authors also acknowledge that there is a fluidity of personnel between paramilitary groups and the state, adding to a complex picture for human rights (Cousins and Schmitz, 2020: 133). By using case evidence, the authors advance the argument that despite the protection mechanisms available to activists in Colombia, the state’s continued collusion with non-state actors such as paramilitaries had led to serious restrictions on activists’ work. In drawing from testimonial evidence from human rights defenders, they conclude that “...without...cutting [state] ties to corrupt structures – often referred to as paramilitaries – significant [human rights] progress is unlikely to be made...” (Cousins and Schmitz, 2020: 147).

Other studies complements Hernawan and Nah (2020: 39-40), Cousins and Schmitz (2020: 133), and Bartley, Monterossas and Ruiz Pacheco's (2020: 107) work by exploring the potential benefits for the state to work with non-state actors. Others highlight that non-state actors such as militias may have local intelligence (Lyll, 2010: 14; Staniland, 2012: 17), understanding of the terrain, or critical infrastructure (Salehyan, Gleditsch and Cunningham, 2011: 714) that may enable them to complete

operations more efficiently than state military (Carey, Colaresi and Mitchell, 2012: 5; Carey and Mitchell, 2016: 3). Others highlight that distancing the state from the delivery of violence may be a benefit for the state (*see* Mitchell, 2004: 32, 2012: 34-38). In doing so, colluding or collaborating with non-state actors who are “not officially or formally acknowledged” by the state may hold benefits for some states (Mitchell and Carey, 2013: 11). This is explained by the fact that some state may wish to commit violence without the incurring the reputational costs, meaning that altering the delivery of violence through delegation may be useful (Mitchell and Carey, 2013: 11; *see also* Carey, Colaresi and Mitchell, 2015: 851).

Other characterisations of non-state actors that do not explore the restriction of NGOs examine armed groups and their relations with the state (*see* Sundberg, Eck and Kreutz, 2012: 353; Roessler, 2005: 209; Staniland, 2012: 22, 2015: 695, 2021: 2; Mitchell and Carey, 2013: 11; Eck, 2015: 925). In exploring these literatures, the distinctions, overlap, and confusion between different types of armed non-state actors becomes quickly apparent. For example, some describe non-state actors as paramilitaries, political parties or candidates, or groups defined along ethnic, clan, religious, national or tribal identities (Sundberg, Eck and Kreutz, 2012: 353) where the state is not directly involved (Fjelde and Østby, 2014: 739; *see also* Böhmelt, Bove and Gleditsch, 2019: 56). Similarly, others use characterisations such as pro-state paramilitaries (Staniland, 2012: 22), armed groups (armed political parties, militias, private armies, and insurgents) (Staniland, 2021: 2), or pro-government militias (Mitchell and Carey, 2013: 11), or death squads (Mazzei, 2009: 205; Mitchell and Carey, 2013: 11) to describe armed actors that are not identifiably part of the state (Fjelde and Østby, 2014: 739; *see also* Böhmelt, Bove and Gleditsch, 2019: 56).

Yet, questions remain over whether these non-state armed actors are actually part of the state. The existing literature provides some useful guidance in this regard. For example, the presence of uniforms has been viewed as one method of categorising between state and non-state actors. For example, Mitchell and Carey's (2013) work characterises death squads, including out of uniform personnel, as non-state actors (Mitchell and Carey, 2013: 6, 12). Drawing on case evidence from India and particularly the Kashmir region, Pettigrew (2000: 208-209) also uses uniforms as a distinguishing feature between state and non-state actor, by examining extrajudicial killings and enforced disappearances perpetrated by plainclothes individuals. The activities of these plainclothes units caused confusion among local communities, as their actions could be denied by the state while also purposefully exploited to create fear among local Sikh activists (Pettigrew, 2000: 219).

Others, argue that trying to distinguish between state and death squad is arbitrary, on the basis that if the non-state actor was working against the state, the state would attempt to destroy the group. This is because by definition, death squads need to have the “overt support, complicity, or acquiescence of the state...” (Campbell, 2000: 2) of the state to carry out their activities or sometimes even to exist. Similarly, Mazzei (2009) argues that trying to delineate between the state and death squads is ultimately pointless, by saying: “The creation of paramilitaries abolishes the dividing line between what is civilian and what is military” (Mazzei, 2009: 6). This is further elaborated upon:

“There are members of paramilitary groups who are civilians and may or may not be acting at the behest of military personnel, though the military personnel may be off-duty and engaging in illegal activity outside of their official capacity. In other cases, paramilitary members are members of the armed forces and may or may not be following illegal orders of their official superiors acting in an unofficial capacity.” (Mazzei, 2009: 6).

Both Campbell (2000: 2) and Mazzei (2009: 6) view the existence and observable operations of a death squad as evidence of state complicity in their activities. If this was not the case, as highlighted by Staniland (2015: 773-775; 2021: 4), it would be possible to expect that the state would take observable steps to contain or destroy the group. The literature would suggest that even in areas where the state may not have the monopoly on force (cf. Risse, 2017: 141), the state would still take steps to exert control (*see* Staniland, 2021: 250).

There is clearly ambiguity in the literature regarding the types of non-state armed actor, their various definitions, and whether they are part of the state or not. However, one thing that unites all the literature is that if forces cannot be distinguished as state actors, they are usually defined as non-state actors. The literature appears would suggest that the burden of proof falls upon defining actors that are part of the state. Others that do not fulfil these criteria are characterised as non-state. Perhaps the use of uniforms to distinguish non-state death squads by Mitchell and Carey (2013) and Pettigrew (2000) is the most obvious exemplification of this central assertion.

I draw from the literature in this section to devise the following definition of non-state actor which is used for the rest of this study. I view non-state actors as actors that are not officially or outwardly part of the state. While these organisations may maintain strong links with the state, including through exchange of personnel, they cannot be observably identified as state operatives or organisations. In operationalising this definition, I follow Mitchell and Carey's (2013: 6, 12) approach of terming military forces that include out of uniform personnel as non-state actors. Documenting the links

between out of uniform death squads and the state as well as their activities against NGOs and activists is a unique contribution of this study.

Incentives for Non-State Agents

Up to now, I have examined possible explanations found in the literature to describe the incentives for states to delegate. But it is equally important to recognise that non-state agents also need incentives to avoid the “principal’s problem” (Ross, 1973: 138; Mitnick, 1975: 29; Eisenhardt, 1989: 59).

Donahue and Zeckhauser (2011: 4) identify two incentives for non-state agents to work with states in their “force multiplier” theory. Firstly, they identify direct incentives that are not only financial but also include “...expanded authority, an enhanced reputation, or control over resources.” (Donahue and Zeckhauser, 2011: 218). Donahue and Zeckhauser (2011) further describe direct incentives as including the added incentive of a further contract or relationship beyond the original contract. The “prestige” of working with the state may also be a direct incentive. In this instance, the “award” of being selected to work with the state may position the non-state agent to gain further contracts or financial gain from others.

On the other hand, the state may grant an indirect reward. In this instance, the state takes steps that liberalise a market, enabling the non-state agent to “secure benefits from elsewhere”. For example, Donahue and Zeckhauser (2011) use the example of drug licensing to describe this. If a drug is developed in partnership between the state and a pharmaceutical company, and approval of the drug is granted by the state, the pharmaceutical company will gain financial reward from insurers and citizens. Therefore, approval is an example of an indirect incentive as it enables the non-state agent

to reap rewards from another source following completion of a contract with the state (Donahue and Zeckhauser, 2011: 219).

In my application of this theory, I adopt Donahue and Zeckhauser's (2011: 218-219) approach of direct and indirect rewards. For actors restricting NGOs, direct support would suggest financial rewards, direct resourcing or sponsoring, or perhaps recognition by the state that may legitimise the non-state agent's restrictive activities. Existing studies provide a useful starting point to operationalise this concept, offering approaches that look at support and sponsoring (Roessler, 2005: 209), training, equipment, sharing of intelligence, shared personnel, material support, and the nature of state sponsoring (Mitchell and Carey, 2013: 11-4), and more simply non-state actors' affiliation with political organisations and the nature of resources received (Cunningham, Gleditsch and Salehyan, 2013: 521). These direct incentives would align with Donahue and Zeckhauser's (2011: 219) arguments whereby the state directly rewards a non-state agent to fulfil a contract. If a state wishes to draw the incentive of deniability through collusion, it is likely that it will attempt to hide or obscure these rewards to try and distance itself from restrictions – especially individual restrictions – imposed on behalf of the state (cf. Forsythe, 1992).

Indirect non-state agent incentives are more complex. A review of research literature would suggest that when discussing delegation of violence between states and non-state agents, groups such as militias can gain “opportunistic” incentives such as looting and pillaging (Alvarez, 2006: 11) or sexual violence (Wood, 2012: 402; Cohen and Nordås, 2015: 882-883; *see also* Wood, 2018: 518). When applied to Donahue and Zeckhauser's (2011: 218-219) framework, the indirect reward driving these incentives is impunity from prosecution. If non-state agents know with a degree of certainty that the state will not

prosecute personnel for reaping private gain – for example, sexual violence while completing a contract, such as imposing restrictions – then impunity is the indirect reward linking the non-state agent’s actions and the state’s goal. The state has created an environment where the non-state agent can gain reward from elsewhere while completing a contract on behalf of the state. The fact that the state fails to prosecute violence committed by a non-state agent may be further indication of a contract between state and non-state agent.

As such, in the following chapters I draw from Donahue and Zeckhauser's (2011: 218-219) framework of direct and indirect incentives by operationalising Roessler's (2005: 209) indicators of state support. Roessler's (2005: 209) approach covers both direct and indirect incentives by including support (weapons, personnel, logistics or intelligence), sponsorship (finances) or permits (refusal to quell) for the activities of groups carrying out repression for political gain.

States, Non-State Actors, and the Imposition of Restrictions on Civil Society

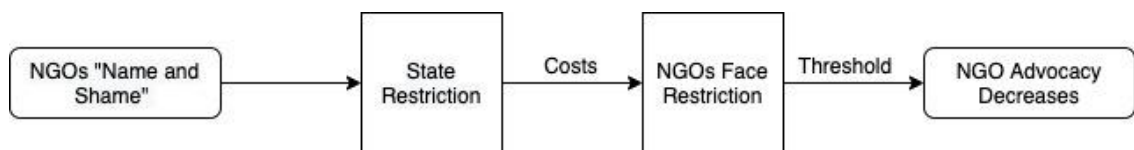
Drawing from the literature reviewed in this chapter and as stated earlier, my research is interested in understanding three interrelated questions:

1. What restrictions are imposed on NGOs?
2. Do states collude with non-state actors to impose restrictions? If so, which restrictions and why?
3. How do restrictions impact on the activities of NGOs?

There is consensus in the literature that contemporary confrontations are driven by NGO activity that through “naming and shaming” draws domestic and international attention

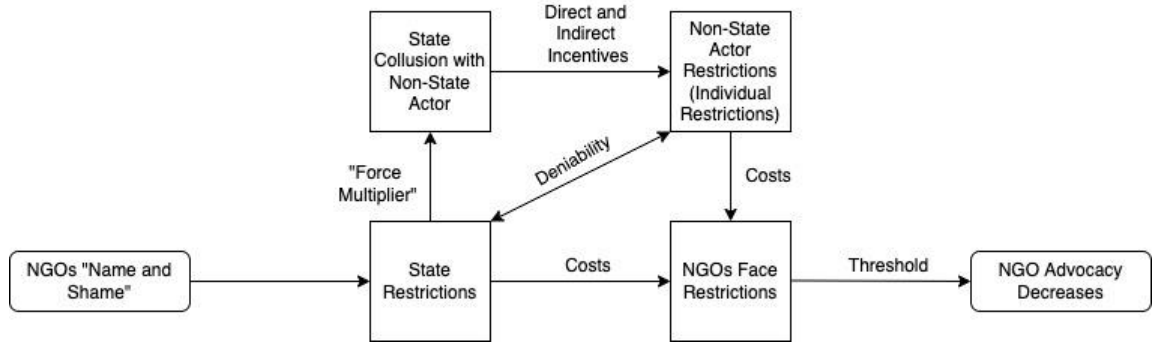
to state non-compliance with standards on issues such as democracy (Carothers, 2006: 57; Gershman and Allen, 2006: 38; Christensen and Weinstein, 2013: 81; Carothers and Brechenmacher, 2014: 7-16; Wolff and Poppe, 2015: 3; Buyse, 2018: 297) and human rights (cf. Van der Borgh and Terwindt, 2014: 93; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Brechenmacher, 2017: 15-16, 44-47, 70-72; Bakke, Mitchell and Smidt, 2020: 89; Smidt et al., 2020: 15). This advocacy is then argued to encourage states to use both legal and extra-legal restrictions as a method of stifling criticism by NGOs. As these restrictive measures increase and the tolerance threshold is reached, NGOs are forced to halt advocacy or cease operation. I offer an overview of this established argument found in the literature in Figure 2.2.

Figure 2.2: Outline of Causal Sequence Found in Literature



The above model fails to take into account the role of non-state actors and also does not consider the potential incentives for states to collude with non-state actors. My research aims to remedy this gap. In this chapter, I have engaged with a variety of literatures to build a framework that identifies incentives for states to collude with non-state actors to restrict NGOs. In doing so, I argue that non-state actors are used as a “force multiplier” (cf. Donahue and Zeckhauser, 2011: 4). Further, I argue that states may seek to hide complicity for their support depending on the severity of the restriction imposed on their behalf and their sensitivity to reputational costs: as the severity of the restriction increases so do the benefits from collusion. I offer an outline of this argument in Figure 2.3.

Figure 2.2: Outline of Proposed Causal Sequence



Drawing from the literature outlined in this chapter, I deduce several testable propositions. I now briefly situate these propositions in the relevant literature discussed throughout this chapter.

Firstly, I examine whether states delegate restrictions on certain NGOs to complement their own restrictive measures. The claim of delegation requires a high evidentiary threshold and my study seeks to see whether my data reaches this threshold. It is equally plausible to expect that states simply collude with non-state actors or are complicit by failing to stop restrictions from non-state actors.

In identifying incentives to collude with non-state actors, I focus on the contributions from Donahue and Zeckhauser (2011: 4) regarding “force multipliers”, where states may mobilise external non-state agents to commit violence (*see* Alvarez, 2006: 21), and also draw the benefit of plausible deniability for their actions (Mitchell, 2004: 32, 2012: 34-38). I argue that collusion allows states the opportunity to draw the benefit of plausible deniability. Throughout this dissertation, I view the two key incentives of a “force multiplier” (Donahue and Zeckhauser, 2011: 4) and deniability (Mitchell, 2004: 32, 2012: 34-38) as interlinked. This is because a state cannot gain the benefit of deniability without first mobilising additional forces via a “force multiplier”. I assess the types of non-state actors that have been documented to restrict human rights NGOs. I also expect the state

to collude with non-state actors when NGOs can impose high reputational costs on the state and especially when advocacy is conducted internationally. I argue that the higher the potential damage of “naming and shaming” through international advocacy, the more likely it is that states will collude with non-state actors to commit individual restrictions. I examine the claim of collusion by considering the level of resources that the agent is granted using Roessler's (2005: 209) typology of support. Given these incentives, I propose that:

States collude with non-state actors to impose restrictions on NGOs.

Secondly, if collusion is occurring as investigated, I seek to analyse the types of restrictions that are imposed by non-state actors. My focus here is on the type of restrictions that are imposed by different actors and whether proximity to the state influences the type of restrictions imposed. As a result, I seek to build on arguments put forward by Forsythe (1992: 390), Mitchell (2004: 32, 2012: 34-38), Byman and Kreps (2010: 6), Carey, Colaresi and Mitchell (2012: 4-6), Staniland (2012: 17), Carey, Colaresi and Mitchell (2015: 851-852), and Staniland (2015a: 695) regarding the benefits of deniability for principals. Given the reputational costs of imposing individual restrictions on NGOs, it is plausible to argue that individual restrictions will be delegated to agents. It is also likely that a state may delegate individual restrictions as non-state actors may be unable to impose some organisational restrictions, such as legal challenges, the revocation of NGO licences, or funding bans against critical NGOs. Consequently, I therefore expect that:

States allow non-state actors to impose individual restrictions.

Finally, I examine the effectiveness of restrictions in reducing NGO activity and their impact on activists. To do this, I draw from contributions by Carothers and Brechenmacher (2014: 7-16), Dupuy, Ron and Prakash (2015: 420), Dupuy, Ron and Prakash (2016: 300), Brechenmacher (2017), Bakke, Mitchell and Smidt (2019: 89), Smidt et al. (2020: 15), Christensen and Weinstein (2013: 81), Wolff and Poppe (2015: 3), and Buyse (2018: 297) over the types of restrictions that are imposed on NGOs. Previous research findings imply that individual restrictions impose a high cost on activists, which is effective at reducing NGO activity. This can be explained by the fact that some individual restrictions violate state commitments to non-derogable rights, which may leave activists injured, murdered, or suffering from severe psychological trauma. Consequently, the act of witnessing others enduring individual restrictions, or experiencing them first-hand, may create fear and panic among activists. This is further supported by findings that emphasise the “deterrence” effect of measures against human rights defenders (Nah, 2020: 12), which discourages activists from participation in NGO activities.

Yet there is a notable lack of research that systematically examines the impact of individual and organisational restrictions. Emerging research findings would suggest that with organisational restrictions, NGOs and activists are able to adapt and continue their operations (Smidt et al., 2020: 18), but if individual restrictions involve violation of non-derogable rights, NGO advocacy quickly declines as activists are discouraged from participating in criticism of the state. I seek to examine the logic underpinning this finding in the literature.

To build on the existing body of work examining restrictions, I draw from Olson's (1965: 75) collective action approach to theorise that restrictions, from both state and non-state

actors, are an additional cost of organising and conducting human rights advocacy. Using this logic, I argue that restrictions targeting individuals impose substantial costs on activists and NGOs but may also expose a state to reputational costs. Consequently, there is an incentive to delegate these restrictions to non-state actors, because non-state actors are not subject to the same level of accountability. I argue that, with the notable exception of the organisational restriction of outright banning of NGOs by states, individual restrictions are particularly effective at subduing activism. I therefore propose:

Individual restrictions are effective at reducing NGO activity by creating fear among activists.

Empirical evidence would suggest that different types of restrictions are “bundled” and imposed simultaneously (Smidt et al., 2020: 2), which means it can be challenging to try to isolate the impact of a single restriction. While this might be true, the lack of research material examining the impact of restrictions leaves significant scope to refine these conclusions. As a result, in appreciation of the diversity of measures that can be imposed on NGOs, there is still value in interrogating how different restrictions influence NGO advocacy.

Conclusion

Given human rights NGOs’ role in holding states to account, it is of little surprise that states use restrictions to create an inhospitable environment for NGO advocacy. In the small but growing body of work investigating this issue, the emphasis to date has been on state actions against NGOs. Given the reputational impact of these restrictions on NGO activity, I argue that states have innovated to collude with non-state actors to impose restrictions on NGOs to avoid the reputational costs of restricting NGOs themselves. I

argue that the reputational costs of individual restrictions means that states are more likely to allow non-state actors to impose individual restrictions to non-state actors.

In the following chapters, I will examine the circumstances under which states collude with non-state actors and examine the nature of these restrictions on NGO activity. Through in-depth case studies of Bangladesh, Israel and the Occupied Territories, and Zimbabwe, I assess the proposed collusion of restrictions and the resulting implications for civil society. These in-depth case studies seek to go beyond conclusions in the existing literature by specifically interrogating the links between states, non-state actors, and the processes that link their restrictive actions against NGOs.

Research Design: Civil Society Confrontations in Bangladesh, Israel and the Occupied Territories, and Zimbabwe

Introduction

In this chapter, I describe how I measure and analyse the impact of restrictions from both states and non-state actors while also examining the claim of collusion by states. Below, I restate my central research questions and propositions from Chapter 2 for reference.

My research aims to investigate three interrelated questions which are as follows:

1. What restrictions are imposed on NGOs?
2. Do states collude with non-state actors to impose restrictions? If so, which restrictions and why?
3. How do restrictions impact on the activities of NGOs?

To answer the above questions, I deduce the following propositions:

1. *States collude with non-state actors to impose restrictions on NGOs.*
2. *States allow non-state actors to impose individual restrictions.*
3. *Individual restrictions are effective at reducing NGO activity by creating fear among activists.*

This chapter is organised as follows: I begin by discussing the approaches of earlier research on civil society. I then discuss the variables in my analysis and my application of process tracing and each of the mechanisms that I seek to investigate. I then describe my case selection strategy and conclude this chapter with a discussion about the data used for analysis and the ethical issues raised and addressed.

Earlier Research

As highlighted in the previous chapter there has been little systematic analysis of the interplay between states and non-state actors, nor focus on the incentives for states to collude with non-state actors to impose restrictions.

The studies mentioned in Chapter 2 that investigate state restrictions on civil society provide valuable guidance in terms of research design. For example, Van der Borgh and Terwindt's (2014) cross-national time series investigation provides comparative case evidence of restrictions and pressures facing NGOs.³⁷ Perhaps most importantly, by using process tracing, their study also offers an insight into the dynamism of state restriction and NGO response, enabling the categorisation of NGO responses (Van der Borgh and Terwindt 2014: 137). Adopting a similar research design, Brechenmacher (2017: 99) presents in-depth case studies with a greater focus on restrictive measures, which offer insight into the commonalities and differences between cases.³⁸ While these studies do not specifically examine the issues explored in my study, they are important benchmarks that have assisted in the development of my own research design.

Building on these contributions and to test the propositions outlined above, I examine the incidence of restrictions by both states and non-state actors by in-depth comparative case analysis (in Bangladesh, Israel and the Occupied Territories, and Zimbabwe) between 2009 and 2019 using process tracing. I choose a ten-year period, as this period of analysis enables the examination of the imposition of restrictions from both states and non-state actors over time.

³⁷ Van der Borgh and Terwindt (2014) provide a comparative case study of four “partial” democracies: Guatemala, Honduras, Indonesia, and the Philippines.

³⁸ Brechenmacher's (2017) study also adopts a comparative case approach from Egypt, Ethiopia and Russia.

Key Variables

My analysis in the following empirical chapters proceeds in two stages. In the first stage of my analysis, I examine if restrictions are imposed by non-state actors and if so, which types of restrictions are most frequently imposed. The first dependent variable to test proposition one and two, is therefore, the type of restrictions that were imposed on NGOs.

As outlined in the previous chapter, I draw from earlier literature documenting a) the types of restrictions, and b) how they impact on organisations and activists to develop a typology of restrictions. Building on the diversity of restrictions from Carothers and Brechenmacher (2014: 7-16), Brechenmacher (2017: 92-95), Bakke, Mitchell and Smidt (2019: 89), and Nah (2020: 12), I organise the repertoire of restrictions into two categories. One category captures organisational restrictions such as legal restrictions, highlighted by Christensen and Weinstein (2013: 78), Dupuy, Ron and Prakash (2015: 420, 2016: 300), Wolff and Poppe (2015: 4), and Buyse (2018: 978). These restrictions target organisational resources such as finances (cf. McCarthy and Zald, 1977). The second classifies individual restrictions that target activists, or the threat of these violations, which emphasises the personal risks that activists may face for their activities (cf. McAdam, 1986; McCarthy and Zald, 1977).³⁹ This list includes “physical integrity” violations of torture, extrajudicial killing, enforced disappearance, and arbitrary detention (Kaufmann, 2005: 358; *see also* Abouharb and Cingranelli, 2007: 41), as well as other restrictions including smear campaigns, surveillance, and travel bans. To expand and refine this list of restrictions from both categories, I also draw on documentation efforts by practitioners, for example, Amnesty International (2017a: 9-21, 2019: 25-35),

³⁹ It is important to note that I also view staff as a resource for NGOs. Therefore, individual restrictions constitute a restriction that will ultimately cause NGO activity to decrease. However, I make a theoretical distinction to enhance my analysis regarding delegation.

CIVICUS Monitor (2017: 6, 2018: 6-9, 2019: 8), and Article 19 (2018: 10-11). I offer a categorisation of these restrictions in Table 3.1.

Table 3.1: Distinctions Between Targets of Restrictions

Action Targeting Organisations	Action Targeting Individuals
<ul style="list-style-type: none"> • Funding restrictions (including frozen bank accounts or legislative restriction on funds) • Increased competition from state-controlled civic actors • Disruption of domestic NGO networks/transfer of resources between NGOs • Legal challenges over NGO activity or bureaucratic restriction, e.g. the revocation or suspension of existing licences • Banning of NGOs • Co-optation of staff • Internet/communication restriction/censorship • Office raid/destruction/NGO equipment confiscated • Threats and smears/public vilification of organisation • Criminal defamation of organisation • Surveillance of organisation 	<ul style="list-style-type: none"> • Personal harassment/intimidation (including family of activists) • Travel ban/restriction of access • Threats and smears/public vilification/incitement to hatred or violence • Criminal defamation • Surveillance of activists • Illegal detention of activists/abduction/kidnapping • Torture and ill-treatment • Violent physical attack on activist • Killing/death of activist • Sexual and other gender-based assault/harassment

Table 3.1 assists this study by providing a distinction in terms of types of restrictions. By documenting restrictions, their type, and the actors that impose them, the next step is to understand the relationship between the state and any actors reported to have restricted NGOs, and specifically, human rights NGOs. To do this, I draw from Roessler's (2005) contribution to examine the links between state and non-state agent. Roessler (2005: 209) uses a case approach to identify three key variables that identify state support of “privatized violence”. These include support (weapons, personnel, logistics, or intelligence), sponsorship (finances), or permits (refusal to quell) for the activities of groups carrying out repression for political gain. In Table 3.2 below, I offer an overview

of each of the non-state actors that I analyse in my empirical chapters. When identifying state-affiliated non-state actors that restrict human rights NGOs, I adopted an inductive approach using interview data and a survey of relevant literature.

Table 3.2: Non-State Actors Studied in Each of the Cases

Case	Type of Non-State Actor	Name
Bangladesh	Out-of-Uniform Death Squad	Rapid Action Battalion ⁴⁰
	Pro-Government Militia	Chhatra League / Jubo League ⁴¹
Israel and the Occupied Territories	Government-Organised NGO	The NGO Monitor ⁴²
Zimbabwe	Pro-Government Militia	War Veterans / Green Bombers ⁴³

Table 3.2 offers an indication of the variation in non-state actors documented to restrict human rights NGOs in each of my cases.

At this point it is important to clarify ambiguity over my choice of non-state actors in Bangladesh. In Bangladesh, I assess the Rapid Action Battalion (RAB), which I characterise as an out-of-uniform death squad. While I acknowledge that when operating

⁴⁰ Authors such as Khalil (2016: 19) and Human Rights Watch (2006: 7) have described the Rapid Action Battalion (RAB) as a “death squad”. The RAB’s preference for conducting operations, especially enforced disappearance, torture, and extrajudicial killing, in plainclothes is well documented (*see* Human Rights Watch, 2006: 42-44, 2009a: 33, 2011a: 1; Amnesty International, 2019: 15). As discussed in the previous chapter, I draw from approaches in the research literature that characterise death squads, including out-of-uniform personnel, as non-state actors (*see* Mitchell and Carey, 2013: 6, 12),

⁴¹ I define both the Chhatra League and the Jubo League as pro-government militias due to their inclusion in datasets capturing the activities of pro-government militias. For more information see Mitchell, Carey and Lowe (2013).

⁴² As discussed by White (2020: 72), the NGO Monitor’s close links with the Israeli government have been well documented, leading it to be labelled a government-organised NGO (GONGO). In practice, this means it shares information and coordinates activities with the Israeli state (Burns, 2017), and exchanges personnel with the state (White, 2020: 72-73), and the state facilitates financial support for the organisation (*see* Ha’aretz, 2012).

⁴³ Both the War Veterans and the Green Bombers have been characterised as pro-government militias in the research literature. For more information see Mitchell, Carey and Lowe (2013).

in uniforms the RAB is a state actor, I draw from the evidence that the force wears plainclothes when conducting operations against human rights activists (*see* Human Rights Watch, 2006: 42-44, 2009a: 33, 2011a: 1; Amnesty International, 2019: 15). I draw from existing scholarship on death squads to view the lack of uniforms as a marker of non-state operation as opposed to uniformed state operations (*see* Pettigrew, 2000: 219; Mitchell and Carey, 2013: 6, 12). Similarly, I acknowledge that when operating as an out-of-uniform death squad, the RAB may or may not include military personnel, who may or may not be acting in an official capacity. In doing so, I align with the consensus in the literature on death squads that because of the ambiguity and blurred lines between state and non-state personnel (Campbell, 2000: 2; Mazzei, 2009: 6), the burden of proof would fall upon proving that these individuals were state operatives.

As I was unable to do this in this study, I characterise out-of-uniform restrictions perpetrated by the RAB as the actions of a non-state actor. To do this, I draw from my definition that non-state actors are not officially or outwardly part of the state. While these organisations may maintain strong links with the state, including through exchange of personnel, they cannot be identified as state operatives or organisations.

While this variation is explored in greater detail in the following chapters, I also examine the proximity of each of these non-state actors to the state and signs of a contract between them and the state. Considering that one of the incentives for states to collude with non-state actors is plausible deniability, it is likely that a state would aim to obscure links between itself and a non-state agent imposing restrictions on its behalf (*cf.* Forsythe, 1992). If collusion with non-state actors has taken place, the research literature would suggest that it is advantageous for states to collude with a non-state actor with few or no public or resource links to the state (Forsythe, 1992: 390; Mitchell, 2004: 32, 2012: 34-

38; Byman and Kreps, 2010: 6; Carey, Colaresi and Mitchell, 2012: 4-6, 2015: 851-852; Staniland, 2015: 695). Prior to or contemporaneous with delegation, it is also likely that state officials would criticise the activities of civil society or offer a justification for closing civil society space and provide some encouragement or incitement for non-state actors. Therefore, Roessler's (2005: 209) approach, especially regarding the refusal to quell, is useful to identify evidence of a contract between state and non-state agent.

By identifying the types of actors documented to have imposed restrictions and their links with the state using Roessler's (2005: 209) approach, my study will provide an insight into the state's objectives through collusion. Drawing from Donahue and Zeckhauser's (2011: 4) approach, the "force multiplier" theory argues that states would select an agent in anticipation of using their attributes in addition to the state's own strengths (Donahue and Zeckhauser, 2011: 63) or specifically in the case of the issues examined in this dissertation, using a non-state agent's ability to restrict civil society. Given that it is broadly accepted that a principal would pre-screen an appropriate agent to minimise goal divergence (Hawkins et al., 2006: 28-29), by examining the types of agent found to restrict civil society and their links to the state, insight can be gained into the type of outcome a state may have wished to achieve.

For example, if a pro-government militia with close and demonstrable links to the state began targeting critical human rights NGOs, it is plausible to assert that the state is likely to have expected and anticipated the use of individual restrictions. This is because this type of restriction would align to the strengths of a pro-government militia, e.g. violence against activists. As such, through close examination of agent selection, it can be deduced that the intention was to impose serious individual restrictions with the intention of harming an activist's physical or mental well-being.

The second stage of my analysis examines the impacts of these restrictions on NGO activity, which includes advocacy. To measure the effectiveness of different types of restrictions, I assess the nature and frequency of “naming and shaming” advocacy. As outlined by Nelson and Dorsey (2008: 18), these activities can include human rights investigations, documentation, human rights education, litigation, and solidarity partnerships. To operationalise these activities, I view NGO activity as including press releases, publications, demonstrations, public awareness campaigns, meetings with public officials, collaboration with other domestic NGOs and INGOs on human rights issues, and submissions to regional and international human rights mechanisms. By surveying these NGO actions, I seek to understand which restrictions forced NGOs to modify, reduce, or halt activities. My study will therefore empirically test whether individual restrictions are effective at reducing NGO activity on human rights issues.

Measuring State Collusion with Non-State Actors and the Impact of Restrictions on NGOs

To test the propositions derived from my argument, I adopt a similar research design to previous studies of cross-national comparison by Van der Borgh and Terwindt (2014), Carothers and Brechenmacher (2014), and Brechenmacher (2017). I use process tracing to examine the causal argument outlined in chapter Figure 2.2. By using process tracing, I aim to assess the “black box” between cause and outcome, by examining and testing multiple links in the causal chain (Gerring, 2007: 181). Beach and Pederson (2013) offer a description of the approach as:

“1) a breakdown of causal mechanisms linking causes and outcomes 2) the analysis of observable manifestations of theorized mechanisms and, 3) the complementary use of comparative methods to select cases and to enable generalizations...”. (Beach and Pederson, 2013: 1).

Through the analysis of evidence and focus on sequence, process tracing enables the testing of propositions by gathering pieces of diagnostic evidence (Bennett and Checkel,

2014: 7). Process tracing also enables the examination of evidence to test and explore sequences of events (Collier, 2011: 824). The use of process tracing in this study of Bangladesh, Israel and the Occupied Territories, and Zimbabwe will therefore enable both within-case and across-case comparison of the proposed mechanisms in my argument (Bennett and George, 2004: 17).

Case Selection

Existing studies have focused their analysis on cases with similar attributes in terms of state aggression or attitude towards civil society or level of restriction (e.g. Van der Borgh and Terwindt, 2014; Carothers and Brechenmacher, 2014; Brechenmacher, 2017). I choose cases where restrictions have been imposed against NGOs but these are varying types of restrictions, allowing variation on the dependent variable. In doing so, I seek to understand which types of restrictions are imposed by non-state actors and their impact on NGO advocacy. This approach allows a detailed examination of the potential for state collusion with non-state actors while exploring whether delegation of restrictions has taken place, along with their impact.

As highlighted by Gerring (2007: 39-40) there is much debate in the research methods literature regarding the most appropriate case selection strategy. King, Keohane and Verba (1994: 52) note that while a case approach may only draw data from a small number of cases, the number of variables contained within these cases can be immense. My focus in this study is to examine a proposed causal relationship and consequently, variation on key variables between cases is essential to interrogate the validity of my argument. More specifically, variation is needed to assess the central claim of collusion between states and non-state actors and test my theory over the types of restrictions that states are likely to allow non-state actors to impose. As a result, I adopt Seawright and Gerring's (2008) "typical case" selection strategy, which is described as "...[a way to] explore the causal

mechanisms at work in a general cross-case relationship.” (Seawright and Gerring, 2008: 299). Yet, as highlighted by King, Keohane and Verba (1994: 52), variation within these cases is equally vital to unpack the proposed mechanisms in my argument. This means that although my cases are typical in the sense that the states involved openly restrict civil society, there is important variation in the type of restriction that has been used.

The cases selected, Bangladesh, Israel and the Occupied Territories, and Zimbabwe, provide important socio-economic, cultural, and political variation but are all similar in that the state has a documented track record of restricting civil society. However, the available data also illustrate important variation in the types of restrictions that the state has used to restrict civil society. To highlight this variation, I use Bakke, Mitchell and Smidt's (2019) data on restrictions on civil society which cover 194 countries for the period 1994-2016.⁴⁴ First, I split the restrictions highlighted into two categories that align with the typology of restrictions presented earlier in this chapter: organisational restrictions and individual restrictions.⁴⁵ I do this to illustrate that although these cases are typical, they contain variation in the type of restriction that the state has imposed on civil society.⁴⁶

Table 3.3: State Restrictions on Civil Society in Bangladesh, Israel and the Occupied Territories and Zimbabwe (1994 – 2014)

Restriction Count (1994 – 2014)	Organisational (Bureaucratic) Restrictions	Individual Restrictions
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⁴⁴ This dataset has 15 variables that capture different types of restrictions on civil society and their severity. For further information, see Mitchell, Bakke and Smidt's (2019: 2-9) codebook.

⁴⁵ For organisational restrictions, I use Mitchell, Bakke and Smidt's (2019: 2-9) variables as follows: activities restricted, censorship, co-optation of organisation or activists by state, domestic and international funding restrictions, registration problems, and whether some organisations were banned. For individual restrictions, I use Mitchell, Bakke and Smidt's (2019: 2-9) variables as follows: arrest of activists, severity of harassment against civil society, killing of activists, surveillance of activists and civil society organisations, travel restrictions, visa denials, visa difficulties, and visa restrictions.

⁴⁶ The data presented in Table 3.3 is purely illustrative. I qualitatively examine the source information for Mitchell, Bakke and Smidt's (2019) dataset in Chapter 4.

Bangladesh	125	71	54
Israel and the Occupied Territories ⁴⁷	76	31	45
Zimbabwe	124	36	88

As highlighted in Table 3.3, there is clear variation in the types of restrictions that these states have imposed on civil society. For example, in Bangladesh the state has been documented to use organisational restrictions more than individual restrictions, compared to Zimbabwe where the state has used more individual restrictions, while in Israel and the Occupied Territories the state has used a variety of both restrictions. This variation in case selection aims to unpack the type of restriction that is most likely to be imposed by non-state actors by studying documented restrictions by both states and non-state actors in all three cases.

I now offer an overview of similarities and differences between Bangladesh, Israel and the Occupied Territories, and Zimbabwe, which aided my case selection.

Firstly, all three cases share an active civil society. This can be evidenced by the fact that all three cases score above 1 in the Varieties of Democracy index between 2007-2017 in the “CSO participation” variable (Coppedge et al., 2019).⁴⁸ This indicates that an

⁴⁷ In Bakke, Mitchell and Smidt's (2019) dataset Israel and the Occupied Territories are combined. For this reason, I chose to study both Israel and the Occupied Territories in the following empirical chapters. In this section I also combine Israel and the Occupied Territories for ease of comparability with other cases.

⁴⁸ For clarity I use Bangladesh, Israel, Palestine (the West Bank), and Zimbabwe between 2007-2017. The scores are as follows: Bangladesh 3 for all years, Israel 3 for 2009, 2010, 2011, 2012, 2017, 2018, 2019 and 2 for all other years, Palestine (the West Bank) 2 for all years, and Zimbabwe 3 for 2000, 2001, 2002, 2017, and 2 for all other years. Coppedge et al.'s (2019) civil society participation (v2csprtpt) variable codes responses to the following question: which of the following best describes the involvement of people in civil society organizations (CSOs)? The possible responses are: 0: Most associations are state-sponsored, and although a large number of people may be active in them, their participation is not purely voluntary. 1: Voluntary CSOs exist but few people are active in them. 2: There are many diverse CSOs, but popular involvement is minimal. 3: There are many diverse CSOs, and it is considered normal for people to be at least occasionally active in at least one of them.

independent civil society that attracts citizen participation can be evidenced in all three cases.

Secondly, in addition to the restrictions discussed earlier, as evidenced by Bakke, Mitchell and Smidt's (2019) dataset, in all three cases there have been instances where particular NGOs have been banned by states between 1994 and 2014. My study will seek to understand how NGO advocacy activity drove states to impose these specific bans.

Thirdly, there is variation in terms of democratic and political rights. The Freedom House dataset assesses electoral processes, political participation and pluralism, functioning of government, freedom of expression, associational and organisational rights, rule of law, and personal autonomy and individual rights (*see* Freedom House, 2021b). I use Freedom House's data and country ratings between 2009 and 2019 to understand variation in socio-political, cultural, and political variation between each of the case studies.⁴⁹ An analysis of Freedom House's data between 2009 and 2019 highlights that each of my cases is rated differently, offering important variation on the previously outlined variables. For example, Bangladesh is rated as "Partly Free" for the entirety of the period whereas Israel is rated as "Free". In contrast, Zimbabwe is rated as "Not Free" for seven years between 2009 and only rated as "Partly Free" for three years.⁵⁰ By building this variation into my case selection, I would therefore expect both non-state actor restrictions and state-imposed restrictions to be less severe in Israel due to its high score for democratic and political rights and more severe in Bangladesh and potentially worst in Zimbabwe.

⁴⁹ Freedom House uses three ratings in the Freedom in the World Index: "Free", "Partly Free" and "Not Free". For more information on the individual categories see Freedom House (2021b: 3).

⁵⁰ Freedom House rated Zimbabwe at "Partly Free" in 2016, 2017, and 2019. For more information see Freedom House (2021a).

Fourthly, all three states are party to conventions on human rights, to varying extents. Bangladesh, Israel, and Zimbabwe are all state parties to the International Covenant on Civil and Political Rights (ICCPR) (*see* United Nations General Assembly, 1966). However, only Bangladesh and Israel are state parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (United Nations General Assembly, 1984). None of the three states are state parties to the International Convention for the Protection of All Persons from Enforced Disappearance (CED) (United Nations General Assembly, 2006).

Fifthly, all three cases have received international attention from international human rights observers and multilateral organisations focusing on human rights. As an indicative example, between 2011 and 2017 the UN Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association released 25 communications on Bangladesh (United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, 2017a), 16 communications on Israel and the Occupied Territories (United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, 2017b), and 13 communications on Zimbabwe (United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, 2017c).⁵¹ This emblematic example highlights that multilateral organisations were aware of issues facing civil society in all three contexts and actively advocating for the reversal of restrictions. This international focus is vital, given that I argue that international scrutiny can encourage states to collude with non-state actors to impose restrictions on civil society.

⁵¹ The United Nations Special Rapporteur on the Rights to Freedom Peaceful Assembly and of Association used the mandate to focus specifically on restrictions on civil society during this period. For an overview of key concerns regarding restrictions on civil society during his tenure see United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association (2016).

Sixthly, evidence cites collusion between states and non-state actors when discussing the restriction of civil society in all three contexts. For example, Human Rights Watch (2019) notes the murder of a student activist by the Chhatra League in Dhaka after the activist criticised the government in a series of social media posts. CIVICUS (2018) reports false allegations of corruption against prominent human rights NGOs by state-aligned media outlets. In Palestine, NGOs have expressed concern over an increase in smear campaigns by state-affiliated NGOs (often referred to by NGO practitioners as government-organised NGOs (GONGOs)).⁵² Similarly, Israeli officials publicly praise the work of state-affiliated NGOs and openly acknowledge that they “share information” (Burns, 2017). In Zimbabwe, where state-sponsored violence has been documented to be a “pattern” of collusion between state forces and non-state actors (Human Rights Watch, 2008e). My study hopes to examine these illustrative cases and place them in a broader context of state restriction to assess the claim of collusion between states and non-state actors.

Finally, all three cases have a history of the presence of pro-government militias (Mitchell, Carey and Lowe, 2013), meaning that there are groups with significant repressive capabilities that the state could select as agents to impose individual restrictions on activists.⁵³ The presence of armed groups is important as it means that the state has viable alternative options that it could collude with.

⁵² The Chhatra League is the student wing of the ruling party, the Bangladesh Awami League.

⁵³ Mitchell, Carey and Lowe's (2013) Pro-Government Militia (PGM) database highlights the presence of a variety of pro-government militias in all three cases between 1981-2019. For example, in Bangladesh the database highlights the presence of Ansar and Village Defence Party, Bangladesh Students League, Islami Chhatra Shibir/Jamaat-e-Islami, Jagrata Muslim Janata Bangladesh, and Jatiyatabadi Chhatra Dal. In Israel, it highlights the Civil Guard, Settlers, and Village Leagues. In Zimbabwe, it highlights Chipangano, Militia, Top Six vigilante unit, War Vets, Youth Service Brigade/Green Bombers, and Zanu-PF militia aligned to the ruling Zanu-PF party.

These cases provide socio-economic, cultural, and political variation in the type of restrictions that the state has imposed and the proximity of non-state actors to the state. My case selection presents cases that are comparable and, as such, will enable the systematic analysis of the mechanisms and their implications that I outlined earlier chapter in this chapter. I offer an overview of these variables in Table 3.4.

Table 3.4: Case Selection Variables Compared

	Bangladesh	Israel and the OPT	Zimbabwe
Active Civil Society	Yes	Yes	Yes
State Restrictions	Yes	Yes	Yes
Democratic and Political Rights Rating	Partly Free	Free	Primarily Not Free
State Party to Human Rights Convention	ICCPR, CAT	ICCPR, CAT	ICCPR
Type of Restriction Documented in Existing Datasets	Individual but Mainly Organisational	Mixed	Mainly Individual
Some NGOs Banned	Yes	Yes	Yes
Some NGOs Forced to Halt Operations or Close After Restrictions	Yes	Yes	Yes
International Communications Criticising State Restrictions on Civil Society	Yes	Yes	Yes
Evidence of Non-State Actors Restricting Civil Society	Yes	Yes	Yes

Presence of Pro-Government Militias

Yes

Yes

Yes

Data

As my study uses process tracing, I use a variety of different data sources to corroborate and test the proposed causal pathways that have been outlined in this chapter (Bennett and Checkel, 2014: 28). In particular, I use these different pieces of evidence to test the causal implications or “fingerprints” (Beach and Pederson, 2013: 188) of the mechanisms I have outlined at length in previous sections. While I assessed a variety of data sources in this study, the primary method for collecting data was semi-structured interviews. I then focused my efforts on finding supplementary evidence from other sources to corroborate the interview data with information and avoid biases (Davies, 2001: 78; Tansey, 2007: 766).

Given their format, semi-structured interviews permitted the investigation of key issues in greater depth with respondents (Davies, 2001). I asked respondents about the types of restrictions they had faced over the past ten years and who had imposed these restrictions as well as asking about their perception of how these actors linked to the state. I also used interviews as an opportunity to understand the decision-making process behind advocacy choices. I was especially interested in exploring if and why NGOs decreased advocacy or shifted to safer subjects when faced with restrictions.⁵⁴ Where possible, interviews were completed while I was in the country and where this was not possible, I conducted interviews online using encrypted web conference software.

⁵⁴ A full list of questions used during fieldwork can be found in Appendix 1.

It is also important to reflect on my positionality as a researcher, working in three challenging and hostile contexts for human rights activism. Having spent the entirety of my professional career working to promote human rights at various INGOs, I had already established longstanding working relationships with many of the participants in this study. But at the same time, working for a well-known INGO was an issue that I had to contend with in the field. These background factors proved to be both an asset and a challenge while collecting data for this project. As discussed by Cronin-Furman and Lake (2018: 3), entry into a dangerous context as an external researcher can present ethical challenges. In my case, I faced a struggle to detach myself from the INGO that I was working for. I was acutely aware that many activists and participants would wish to make a good impression in the hope of improving their organisation's standing with my employer. While I took every step possible to make clear that their answers would not influence any further decisions of partnership or funding opportunities from my employer, I cannot say that these did not implicitly influence some of the answers given by participants to this study. Apart from the physical danger to myself and participants, this was perhaps the biggest challenge that I encountered while in the field.

However, my previous work also proved to be a considerable asset. Having worked for many years with several of the activists interviewed in this study to document restrictions on their work, I had already established working relationships based on trust. Usually working through secure and encrypted channels prior to this study, I had nearly six years of experience of working with activists in all three cases to produce submissions to international human rights mechanisms, press statements, human rights reports, and daily updates on restrictions on civil society. In this sense, I already a strong starting point to begin my fieldwork. This rapport with activists also helped to ensure that participants felt confident to share frank and candid insights with me, which contributed greatly to

this study. In addition to this, my network also helped participants to feel confident in suggesting people for me to meet while in the field. Once again, this helped greatly as several participants personally recommended activists to meet with me, which in turn helped me gain a broader range of perspectives than I could have achieved alone.

As my focus was on individuals affiliated with human rights NGOs, I adopted an elite interviewing approach. Despite the inherent issues regarding generalisability with elite interviews, as Goldstein (2002: 669) notes, elite interviews can still offer some “generalisable information” about a population. In this case, my objective was to draw inference on the human rights community in the countries that I studied. As it would have been unfeasible to collect data from every human rights NGO in each of the cases, I chose to engage with the most prominent NGOs in each context. As a result, in all three cases I interviewed staff and activists affiliated with the largest human rights NGOs. The logic here was that, as prominent NGOs working to promote human rights, they were the most likely to have experienced restrictions on their work. This means that the interview data presented in this study is purposive and draws upon my own knowledge as research to identify the appropriate respondents (Tansey, 2007: 770).⁵⁵ Similarly, as my project progressed during my field visits, I adopted a snowball approach to identify further potential respondents (Tansey, 2007: 770).

One gap that should be acknowledged is that I did not attempt to interview any of the non-state actors identified in this research. As I adopted an inductive approach to identifying agents while in the field, I felt it would be too ambitious to try to contact some of the non-state actors discussed in the following chapters. Further, after witnessing the

⁵⁵ Tansey (2007:770) describes a purposive approach as “...a selection method where the study’s purpose and the researcher’s knowledge of the population guides the process”.

severity of restrictions in my case studies, I quickly realised that it would be too dangerous for my own safety to try to interview individuals affiliated with non-state actors. In addition, by reaching out to non-state actors for their views on civil society I could have placed local activists in more danger. After carefully considering the options, it was clear that the potential dangers outweighed any benefits that this study may have gained from trying to interview non-state actors. Therefore, I did not attempt to contact or interview any of the non-state actors described in this study.

In addition to interview data, I also had the opportunity to observe human rights defenders and leading human rights organisations in all three cases. I was exposed formally through interviews, but also informally, to the variety of measures taken to avoid restrictions as well as hearing activists' fears for their safety and that of their families and co-workers. In doing so, I was able to participate in a wide range of "...extraordinary activities with people who are full participants in the context" (DeWalt and DeWalt, 2010: 11-12). From attending meetings that were disrupted by security personnel, to being stopped and interrogated at checkpoints with activists, or meeting for coffee with activists who were under surveillance by intelligence services, my time in each of the cases allowed me to observe how activists navigate hostile environments. Consequently, over the course of my empirical chapters, I also include participant observation as a form of data. This is because the experience of my time in each of the cases left me with a rich set of insights that could not be captured through interviews alone.

When meeting new activists and NGOs that I had not engaged with before, I worked hard to detail the background to my work and professional career. This often included referring to my own experiences as an activist and discussing some of my previous work and the challenges I had faced. This approach helped participants to understand my work

of documenting restrictions on civil society around the world. I used this approach to reassure participants that they were not alone in enduring some of the horrific experiences detailed in the following chapters. This was a challenging, stressful, and emotionally demanding study which certainly left a lasting impression on me.

Fieldwork took place over a five-month period in 2019 and benefitted from access to a wide range of human rights defenders in all three countries, due to the support of global civil society alliance CIVICUS and the Netherlands Ministry of Foreign Affairs.⁵⁶ By working through a series of local interlocutors in conjunction with CIVICUS' extensive membership network, I was able to gather interview data from a range of NGOs working in the field of human rights in all three cases.⁵⁷ I was able to interview several high-profile activists who usually do not engage in academic research.

In all three cases, fieldwork mostly took place in the capital city as this is where the majority of human rights NGOs are based. Prior to embarking on my field visits, I consulted with CIVICUS' database of member human rights organisations to determine the best locales to collect data. Although this member database is not publicly available, there was a clear concentration of human rights organisations in Dhaka, Jerusalem, Ramallah, Harare, and Bulawayo.⁵⁸ I conducted a total of five data collection visits and interviewed civil society in Dhaka, Bangladesh; Jerusalem and Ramallah, Israel and the Occupied Territories; and Bulawayo and Harare, Zimbabwe. Below in Table 3.5, I offer an overview of the number of trips I undertook to each of my cases in 2019.

⁵⁶ Fieldwork and data collection for this project was sponsored by the Dutch Ministry of Foreign Affairs (MFA) and the resulting outputs were later published by the MFA. See Perera et al. (2019) for further information.

⁵⁷ CIVICUS is a global alliance of civil society organisations and activists with members in over 180 countries.

⁵⁸ It must be conceded that NGOs exist in other locales in all three cases. Wherever possible, efforts were made to engage the most prominent NGOs not based in these locations through online interviews.

Table 3.5: Dates of Field Visits to Each of the Cases

Case	Number of field visits conducted	Length of Visit(s)
Bangladesh	2	Two-week visits in July and August 2019
Israel and the Occupied Territories	2	One two-week visit and one ten-day visit in April and May 2019.
Zimbabwe	1	One three-week visit in May and June 2019.

I offer an overview of the number of participants that I interviewed and the location of fieldwork for each case in Table 3.6 below.

Table 3.6: Number of Interviews Conducted per Case, Location of Fieldwork, and Gender of Participants

Case	Number of interviews conducted	Location of fieldwork	Gender of Participants
Bangladesh	46	Dhaka	21 Female / 25 Male
Israel and the Occupied Territories	47	Jerusalem and Ramallah	19 Female / 28 Male
Zimbabwe	42	Bulawayo and Harare	20 Female / 22 Male

It is also important to acknowledge the risks involved with conducting fieldwork in three states that have tense relationships with critical civil society. During my time collecting data for this study, I was exposed to the risks of human rights activism in all three contexts. On entry to and exit from Israel, I was interrogated for several hours about my family history and my work with international human rights organisations and directly

asked about my views on Palestine and Israel. Upon entry to and exit from Israel, my passport was confiscated, and I was obliged by officials to explain every single stamp in my passport. Prior to departure, I was strictly warned by leading international human rights NGOs not to carry any documentation related to this study when passing through immigration for fear that it would be taken from me and used as justification for detention. When passing between Israel and the Occupied Territories, I was repeatedly stopped by security personnel and interrogated about the names of my father, grandfather, and great-grandparents as security personnel sought any evidence of Islamic heritage. Similarly, when leaving Israel, my luggage was searched, and my hand luggage and electronic devices were confiscated when passing through immigration. I was also subject to an extended screening and interrogation when entering Israel and exiting the country to return to the United Kingdom (UK).

In Bangladesh, I experienced a highly dangerous context for human rights defenders. I was frequently asked to leave my phone outside the room when conducting interviews with human rights defenders. The fear of surveillance was a constant concern. For example, I attended a meeting of human rights organisations that was monitored by plainclothes individuals and witnessed first-hand the fear felt by local activists when they realised that their attendance was being recorded. There is also evidence that suggested I was being monitored after I was asked to provide my passport details at an interview with a state-affiliated NGO. In addition to this, I also met with several human rights defenders who had been subject to torture and ill-treatment and the families and friends of many activists who had been killed or disappeared because of their work. In Bangladesh, the dangerous consequences of challenging the state became very clear, very quickly.

In Zimbabwe, I met with activists who had been subjected to serious individual restrictions. Several of my interviews were interrupted by activists who feared they were being monitored. I captured first-hand accounts of torture and enforced disappearance. During my time in Zimbabwe, I was acutely aware of the physical danger, but also the mental stress felt by activists who have seen their friends and colleagues subjected to individual restrictions such as torture, enforced disappearance, or murder. Similarly, as documented in this research it also became clear that the constant fear of violence in some cases had fundamentally altered the ability of some activists to advocate on human rights issues.

In the following empirical chapters, I present excerpts from interviews as vignettes and only refer to the date and geographical location of the interview. Given the sensitive issues discussed during interviews, I have chosen to anonymise all data in this project. As a result, I only refer to the geographical location of the participant and the date of the interview. I offer no further personal information in this study. I do this purposefully to protect the activists and organisations who contributed to this study. When collecting interview data, I was careful to ensure that all participants were given a factsheet about my research and ensured that I clearly explained the aims of the study. Further, I only interviewed participants who expressed an interest in meeting me and participating in the study. It was also made clear to all participants that data from this study would be used for academic purposes and not for advocacy. When conducting these interviews, I took extra care to ensure that the location for an interview was safe and acceptable to the participant. In many instances in all three cases, activists asked to meet in public spaces for fear of being seen that they “had something to hide”. I discuss these dynamics at length in Chapters five and six.

When recording interviews, I chose to use an encrypted app that automatically uploaded raw audio files to a secure server based in London via the internet. I chose this method over keeping the audio files on a dedicated data collection device in case I was detained during fieldwork. When moving through checkpoints I deleted all audio files and data related to this project from the phone I used to collect the data. Similarly, prior to passing through immigration on entry and exit from each of the countries, I completely wiped the phone and presented it as a spare if questioned. This was a particularly useful strategy in Israel, where all my electronic devices were confiscated and inspected in a separate room during my interrogation when trying to return to the UK.

I had originally envisaged conducting focus group discussions, but I quickly realised that this would be unsafe for participants. As such, I was forced to rely on semi-structured interviews. The inclusion of focus group discussions to interrogate the findings presented in this study would be a useful future contribution in terms of further research in this area.

In addition to interview data, I draw on a range of other documentary sources discussed earlier in this section. These include, but are not limited to, NGO press statements, media reports, government decrees, interviews with public officials, police records, and court judgements.

Ethics Approval

My study was granted approval by both the Netherlands Scientific Board (NWO-WOTRO) ethical board prior to fieldwork and University College London's (UCL) ethics board upon my return for reuse in my PhD.⁵⁹ The study was approved by UCL's Low

⁵⁹ NWO-WOTRO funded the fieldwork, the data were collected and stored by CIVICUS, and the project was approved under project number W 08.311.204. See Perera et al. (2019) for more information on this project. My UCL ethics approval refers to using an anonymised version of this dataset.

Risk Chair's Review under reference number 15465/001. After careful consultation with UCL's Research Ethics Committee, this study was considered Low Risk as the data used in this thesis were anonymised interview material that had already been collected by NWO-WOTRO and CIVICUS.

Conclusion

In this chapter, I have laid out the logic behind each of my propositions and presented the various implications that I will measure in the following chapters. I have focused throughout on how my ambition to enhance the generalisability of my findings shaped my research design. This is particularly evident in my use of case studies and through my case selection to interrogate the hypothesised mechanisms, which may contribute to theory development beyond the cases studied. In doing so, my ultimate objective is to enhance existing literature on restrictions on civil society to include collusion between states and non-state actors.

State and Non-State Actor Restrictions on Civil Society in Bangladesh, Israel and the Occupied Territories, and Zimbabwe

Introduction

In this chapter, I use process tracing to examine if and how states can be evidenced to collude with non-state actors to restrict NGOs. I then then my attention to examining the depth of relationship between the state and non-state actors identified. I do this by drawing on case evidence from Bangladesh, Israel and the Occupied Territories, and Zimbabwe.

I organise this chapter as follows: I begin by briefly revisiting my theoretical argument and outlining the implications of my argument which I will explore through detailed case studies. I then turn to each of my cases to identify contentious areas of NGO advocacy, the types of state restrictions imposed on NGOs, evidence of non-state actor restrictions and finally the identities of those non-state actors found to restrict NGOs and their links to the state. I end this chapter with a conclusion that compares my findings across all three cases.

Overview of Theoretical Argument

I begin from the assertion that states can use collusion with non-state actors to impose restrictions that complement their own restrictive efforts. In doing so, I argue that the incentives to work with non-state actors eclipse traditional concerns over agency loss. Existing evidence would suggest that states already restrict civil society using measures such as laws or the arrest of activists (e.g. Van der Borgh and Terwindt, 2014: 93; Dupuy, Ron and Prakash, 2015: 420, 2016: 300; Brechenmacher, 2017: 15-16, 44-47, 70-72; Bakke, Mitchell and Smidt, 2020: 89; Smidt et al., 2020: 15). In this chapter and

throughout this research, I argue that there are two key incentives for states to collude with non-state actors to impose restrictions: firstly, that states can amplify their policy by using collusion as a “force multiplier” (Donahue and Zeckhauser, 2011: 4) and secondly, that this enables plausible deniability or the evasion of direct accountability for restrictions (Mitchell, 2004: 32, 2012: 34-38).

In this chapter, I search for evidence that supports the proposition:

1. *States collude with non-state actors to impose restrictions on NGOs.*

I now turn to case evidence from Bangladesh, Israel and the Occupied Territories, and Zimbabwe.

Bangladesh

In Bangladesh, it appears that international “naming and shaming” by NGOs on the issues of extrajudicial killing, enforced disappearance, and torture by NGOs, through the Universal Periodic Review (UPR) process at the UN Human Rights Council, instigated a confrontation between NGOs and the state.

Elections on 29 December 2008 elections led to a resounding victory for the Awami League (AL) and President Sheikh Hasina (Lamont and Fontanella-Khan, 2008). Human rights NGOs began calling upon the newly elected civilian government, which replaced the previous military government, to quell post-electoral violence and halt human rights violations (Ain O Salish Kendra, 2009: 9-10; Bangladesh Legal Aid and Services Trust (BLAST), 2009: 10-11; Asian Human Rights Commission, 2009: 1-2; Odhikar, 2010: 7-

9).⁶⁰ Local groups focused efforts on the specific human rights violations of extrajudicial killing and torture of activists. Evidence would also indicate that INGOs such as Human Rights Watch (2009) were working in coordination with domestic groups to amplify concerns over human rights violations. For example, Human Rights Watch (2009: 8) released an in-depth country report on torture in Bangladesh citing direct documentary evidence from three prominent local human rights NGOs: Odhikar, Ain O Salish Kendra (ASK) and Hotline Bangladesh.

A few months after the AL took power in February 2009, Bangladesh was reviewed for the first time at the Human Rights Council under the UPR process. A novel aspect of the Human Rights Council's UPR mechanism is that NGOs in consultative status with the UN are able submit information to the Human Rights Council, which if credible is compiled into a stakeholder report. During this review, Bangladesh received 17 stakeholder submissions from several domestic, regional, and international NGOs. In the 17 submissions the issues of torture and extrajudicial killings are repeatedly mentioned (Amnesty International, 2008: 4-6; Human Rights Watch, 2008a: 2-4; Ain O Salish Kendra, 2008: 4-5; International Federation for Human Rights (FIDH) and Odhikar, 2008: 2-4; Asian Centre for Human Rights, 2008: 1-2; Asian Legal Resource Centre, 2008: 4-5). Interview data highlight that this international advocacy during the UPR activity led to aggression from the new AL government. During an interview a prominent human rights activist said:

“The pressure increased after we joined the UPR in 2009. We advocated for zero tolerance of extrajudicial killings and torture, which were frequent at the time. The government responded by cancelling projects and harassing us. We tried to fight through the courts, but the process is so expensive. We were then investigated by the police in 2010, 2012, and in 2013, after the second UPR, where we raised the issue of enforced disappearances again, we came under serious pressure by

⁶⁰ As documented by Odhikar (2010), the post-election environment of 2009 saw the AL consolidate its hold on power through violence. According to Odhikar's documentation in 2009, 251 people were killed and over 6,000 injured in clashes between activists of the AL and Bangladesh National Party (ibid.: 10).

the government. Our staff were followed, threatened, and arrested. Our offices were and probably still are under surveillance. I was arrested, our director was also detained, and we were both held for several weeks. At around the same time our bank accounts were totally frozen. Since 2014, we haven't been able to receive any funds at all through the banks. We survive on local donations from members now."

Interview with a human rights defender, Dhaka, Bangladesh. 18 June 2019.

Evidence from the UPR adoption report would suggest that the concerns of local, regional, and international civil society on individual restrictions were heeded. Two pieces of evidence support this assertion. Firstly, the stakeholder compilation report by the Human Rights Council details several cases of enforced disappearance, torture, and extrajudicial killing (United Nations General Assembly, 2008: 5-6), meaning that officials at the Human Rights Council believed that the documentary evidence presented by NGOs in their UPR submissions was credible. Secondly, there is a correlation between the issues raised by NGOs and the issues raised by states during Bangladesh's review. This would suggest that advocacy over the issues of torture, enforced disappearance, and extrajudicial killing by NGOs was successful in alerting member states of the Human Rights Council to Bangladesh's failure to uphold human rights. Given the similarities in issues first raised by NGOs and subsequently raised by states it is plausible to assert that evidence from NGOs played some role in influencing recommendations made by other states.

While the government of Bangladesh responded to the review by stating that it had a "zero tolerance" policy on extrajudicial killings and torture (United Nations General Assembly, 2009: 15) a number of member states expressed concern.⁶¹ In conclusion, the

⁶¹ United Nations General Assembly (2009) report notes that the Netherlands (ibid.: 10) and the United Kingdom (ibid.: 14) raised concerns over a perceived increase in extrajudicial killings and an environment of impunity for perpetrators. Similarly, on the issue of torture, the Netherlands (ibid.: 10), Mexico (ibid.: 12), Germany (ibid.: 13), and the United Kingdom (ibid.: 14) also voiced concerns regarding Bangladesh's track record. Similarly, Australia highlighted concern over a lack of protections for human rights defenders in Bangladesh.

Human Rights Council made four recommendations on human rights issues. Specifically, Bangladesh received one recommendation on extrajudicial killing (ibid.: 18), two on torture (ibid.: 17, 18, 19), and one on improved protections for human rights defenders (ibid.: 19).

One interviewee highlighted how criticism of the Bangladeshi authorities, especially internationally, often leads to an increase in restrictions from the authorities. During an interview an activist involved in human rights advocacy said:

“There is a tendency [from the government] not to accept critical views, but our job is to be critical. We say and take positions on the basis of truth and research. Nevertheless, there is a lack of tolerance. This means that every time we launch a report or especially if we do something internationally in Geneva [at the Human Rights Council], we know there will be a backlash...But there is a limit to what we can take. It is especially challenging when everyone from the top to the bottom of government openly threatens to close us down [laughs].”

Interview with a human rights defender, Dhaka, Bangladesh. 17 July 2019.

In 2013, Bangladesh’s human rights record was reviewed in the UPR process for the second time. Documents from the Human Rights Council seem to signal that NGO advocacy was increasing. Compared to the previous review, the number of stakeholder submissions increased from 17 in 2009 to 25 in 2013. In this review, a number of international organisations paid considerable attention to restrictions on civil society by both state and non-state actors. For example, Article 19 (2012: 1), Amnesty International (2012: 1), CIVICUS (2012: 4), Human Rights Watch (2012b: 1), and Reporters Without Borders (2012: 2) all drew attention to the sustained and “systematic” (CIVICUS, 2012: 4) targeting of human rights defenders, critical NGOs and journalists by both state and non-state actors.

Once again concerns of international and domestic NGOs were reflected in the UN’s compilation of civil society information. For example, the United Nations General

Assembly's (2013) compilation of civil society inputs specifically draws attention to the RAB, which was described as acting “above the law” (ibid.: 5). Consequently, it was viewed that this had created an environment of “impunity” around the issues of torture, enforced disappearance, and extrajudicial killing. Similarly, the Human Rights Council’s report details open criticism of Bangladesh’s human rights record by other states (*see* United Nations General Assembly, 2013a). As a result, Bangladesh received an increase in recommendations from states.⁶² In 2013, Bangladesh received eight recommendations from different states on torture, two on enforced disappearance, and two on extrajudicial killings (United Nations General Assembly, 2013a).

From analysing NGO advocacy during the UPR process, it would seem clear that campaigning activity by NGOs inflicted reputational damage on Bangladesh. Testimonial evidence from activists would also suggest that this activity provoked a response from the state, which I discuss in the following sections.

State Restrictions in Bangladesh

A survey of data confirms that restrictions increased following Bangladesh’s first UPR examination in 2009 and after its second review in 2013. This would therefore appear to confirm the activist testimony presented in the preceding section regarding sensitivity to NGO advocacy at the Human Rights Council. Bakke, Mitchell and Smidt's (2019) dataset highlights that NGOs in Bangladesh were subjected to several restrictions. These measures included restrictions on the ability of NGOs to receive international funds, issues in registering NGOs with the government, censorship, and harassment. To explore

⁶² During the second review, the United Nations General Assembly's (2013a) report recorded that the Netherlands (ibid.: 5), Sweden (ibid.: 7), Costa Rica (ibid.: 10), and Japan (ibid.: 12) raised “concerns” over the ongoing use of torture. Similarly, Switzerland (ibid.: 7) highlighted that it was “preoccupied” with the number of cases of forced disappearances. Further, the issue of extrajudicial killings also attracted significant attention with the Netherlands (ibid.: 5), Sweden (ibid.: 7), Switzerland (ibid.: 7) and Norway (ibid.: 5), all urging Bangladesh to investigate instances of extrajudicial killings.

these restrictions in greater detail and gain a deeper insight into which NGOs were targeted with state restrictions, I assess the original source data for this dataset.

Registration Requirements

Although NGOs were subject to increased “scrutiny” during the period of military government, a situation that improved under the civilian government, new regulations obliged “all NGOs, including religious organisations, to register with the Ministry of Social Welfare” (U.S. Department of State, 2011a). Following this, organisations working on human rights reported issues and delays when applying for NGO registration with the state (U.S. Department of State, 2014c; 2015c). In 2016, the state declared that it would cancel the registrations of NGOs involved in “anti-state activities” (U.S. Department of State, 2017c).

Project Bans

Source data suggest that the government of Bangladesh repeatedly restricted projects by critical organisations (U.S. Department of State, 2010a; 2011a; 2012c; 2013c; 2014c; 2016c; 2017c; 2018c; 2019c; 2020). In August 2009, local human rights NGO Odhikar received a letter from the NGO Affairs Bureau (NAB) cancelling its training and advocacy projects (Odhikar, 2009b; U.S. Department of State, 2011a). The following year, 2010, it was not only Odhikar that faced restrictions on activities. Alongside Odhikar, Action Contre la Faim (ACF), the American Center for International Labor Solidarity, and Médecins Sans Frontières (MSF) were all documented to have restrictions on their programmes (U.S. Department of State, 2011a). Similarly the Bangladesh Center for Workers’ Solidarity (BCWS) and Human Rights Watch were later documented to face project bans and delays in approvals for projects (U.S. Department of State, 2013c).

Throughout the period assessed, the reports detail that NGOs were barred from completing projects by the state.

Funding Restrictions

Restrictions were also imposed on the ability of NGOs to receive international funding to conduct their work. The U.S. Department of State (2011a, 2015c) highlights that the organisations mentioned in the previous paragraph were refused their foreign donations approval by the NAB, meaning they were unable to receive funds from abroad. The lack of resources forced the ACF and MSF to suspend operations with refugees in Cox's Bazaar (U.S. Department of State, 2011a). Further, Odhikar was left unable to receive any funds from abroad (U.S. Department of State, 2015c; 2017c) and by 2019, the U.S. Department of State (2020) notes that Odhikar planned to close operations by the end of the year due to "funding constraints".

The U.S. Department of State (2017c) data also note that in 2016 the Foreign Donations (Voluntary Activities) Regulation Act was enacted. The new legislation granted the authorities in Bangladesh stricter controls over NGOs in receipt of foreign funding and included pre-authorisation measures by the state before an NGO could obtain funds from abroad. The data explicitly state that Bangladeshi NGOs reported that the new measures forced them away from working on rights-based issues and instead "pushed them toward" service delivery roles (U.S. Department of State 2017c).

Visa Restrictions

U.S. Department of State (2014c, 2015c, 2016c, 2017c, 2018c, 2019c, 2020) notes that international activists and human rights NGOs faced persistent visa persistent restrictions when trying to enter Bangladesh.

Harassment, Surveillance and Smears

The U.S. Department of State (2013c, 2014c, 2015c, 2016c) cites that NGOs including ASK and Odhikar were targeted by the state and media for activities on human rights issues. The reports also note that Odhikar staff suspected that they were under constant surveillance by state authorities (U.S. Department of State, 2014c; 2015c; 2016c). By 2017, the U.S. Department of State (2018c) noted a “culture of fear” and “self-censorship” among human rights NGOs after repeated threats by the state (*see also* U.S. Department of State, 2019c, 2020).

Arrests of Activists

In 2013 following Bangladesh’s second UPR, Odhikar reported that its Secretary General Adilur Rahman Khan was detained for two months after publishing a report documenting state abuse of human rights. Odhikar’s President, Nasiruddin Elan was also arrested and later released.

Office Raids

During the arrest of Adilur Rahman Khan, Odhikar reported that computers with documentary evidence of human rights violations were confiscated by state authorities (U.S. Department of State, 2014c). Again in 2018, the U.S. Department of State, (2019c) details that Odhikar’s offices were raided by members of the Bangladesh Special Branch who entered the organisation’s premises and demanded information on the whereabouts of staff members.

A survey of state restrictions highlights that in Bangladesh, the state has imposed both individual and organisational restrictions. The state has a slight preference for imposing

organisational restrictions, which are levelled at groups that are critical of the state with the aim of preventing their activities on human rights issues. However, following Bangladesh's UPR in 2013, the above analysis suggests that the state changed tactics and began using individual restrictions as a reprisal against prominent local activists following their participation at the Human Rights Council.

Non-State Actor Restrictions

During my field visits to Bangladesh, I met with a group created to support the families of individuals who have been forcibly disappeared. During conversations with activists who agreed to be interviewed, it became clear that many victims of enforced disappearance were never seen again, and nor were their bodies found. The interviewees expressed the trauma of losing a loved one for relatively minor offences, which served to create an atmosphere of fear. Crucially, during the interview, it quickly became clear that non-state actors were the primary perpetrator of enforced disappearances. A theme throughout the interview was that many of the victims' families were scared to seek justice for fear of further reprisal.

"I can't tell you the trauma. To lose your son, with no trace. There is nothing. No body, no information. My son was taken [disappeared] for handing out political leaflets. He was never seen again. There are no words that can express my pain...I have never been the same."

Interview with a human rights defender, Dhaka, Bangladesh. 17 July 2019.

Despite this trauma, the group worked to support the families and campaign for justice. In many cases, this involved documentation and campaigning to seek justice for specific cases. As a result, the organisation has faced several restrictions its activity.

"We used to organise rallies, protests, vigils and interviews between 2014 and 2016. But the government started to get pressure from the international community [on enforced disappearances] when we told the stories of our sons.⁶³ Not only do they [the RAB] take our sons, but then we face pressure from political

⁶³ It is important to note that for a variety of socio-economic factors, the majority of those subject to enforced disappearance are young men. Activists working on the issue of enforced disappearance are often mothers, sisters, and wives of victims.

thugs, police and political parties themselves when we try to find out what happened.”

Interview with a human rights defender, Dhaka, Bangladesh. 17 July 2019.

Others noted how the various non-state actors, including out-of-uniform RAB personnel, the police, and political party activists work together to prevent critical NGOs drawing attention to contentious human rights issues such as enforced disappearance.

“You have to understand that the state and non-state actors work together. When the AL was hosting a procession nearby, we knew our building [housing the families of those who have been disappeared] would be targeted [many of those disappeared were prominent critics of the government or opposition activists]. So, we called the police to protect us. The police turned up to protect our building from the AL, but instead spent their time harassing us. This is how it works; you can’t separate between these groups. You face it from both sides.”

Interview with a human rights defender, Dhaka, Bangladesh. 17 June 2019.

Others drew attention to the interconnected nature of restrictions from states and non-state actors. For example, one activist said:

“Law enforcement agencies enforce these restrictive laws; the political thugs directly threaten you. What difference does it make who makes the threat? They work from the same page. The outcome is the same. They want us to stop our activities and it is interconnected. They don’t want us to challenge them. So, they disappear our sons, then families try to join [our NGO] to seek justice and they get threats from political thugs. If you call the police, it doesn’t make any difference.”

Interview with a human rights defender, Dhaka, Bangladesh. 17 July 2019.

Another interviewee described the relationship between state and non-state actors in greater detail by highlighting the benefits of collusion and deniability:

“These non-state actors are backed by the government. It is direct or indirect. If it is direct, they openly work with political parties. If it is indirect, the state simply does nothing. They [the state] just claims they had nothing to do with it.”

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

There was a recurrent theme of impunity that came up when discussing restrictions by non-state actors in Bangladesh. When related to NGO advocacy, a pattern emerged of the interplay between state and non-state actor restrictions. This is best captured through restrictions faced by the BCWS. In 2011, the U.S State Department noted that state

restrictions on NGOs were intensifying (U.S. Department of State, 2012c), including state restrictions against the BCWS, which at the time was campaigning for improved wages and conditions for Bangladesh's formal and informal workers (Ackerly, 2018: 2). Documentary evidence by Human Rights Watch (2012: 297) confirms that restrictions were targeted against the BCWS by detailing the revocation of the NGO's registration and demands for the resignation of its leadership as a precondition of reinstating the BCWS' registered NGO status. Amnesty International (2011: 74) also reported an increase in tension between campaigners for the rights of garment sector workers and the state. Evidence from local groups suggests that restrictions were beginning to go beyond project bans and bans on activities. For example, in 2010, the BCWS reported that three of its staff were arrested by National Security Intelligence (NSI) agency (Clean Clothes Campaign, 2010b). The NSI arrested the activists, raided the BCWS' offices and confiscated all of its property (Clean Clothes Campaign, 2010a). When I interviewed an activist affiliated with the BCWS, they narrated the pattern of aggression faced by the organisation when experiencing restrictions from both the state and non-state actors:

“In 2010, they deregistered us. They told us we were doing anti-state work and they even wrote that in the letter. Can you believe that? But we didn't stop. Between 2010 and 2014, three of our staff were detained and put in jail for a few weeks. We couldn't pay staff as after the deregistration our bank accounts were frozen. But we kept working, we kept fighting as volunteers. Then things got worse. They [unknown individuals] abducted one of our key staff members and killed him. His body showed that he'd endured the most horrific torture. So, you ask how we continue? These restrictions aren't a visible struggle that you can see in your operation. We are brave, but that doesn't mean that we are not scared. We fear for our colleagues and their families.”

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

Evidence from international groups confirms the interview data by detailing that at least two staff members were subjected to torture and ill-treatment while in police custody, with one of the activists reportedly pressured into giving a false testimony against his colleagues at the BCWS during his interrogation (Global March, 2012). While the activists were released 30 days later (Clean Clothes Campaign, 2010a), pressure against

the BCWS continued as its campaigning activities increased. On 4 April 2012, the body of one of the BCWS's staff members was found after he was abducted by unknown individuals. A post-mortem report of the individual's body identified wounds and broken bones that were consistent with torture used by a Bangladeshi death squad prior to death (Asian Federation Against Involuntary Disappearances, 2017).⁶⁴ This sequence serves to indicate that after state restrictions failed to quell the NGO's activities, non-state actors were used to abduct, torture, and kill a member of its staff to try to prevent its advocacy. No one has ever been brought to justice for these violations.

Drawing on activist testimonies and local sources of documentation, my data would strongly suggest that activists have experienced restrictions from non-state actors after criticising the state. Further, the excerpts presented in this section would suggest that activists view restrictions by non-state actors as clearly linked to the state, offering evidence of collusion. Additionally, activists also view non-state actors as protected by the state, which provides further evidence of collusion between the two. In the next section, I look for further evidence linking the state to the non-state actors mentioned in the previous section using Roessler's (2005: 209) typology of support that includes support (weapons, personnel, logistics or intelligence), sponsorship (finances), and permits (refusal to quell).

The Relationship Between Non-State Actors and the State

Out-of-Uniform Death Squad – The Rapid Action Battalion (RAB)

Links between the state and state-sponsored military groups in Bangladesh have long been a concern of the human rights community. Human Rights Watch (2006: 7) describe

⁶⁴ The individual was called Aminul Islam, and the case is discussed in greater detail in Chapter 5. Human Rights Watch (2006: 3) documented the RAB's use of "beatings with batons on the soles of the feet and other parts of the body, boring holes with electric drills and applying electric shocks". Others detail the RAB's method of tying bricks to a victim's genitals, which frequently goes undocumented in the literature (Radio Sveriges, 2017).

the RAB as a paramilitary “death squad”. Throughout this dissertation, I view death squads, including out-of-uniform personnel (*see* Mitchell and Carey, 2013: 6, 12), as non-state actors. The RAB has long been documented to impose individual restrictions, including enforced disappearance, torture, and murder, with its personnel in plainclothes to hide their identity (Human Rights Watch, 2006: 42-44, 2009a: 33, 2011a: 1; Amnesty International, 2019: 15). Therefore, I include the RAB in my analysis. In the next chapter, I attribute individual restrictions by plainclothes RAB operations using evidence of their preferred form of torture left on the bodies of activists.⁶⁵

State Supports (Weapons, Personnel, Logistics, or Intelligence) and Sponsors (Finances)

In this section I look for evidence of state support and sponsoring of the RAB. As an elite force that conducts operations in uniform as a state force, the RAB has had longstanding political support for its activities. Formed in 2003 and beginning operations in 2004 (The Armed Police Battalions Ordinance, 1979 (Amendment Act 2003), 2003), the RAB is an elite military force made up of personnel from the army, air force, and navy who are seconded to the serve in it (*see* Human Rights Watch, 2006: 18). As described by Human Rights Watch (2006), the group’s focus is to:

“Provide internal security, conduct intelligence into criminal activity, recover illegal arms, arrest criminals and members of armed gangs, assist other law enforcement agencies, investigate any other offense as ordered by the government.” (Human Rights Watch 2006: 18).

The RAB blurs the lines between a state actor and a non-state actor. On the one hand, it is known to conduct legitimate investigations into criminal activities while wearing RAB uniforms. On the other, it has also been documented to disappear, torture, and murder prominent activists while wearing plainclothes (Amnesty International, 2019: 16).

⁶⁵ Individuals subject to torture by the RAB have been often noted to feature wounds consistent with drill marks below the knees and in the calves. This marker of RAB torture is discussed at greater length in the next chapter.

For example, in the past decade, local human rights NGO Odhikar estimates that the RAB is responsible for the disappearance of at least 550 people (Deutsche Welle, 2020). In 2018 alone, the force is reported to have been responsible for the deaths of 466 individuals (Amnesty International, 2019: 4), with local activists placing the true figure much higher.

As the RAB is well documented by human rights groups to conduct operations in plainclothes (Human Rights Watch, 2006: 42-44, 2009a: 33, 2011a: 1; Amnesty International, 2019: 15), the force has been consistently protected from prosecution. For example, it was not until 2014 that the force admitted that one member of the RAB was involved in an enforced disappearance (*see* European Parliament, 2014).

Alongside access to weapons and intelligence, the group has also benefitted from training. Evidence indicates that Bangladeshi authorities facilitated training for the composite force from the UK on “investigative interviewing techniques” (Karim and Cobain, 2010). The links between the RAB’s clandestine operations and the state are further evidenced by the organisation’s decisions on whether to murder activists. As discussed in the next chapter, audio recordings of RAB personnel note that once activists are detained and tortured by the RAB, calls are made to “high-ups” (Bergman, 2020) – allegedly senior figures in the authorities – to decide whether the individuals are executed or not.

State Permits Activities of Non-State Actor (Refuses to Quell for Political Gain)

I now assess evidence to explore whether the state has taken steps to prosecute the RAB for violations of human rights and whether the state has drawn benefits from the RAB’s activities.

Human rights NGOs highlight the RAB's preference for purposefully leaving bodies on display in the streets after operations as a deterrent to critics of the AL (Human Rights Watch, 2006: 4).⁶⁶ Statements from officials offer evidence that the state provides the RAB with a "hitlist" of targets. For example, in 2006 during the time in power of the AL's rivals, the Bangladesh Nationalist Party (BNP), a prime ministerial advisor, Salahuddin Quader Chowdury, threatened opposition politicians to be careful as they were already on the RAB's "hitlist" (Human Rights Watch, 2006: 6). After the AL came to power in 2009, Chowdury found himself a victim of RAB violence, after being abducted and tortured through beating and electric shocks (Cobain and Karim, 2011).

In acknowledgement of the large number of cases presented by human rights NGOs, after meeting with these organisations it became clear that the victims of the RAB can broadly be split into three categories: political opposition, individuals affiliated with prominent NGOs, and individuals deemed to be "dangerous" by the government of Bangladesh.⁶⁷

To date, only 25 members of the RAB have ever been prosecuted, for abducting and murdering seven political activists whose bodies were found in Narayanganj in 2014 (Bergman, 2021). No evidence of the state attempting to suppress the activities of the RAB using state apparatus could be found.

Militias – The Chhatra League and Jubo League

⁶⁶ The RAB often blames deaths during operations on "crossfire", which is where the RAB claims that an individual opened fire and RAB personnel were forced to use live ammunition in self-defence. For a broader explanation of this dynamic see Amnesty International (2019).

⁶⁷ When conducting fieldwork, it became clear that being considered to be "dangerous" often equated to being labelled as a terrorist or against the liberation of Bangladesh. This assertion was confirmed during fieldwork and in particular through conversation with Odhikar, the NGO that has undertaken the majority of the documentation of human rights violations by the RAB.

During my research visits to Dhaka, it became clear that activists and organisations also feared day-to-day violence from political activists affiliated with the ruling party. As highlighted by Lewis and Hossain (2019: 11), the ruling AL's links with non-state actors such as the Bangladesh Chhatra League (BCL) (the student wing of AL) or the Jubo League (JL) (the youth wing of the AL) have been used to perpetrate violence against activists or organisations critical of the government (e.g. Odhikar, 2011b; Ain O Salish Kendra, 2012; Human Rights Watch, 2018, 2019). It is important to acknowledge that the use of affiliated groups is not unique to the AL, as the BNP has also have been documented to use its student wing, the Bangladesh Jatiotabadi Chatra Dal, and its youth wing, the Bangladesh Jatiotabadi Jubo Dal, to perpetrate violence on behalf of the state.

Although there is little available evidence of these groups attacking NGOs, their role in intimidating activists was particularly evident through interview data. One lawyer who works with a number of prominent human rights NGOs summed up how the youth and student leagues created an environment of fear within the human rights community.

“These student groups are armed, powerful and brutish. They are simply waiting to obey orders. When I say student or youth, you think these guys are young, but most of the people in these leagues are 40 or so. And, whoever is in power uses these groups to enforce their will. They are basically terrorists. If you came to me now and said, I’m with the Chhatra League, I would be scared, I would do whatever you say. They take young people, boys mainly, from the fringes of society and they join the leagues to rape, to extort, to break legs, and make money. But, in return they report directly to their political masters.”

Interview with a human rights defender, Dhaka, Bangladesh. 16 July 2019.

For the period assessed in this study (2009 to 2019), the AL has been continuously in power, so I focus on the BCL and the JL.

State Supports (Weapons, Personnel, Logistics, or Intelligence) and Sponsors (Finances)

I now examine the links in the form of state support or sponsorship of the activities of the BCL and the JL. Evidence would highlight that links between the BCL, the JL, and the

state are extremely strong. Being the student and youth wings of the ruling AL, both groups have close links with ruling party officials. In an indication of the close relationship between these organisations and the state, President Sheikh Hasina has acted as the head of both organisations during her tenure (Bangla Tribune, 2019). In 2019, Hasina ordered the leadership of the BCL to “...increase the image of the BCL and earn people's trust” (Bangla Tribune, 2019).

Since 2009 the BCL and JL have been reported to be involved in perpetrating sexual violence, torture, and extrajudicial killings (Human Rights Watch, 2019a; Khandaker, 2020). Evidence has also highlighted that state funding, political support, and weapons have been granted to the BCL and the JL by the AL (Khandaker, 2020). Evidence from local sources would also suggest that both the BCL and the JL benefit from intelligence from the state and especially the police in order to conduct their activities (*see* Odhikar, 2011: 2-3; Odhikar and Asian Legal Resource Centre, 2012: 9).

Members of the BCL can also gain benefits from participation in the group’s activities. In a further illustration of the BCL’s power, in 2019 the BCL President and General Secretary are reported to have demanded a 4 to 6 percent cut from a grant to Jahangirnagar University. The bribe totalled 16 million BDT (approximately 189,000 USD) and was allegedly paid by the Vice Chancellor of the university to appease the AL (The Daily Star, 2019a). During fieldwork, similar instances were repeatedly mentioned by activists. It was broadly acknowledged that the state tolerated corruption by the BCL and the JL to ensure their allegiance to the AL.

State Permits Activities of Non-State Actor (Refuses to Quell for Political Gain)

In this final section, I analyse evidence to explore whether the state prosecutes the BCL or the JL for their activities and whether the state benefits from their activities.

Given that the state can draw benefits from the BCL and the JL of restricting individuals who oppose the AL, evidence would suggest that the state does not seek to prevent violence by these groups. For example, in a recent publication assessing attacks on student protesters, Front Line Defenders, CIVICUS, and South Asians for Human Rights (2020), described the BCL's coordination with the police, saying:

“...the police assumed responsibility to the student wing of the ruling party known as the Bangladesh Chhatra League. These groups operate as an auxiliary force to the Bangladeshi security forces...” (Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 9).

Interviews with BCL members offers further evidence of the state's failure to bring BCL and JL members to justice for violence. Jackman (2021: 189) cites that BCL members have been recorded emphasising that individuals affiliated with the BCL were informed by the state “not to step out of line” if they wanted protection from prosecution. In practice, this means being unable to participate in any protests or activities that were viewed to be against the ruling party. Further, it also means that by remaining loyal to the AL, members of the BCL are guaranteed impunity after violating human rights. In a further indication of the group's activities and corresponding impunity for their human rights violations, according to Odhikar (2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019), between 2009 and 2019, 2,150 people are reported to have been killed in political clashes involving the BCL and the JL. As discussed in Chapter 5, both activists and organisations such as Odhikar frequently cite that this number is likely to be far higher, as attributing deaths to both groups is extremely challenging due to their protection from prosecution by the state.

As discussed in Chapter 5, it should be acknowledged that the state has brought cases against BCL and JL members (*see* BBC, 2019). However, it is equally important to state that the propensity to prosecute BCL and JL members appears to be contingent on public awareness of their activities. Through this study, I interviewed individuals who had been abducted and tortured by the BCL and had received no protection from the state. Interviewees reported that no observable steps were taken by the state to suppress the BCL or the JL's activities, citing that these groups operated with complete impunity.

The evidence presented suggests that in Bangladesh, the state clearly does benefit from the activities of non-state actors. In addition to this, clear links between the state and non-state actors such as the RAB and the BCL and the JL can be shown through testimonial and documentary evidence presented in this chapter. My analysis suggests that the state is extremely sensitive to international criticism of human rights policy, as demonstrated by the cited increase in restrictions on activists following Bangladesh's UPR in 2009. Therefore, it would appear that the state not only mobilises non-state agents such as the RAB, the BCL and the JL to restrict NGOs, but it also does so to avoid international criticism and evade accountability for restrictions.

My analysis of interview data in this chapter demonstrates that activists cite experiencing restrictions from non-state actors after their criticism of state policy, which provides evidence that the state colluded with non-state actors as reprisal for advocacy. These activists also took the view that the activities of non-state actors are backed by the state. The state's unwillingness to protect activists or prosecute non-state actors without international pressure provides further evidence of collusion. An important finding from this chapter is that the state in Bangladesh would appear to prefer working with non-state

actors to impose individual restrictions such as enforced disappearance, torture, and extrajudicial killing. This is a finding that I examine more closely in the next chapter.

Israel and the Occupied Territories

Evidence from Israel and the Occupied Territories would indicate that the activity of human rights NGOs is largely focused on Israel's actions against Palestinians and its violations of international law. These Israeli violations are believed to include illegal settlements on Palestinian land, physical integrity violations against Palestinians, and deprivation of basic economic and social rights such as access to water (*see* United Nations General Security Council, 2016; United Nations Human Rights Council, 2020: 7-9). While civil society groups also lobby against human rights violations committed by the Fatah-governed Palestinian National Authority (PNA) and Hamas, the ruling power in the Gaza Strip, these advocacy activities are overshadowed by NGO advocacy activity in relation to the Israeli state. As such, NGO advocacy directed at Israel is the primary focus of this case analysis. In particular, I identify the involvement of prominent NGOs in the Boycott, Divestment, and Sanction (BDS) movement as a key driver of a backlash from the Israeli state.

In the period assessed in this study, NGOs repeatedly raised concerns over the use of arbitrary detention and torture across the Occupied Territories by both Fatah and Hamas.⁶⁸ This was documented to be taking place in both the West Bank and Gaza Strip (Al Mezan Centre for Human Rights and Al-Haq, 2008; Al-Haq, 2009b) and in Israel (B'Tselem and Hamoked Center for the Defence of Individual, 2009: 12). International human rights groups described the use of torture, specifically the use of prolonged "stress positions"

⁶⁸ For example, Human Rights Watch (2009b: 475-476) documents ill-treatment and torture committed by both Fatah and Hamas against each other's supporters and the circumvention of due process through the use of military courts to convict suspected "terrorists".

by authorities in the West Bank as “common” (Human Rights Watch, 2008b: 28) and the use of the same form of torture by Hamas in the Gaza Strip as shorter but more “intense” (ibid.: 5).⁶⁹ Torture by Hamas in the Gaza Strip has also been evidenced to regularly include shooting victims in the legs or beating them with pipes (Human Rights Watch, 2008b: 79-85). As evidence of arbitrary detention and torture, testimonial evidence from human rights activists suggests that authorities in Palestine responded by restricting human rights groups from accessing facilities holding detainees.⁷⁰

Despite these human rights issues, during field visits to Palestine a number of human rights groups either implicitly or explicitly noted being cautious of criticising Fatah and Hamas for fear of undermining the Palestinian political cause. As a result, conducting advocacy on human rights violations perpetrated by Israel was viewed as a “safer” subject. During one interview, a human rights activist mentioned this dynamic:

“Of course, we face many restrictions from the Palestinian Authority [for advocacy on human rights issues], from Fatah from other political parties. But it is worse from the Israeli side. There are many restrictions from that side. And we can’t do anything. They restrict our movement, they keep us at checkpoints for hours, they arrest and interrogate us. And it is worse because there is nothing we can do. We focus our advocacy on Israel because they violate our fundamental human rights.”

Interview with a human rights defender, Ramallah, Palestine. 2 May 2019.

Another human rights activist added a further layer of complexity by citing NGO partnerships with the PNA. NGOs advocating on certain non-contentious issues, such as access to sanitation or agricultural issues, experienced receiving more support from the PNA whereas others could face restriction. During the interview they explained this dynamic:

⁶⁹ Human Rights Watch (2008b: 25-30) describes the use of “shabah” or keeping detainees in stress positions such as standing for hours with feet apart and hands tied behind the back or standing with one arm or leg raised (ibid.: 28, 53).

⁷⁰ This restriction was documented during fieldwork and through interviews and conversations with Palestinian human rights activists.

“We have a partnership with the Palestinian Authority, and of course sometimes we have differences of opinion, but they don’t support us financially. We coordinate closely with them, which means there is give and take.”

Interview with a human rights defender, Ramallah, Palestine. 28 May 2019.

Another interviewee also noted that close partnerships with the PNA can also create a situation where NGOs were cautious of criticising its human rights record for fear of restriction. During an interview they said:

“There is displeasure with what we are doing [documenting human rights violations by the PNA]. It happens in the form of hindering access to places where these abuses are taking place, like prisons, police stations. And there are ups and downs with that, it comes and goes. This means we are careful with what we say.”

Interview with a human rights defender, Ramallah, Palestine. 8 April 2019.

Evidence would suggest that Palestinian human rights NGOs have documented the use of torture by the PNA and Hamas (see Al Mezan Centre for Human Rights and Al-Haq, 2008; Al-Haq, 2009). Yet it is equally important to acknowledge that these NGOs have also dedicated significant efforts to campaigning against Israeli actions across the Occupied Territories in international fora such as the International Criminal Court (ICC) (Al-Haq, 2015; 2016) and the UN Human Rights Council (Al Mezan Centre for Human Rights, 2013; Al-Haq, 2018).⁷¹

Advocacy on human rights issues by Palestinian NGOs against Israel can be viewed as a galvanising force for collaboration across the Occupied Territories. Arguably, the most provocative effort is the BDS movement. Founded in 2005 (Boycott Divestment and Sanctions (BDS), 2005), the BDS movement calls for global economic sanctions on Israel to end the occupation of the Occupied Territories. Since its foundation in 2005 and

⁷¹ Further, it is important to recognise the importance of the negotiated settlement between the PNA and Israel, which permits Israeli security oversight of the PNA. As documented by the Independent Commission for Human Rights (ICHR) (2008: 2-3), the national human rights institution of Palestine, Israel frequently exercises its right to oversee security in the PNA as agreed in the peace accords. In practice, the ICHR highlights that Israel has colluded with authorities in the PNA to perpetrate human rights violations and has unilaterally organised Israeli-led incursions into the Occupied Territories (ibid.: 5).

particularly after Israel's 2008-2009 "Cast Lead" operation in the Gaza Strip, the BDS movement has mobilised international support for human rights issues faced by Palestinians (McMahon, 2014: 66).⁷² In an indication of the group's aims, the founding statute of the BDS movement, signed by 170 Palestinian NGOs in 2005, states:

"We, representatives of Palestinian civil society, call upon international civil society organizations and people of conscience all over the world to impose broad boycotts and implement divestment initiatives against Israel similar to those applied to South Africa in the apartheid era." (Boycott Divestment and Sanctions (BDS), 2005).

Since then, the BDS movement has been successful in lobbying for academic boycotts of collaboration with Israel (Rose and Rose, 2013), cultural boycotts (The Guardian, 2015; Artists for Palestine, 2020), and economic divestment from Israel by multinational corporations (Abunimah, 2016), faith groups (Boycott Divestment and Sanctions (BDS), 2016), and even states (Boycott Divestment and Sanctions (BDS), 2014). Given its apparent success, the BDS movement has also been provided an opportunity for solidarity between Palestinian NGOs and Israeli NGOs.⁷³

Considering this success, while the PNA has sought to restrict or coerce civil society from criticising its own human rights record, it has been viewed as tolerating the BDS movement (*see* Erakat, 2010).⁷⁴ Conversely and perhaps unsurprisingly, the BDS movement has provoked a response from the Israeli authorities in the form of restrictions.

In 2015 the Prime Minister of Israel termed the BDS movement a "strategic threat" to

⁷² "Operation Cast Lead" was a military offensive launched in Gaza Strip by the Israel Defense Forces (IDF) in December 2008 with the stated intention of ending Hamas rocket attacks on Israel.

⁷³ Leading Israeli organisations may not openly endorse the BDS campaign, but have publicly defended the right of Palestinian organisations to support it. For example, when the German Bundestag passed a motion condemning the BDS movement as antisemitic, seven leading Israeli human rights NGOs – Adalah, Breaking the Silence, B'Tselem, Gisha, HaMoked, Physicians for Human Rights, and Yesh Din – responded by standing in solidarity with BDS and lobbying for the repeal of the motion. For more information see Middle East Eye (2019).

⁷⁴ While the PNA initially resisted the BDS campaign it is now viewed to have links with leading organisations in the BDS movement. Initial resistance has been attributed to the BDS movement's agnostic stance on the one state/two state debate with Israel (McMahon, 2014: 67). While the PNA now has links with organisations organising BDS action some authors have highlighted how the PNA has created rival campaigns along partisan lines. For a fuller discussion of this dynamic see Erakat (2010).

Israel and tasked the Ministry of Strategic Affairs and Public Diplomacy with formulating a response to the campaign's growing traction, which was viewed as tarnishing Israel's reputation (Beaumont, 2015). The Ministry created a taskforce called the "campaign of delegitimization" against the BDS movement (Ministry of Strategic Affairs and Public Diplomacy, 2015) that has produced several reports attempting to discredit protagonists of the campaign or smear their organisations (see Ministry of Strategic Affairs and Public Diplomacy, 2018, 2019).

During interviews, the BDS movement was often confirmed by activists to be a key driver of restrictions by the Israeli state against Palestinian NGOs. One activist summed up the situation during an interview:

"It is BDS. That is the most sensitive issue. It is our most effective tool. Anyone, any organisation that is affiliated with the BDS will face these restrictions. They [Israeli state] will go to any lengths to smear you, de-legitimise you, ban you, arrest you. It's because it inflicts damage on their [Israel's] reputation as democratic."

Interview with a human rights defender, Ramallah, Palestine. 28 April 2019.

Sensitivity around involvement in the BDS movement has prompted Israel to impose travel bans on activists alleged to be involved in the movement (including Human Rights Watch, see U.S. Department of State, 2017b, 2019b).⁷⁵ Travel restrictions were something that I experienced directly during fieldwork. After being held and interrogated on both entry and exit from Israel by Israeli authorities, I was directly asked whether I supported BDS activities.

For Israeli NGOs, perhaps the largest and most contentious issue raised by human rights NGOs is the Israeli occupation of Palestine. A number of prominent Israeli groups such

⁷⁵ See the next section on state restriction for a more detailed discussion of restrictions on Human Rights Watch and Omar Shakir's deportation.

as Adalah (2020), Breaking the Silence (2020), B'Tselem (2020), and Machsom Watch (2006) state that their organisational mission is to either expose violations by Israel against Palestinians or directly oppose Israel's occupation of Palestine and publicise illegal Israeli military actions.⁷⁶ In doing so, these groups produce documentary evidence on a range of issues that aims to provide recourse for human rights violations against Palestinians in the Occupied Territories or promote equality for Palestinian citizens in Israel. As a result of their advocacy activity, activists in Israel felt that opposing the state's actions against Palestinians had caused the state to impose restrictions on their activity. One activist said:

“Civil society is the only opposition left. There isn't political opposition any more to the occupation. We know they want to make it permanent. The problem is, we are the ones standing in the way. This is why the Ministry and the NGO Monitor [a non-state actor] have come after us.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

These groups have faced restrictions following their work to uncover and highlight Israel's non-compliance with human rights standards. It is broadly accepted that advocacy by Israeli NGOs has been particularly damaging to Israel's international reputation as a highly democratic state.⁷⁷ For example, the Israeli NGOs mentioned above have been described by Israeli officials as “eroding the legitimacy of Israel to exist as a Jewish and democratic state” (Fisher-Ilan, 2015). During an interview, another activist described their experiences. They said:

“We expose wrongs and we speak truth to power. So, we're not popular [laughs], on the contrary, we are labelled as traitors, terrorist-sympathisers, or self-hating Jews. Palestinian human rights are a deeply political issue in Israel. You just can't have a conversation about human rights for Palestinians anymore or the

⁷⁶ According to Amnesty International (2009) 1,400 Palestinian civilians including 330 children were killed in “Operation Cast Lead” in 2008-2009, with human rights groups alleging that white phosphorous shells were used. Evidence of the Israel's use of white phosphorous on civilian areas is also supported by eyewitness testimonies of IDF personnel. For further information see Breaking the Silence (2009). These testimonies were later used by Palestinian groups at the ICC.

⁷⁷ During fieldwork, it was frequently mentioned by Palestinian NGOs that if key Israeli groups supported their activities or collaboratively campaigned on human rights issues then they would receive more international attention.

government will actively campaign against you. We are the thorn in their side... We air the dirtiest of their laundry for the world to see.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

Evidence from Israel and Palestine would indicate that human rights activity by NGOs is largely focused on Israel’s actions against Palestinians. In both cases, international campaigns such as the BDS movement and campaigns by Israeli NGOs against Israel’s military actions have been evidenced to have provoked restrictions from the Israeli state.

State Restrictions in Israel and the Occupied Territories

In Israel and the Occupied Territories, source data would appear to support testimonial evidence presented in the previous section regarding state sensitivity over the BDS movement and domestic criticism from Israeli NGOs. These restrictions have taken the form of travel restrictions, office raids, restrictions on funding, smears, cyber attacks, and arrest of activists. I now systematically discuss each of these restrictions.

Travel restrictions

Travel restrictions were applied against critical NGOs throughout the period assessed in this study (U.S. Department of State, 2008; 2009; 2010c; 2011c; 2012b; 2013b; 2014b; 2015b; 2016b; 2017b), with Israeli authorities obliging individuals to sign declarations if they intended to enter the Occupied Territories (U.S. Department of State, 2012b; 2013b; 2014b; 2015b). In 2017, the U.S. Department of State, (2017) documented that a Human Rights Watch researcher had their visa denied for “Palestinian propaganda”, a decision that was later reversed. Despite the reversal, in 2018 Israel upheld a decision to ban Human Rights Watch’s Israel and Palestine director, Omar Shakir, from the country and he was deported after calling for a boycott of West Bank Settlements (U.S. Department of State, 2019b).

In 2010, the U.S. Department of State (2010) noted that leading Israeli NGOs including B'Tselem, Gisha, and Yesh Din were barred from accessing the West Bank and that Israel's security agency, Shin Bet, was warning activists away from political activity. Similarly, NGOs reported being subject to restrictions by the Israeli military while carrying out programmatic activities across the Occupied Territories in a number of policy areas, including the promotion of human rights.

Office Raids

In the Occupied Territories, the U.S. Department of State (2012a) cites that the Israel Defense Forces (IDF) raided the offices of several NGOs, including Addameer Prisoners Support and Human Rights Association, the Palestinian NGO Network, and the Union of Palestinian Women, and seized files and equipment. No justification was given for the raids.

Restrictions on Funding

In 2009, after eyewitness testimonies of human rights violations during "Operation Cast Lead" came to light (*see* Breaking the Silence, 2009), the U.S. Department of State (2009) notes that Israeli officials publicly announced an "aggressive battle against NGOs" (Katz and Keinon, 2009). In practice, this involved lobbying the donor agencies providing funding to NGOs that criticised Israel's human rights record to stop their funding. In 2014, the U.S. Department of State (2014), drew attention to a draft bill that, if implemented, would limit the donations that an NGO could receive from a foreign state. Similarly, the U.S. Department of State (2014) suggests that Israeli authorities were considering imposing a 45 percent tax on donations should an NGO involve itself in BDS actions.

In 2015, the U.S. Department of State (2015) noted that NGOs in receipt of foreign funding were subject to stigmatisation and intimidation by state officials, with the government committing to advancing legislation that addressed foreign funding of NGOs. Similarly, the U.S. Department of State (2015) notes that Israeli ambassadors were documented to have pressured donor agencies in Europe to stop funding critical Israeli and Palestinian NGOs including the Adalah Center for Arab Minority Rights, Breaking the Silence, and B'Tselem. By 2016, Israeli authorities had passed a law which obliging all NGOs in receipt of more than half of their funding from abroad to state this fact in all publications, applications for government meetings, and public communications (U.S. Department of State, 2016b). At the time, NGOs noted that this law was specifically designed to marginalise and target Israeli NGOs working against the occupation of Palestine and in the field of human rights.

Smears

Following laws that targeted its resources, B'Tselem, a prominent human rights NGO, faced serious aggression from Israeli authorities, with the Israeli justice minister calling for B'Tselem's executive director to be arrested on charges of treason for drawing attention to Israel's human rights violations in the West Bank (U.S. Department of State, 2016b). Further, the U.S. Department of State (2015) provides evidence that Israeli NGOs including B'Tselem and the Association for Civil Rights in Israel were barred from participating in volunteer programmes with the Israeli civil service as a consequence of their campaigning against human rights violations committed by the IDF.

Similarly, NGOs reported receiving death threats. Critical NGOs operating in East Jerusalem and the West Bank reported an increase in harassment, threats, and attacks from critical right-wing Israeli NGOs. NGOs vocal on Israel's human rights violations

across the Occupied Territories were singled out by right-wing NGOs and subjected to smear campaigns. The groups targeted included Al-Haq, Breaking the Silence, B'Tselem, and Rabbis for Human Rights which all reported that their employees were subjected to intimidation death threats and violence as a result of these campaigns (U.S. Department of State, 2016b; 2017b; 2018b; 2019b). In 2017, the situation escalated with the Deputy Minister for Public Affairs comparing Breaking the Silence to a “terrorist organisation”, and with the Israeli Prime Minister later signalling that he may consider legislation to ban the “persecution” of IDF soldiers (U.S. Department of State, 2017b).

Cyber Attacks

Al-Haq, one of the leading Palestinian NGOs reported a sophisticated cyber attack that hacked into its emails and targeted staff working with the ICC in the Hague (U.S. Department of State, 2016b). The attack coincided with the organisation submitting information to the ICC accusing Israel of war crimes.

Arrests

In 2017, the U.S. Department of State (2017) documented that a researcher working for the Palestinian NGO Addameer was arrested at his home in East Jerusalem. He was held by Israeli forces for six months under administrative detention (ibid.).

In this section, I analysed documentary evidence of state restrictions to explore the nature and target of the Israeli state’s restrictions. I find strong evidence to suggest that Israel levels restrictions against NGOs that are critical of its human rights record. My analysis highlights that NGOs working in the Occupied Territories and those active in promoting the rights of Palestinians faced particularly intensive restrictions. Therefore, I find convincing evidence of a strong link between NGO advocacy against Israel and

corresponding state restrictions on NGO activity. Importantly and crucially for this study, I also find evidence of right-wing Israel groups working to restrict NGOs. This is a theme that I explore in greater detail in the next chapter.

Non-State Actor Restrictions

In Israel, links between non-state actors and the state were less clear than in other cases. However, it was clear that a signalling process of state restriction or state attitudes towards critical NGOs emboldened non-state actors, often identified as right-wing NGOs with close links to the state. In this case, the state openly targeted NGOs, normalising a level of hostility towards human rights NGOs, leading to further restrictions from non-state actors. This was well evidenced by a member of a prominent Israeli NGO who highlighted how statements by the Israeli Prime Minister led to them receiving death threats. They said:

“Our staff have received death threats. I had a death notice against me posted on social media. This comes from the prime minister after they make an inflammatory statement about NGOs. If people hear that it is acceptable to attack us, people will. Do you know what I mean? Our executive director gets hundreds, literally hundreds of death threats every month. We used to complain to the police, just to log it. But, do you really expect them to do anything? International solidarity is what protects us more than anything.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

Others, particularly Palestinian groups involved in the BDS movement, spoke of intensifying pressure from the Israeli state and affiliated non-state actors after global audiences mobilised around the BDS campaign. More specifically, activists identified that right-wing Israeli NGOs work to legitimise state restrictions by creating an environment of hostility for organisations and activists promoting BDS.

Perhaps the most prominent of these groups is an organisation called the NGO Monitor, which monitors the actions of human rights NGOs that criticise Israel’s human rights

record and is known for its strong links to the Israeli state.⁷⁸ The NGO Monitor has produced reports alleging “terrorist activity” by Palestinian NGOs involved in the BDS movement (NGO Monitor, 2009, 2017b: 6-11, 2020d), and supports the Israeli state’s efforts to restrict BDS-promoting NGOs.

The Ministry of Strategic Affairs and Public Diplomacy’s efforts to restrict the BDS movement include the publication of reports that make similar allegations to those made by the NGO Monitor. For example, in 2018 the Israeli state produced a report called “The Money Trail” (Ministry of Strategic Affairs and Public Diplomacy, 2018) and another in 2019 called “Terrorists in Suits” (Ministry of Strategic Affairs and Public Diplomacy, 2019), which presented their findings as exposés of BDS links to terrorist organisations. Both reports name 42 NGOs prominently involved in the BDS movement and recommended that the EU and EU member states defund their activities (Ministry of Strategic Affairs and Public Diplomacy, 2018: 3-4, 2019: 9).

Although reports by the Israeli ministry do not cite information from right-wing Israeli NGOs such as the NGO Monitor, they target exactly the same NGOs that were previously outlined by the NGO Monitor in a report submitted to the Israeli Knesset in 2017 (NGO Monitor, 2017b: 6-11). Media reports at the time note the “regurgitation” of information produced by the NGO Monitor by the Ministry of Strategic Affairs and Public Diplomacy (Rettman, 2018). Evidence would suggest that information from the NGO Monitor aided the Israeli state to lobby for the EU and EU member states to defund NGOs involved in the BDS movement. Evidence from Al-Haq, notes that in June 2019, shortly after the publication of “Terrorists in Suits”, the financial accounts of 30 Palestinian NGOs were

⁷⁸ The NGO Monitor is a prominent right-wing NGO with strong links to the Israeli state. Restrictions by the NGO Monitor are discussed in detail in the next section.

frozen in the EU and the USA (Al-Haq, 2019). In response, the Israeli Strategic Affairs Minister welcomed the move by saying, “NGOs are, in reality, filled with antisemitic operatives with deep ties to terrorist groups fixated on destroying the State of Israel” (Jaffe-Hoffman, 2020). The resulting impact of this chain of events was that Israel and the NGO Monitor were able to restrict the funding of 30 prominent Palestinian NGOs by bypassing the PNA and going straight to donor organisations.

Interviewees in the Occupied Territories remarked on the relationship between groups such as the NGO Monitor and the Israeli state as being deeply interlinked. The closeness of these relationships were often explained as a way for Israel to bypass scrutiny for human rights violations committed against Palestinians. One interviewee said:

“Non-state actors are directly linked to the [Israeli] state. They are supported by the government to do the dirty work that the government is unwilling to do. They are tightly linked, because it helps to preserve their reputation. Then they can say they have a vibrant civil society. In reality, it’s only civil society that is ideologically aligned with them. They don’t want voices like ours.”

Interview with a human rights defender, Ramallah, Palestine. 4 May 2019.

Israeli NGOs and activists took a more circumspect approach to assessing links between the state and state-affiliated NGOs. Instead of simply viewing state-aligned NGOs and the state as the same, they viewed collaboration in terms of goal alignment. For example, one activist said:

“They definitely work together, but they aren’t GONGOs in the traditional sense. The state doesn’t control them. This is about goals and a good deal for both parties. They want the same thing, so it makes sense that they collaborate when their goals align. They want the same thing at the end of the day. They want to silence anyone that exposes Israeli human rights violations.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

In this section, I used interview data to triangulate initial findings from my review of state restrictions regarding reported restrictions on human rights groups from right-wing NGOs. Drawing on evidence from both Israel and the Occupied Territories, I find that activists view restrictions from the NGO Monitor as closely linked to the state. In doing

so, I also highlight evidence to suggest that the state of Israel coordinates activities with the NGO Monitor through the publication of reports and sharing of information. The evidence presented here would appear to confirm that activists have experienced restrictions from non-state actors and that they believe these restrictions to be clearly linked to, and advantageous to, the state of Israel. In the next section, I examine links between the NGO Monitor and the state of Israel in greater depth.

The Relationship Between Non-State Actors and the State

Government-Organised NGOs – The NGO Monitor

Interviewees in both Israel and the Occupied Territories repeatedly raised the issue of NGOs with links to the state. Every single human rights NGO that participated in this study, whether based in Israel or the West Bank, had experienced restrictions from non-state actors aligned to the Israeli state. More specifically, every single interview conducted for this study cited experiences of restrictions from the NGO Monitor.⁷⁹ One interviewee highlighted this dynamic:

“The Israeli Ministry for Strategic Affairs works with state-affiliated NGOs to smear us [Palestinian NGOs] and Israeli human rights organisations. They smear with baseless accusations and target our funders who provide us with resources to conduct our human rights work. The NGO labels us as “terrorists” which provides the evidence for the state [Israel] to restrict our movement, which prevents us from gathering information [from across the Occupied Territories] and then they go to our funders. This hinders our human rights work. There is a

⁷⁹ While there is some evidence that links the NGO Monitor to the Israeli state’s policy regarding restrictions, it would be incorrect to argue that it is the only organisation that imposes restrictions on NGOs. During fieldwork and after engaging with activists, it became clear that there were other organisations with more explicit links to the Israeli state. One organisation that was frequently mentioned was Concert (previously called Solomon’s Sling/Kela Shlomo), which is directly financed by the Ministry of Strategic Affairs and Public Diplomacy to counter the BDS movement (Horovitz, 2018). Evidence suggests that Concert works directly with the Israeli Ministry, using state funding to create a global counter-campaign against the “de-legitimization” of the state of Israel through the BDS movement (Benzaquen, 2020). Others noted that rival NGOs with links to the state had grown in prominence, drawing particular attention to the NGO My Truth, an organisation comprised of former IDF members that was viewed as working to provide a counternarrative regarding Israeli complicity in human rights violations. In particular, My Truth was often argued to be providing opposition to another NGO, Breaking the Silence, which collected testimonial evidence from IDF personnel of human rights abuses committed by the military force. My Truth was often argued to be part of an effort to rebrand IDF military operations in the Occupied Territories in a bid to shift focus away from rights violations documented by Breaking the Silence (2009) during “Operation Cast Lead”. Still, these organisations were cited as being less active than the NGO Monitor, which was consistently viewed both with fear and frustration by both Israeli and Palestinian human rights NGOs.

revolving door between the military and staff at these NGOs. How can you say that they are not linked?”

Interview with a human rights defender, Ramallah, Palestine. 3 May 2019.

Founded in 2002 in response to the 2001 Durban Declaration (NGO Monitor, 2002), which pre-dated the beginning of the BDS movement (McMahon, 2014: 67), the NGO Monitor states that its aim is to “...ensure that decision makers and civil society operate in accordance with the principles of accountability, transparency, and universal human rights.” (NGO Monitor, 2002).⁸⁰ Since then, the NGO Monitor has grown in prominence for its detailed documentation of human rights NGOs that actively campaign on the Palestinian issue and through vocal opposition against these positions both domestically and internationally at the UN.⁸¹

State Supports (Weapons, Personnel, Logistics, or Intelligence) and Sponsors (Finances)

In this section, I analyse data to find evidence of state support or sponsoring of the NGO Monitor’s activities.

Although the NGO Monitor claims that it does not receive any funding from the Israeli government (NGO Monitor, 2002), it has been described by Israeli human rights activists who advocate against Israel’s actions in the Occupied Territories as an “NGO militia” of the Israeli government (White, 2020: 73). In 2017, a prominent Israeli human rights lawyer affiliated with B’Tselem described the NGO Monitor as having a “symbiotic” relationship with the Israeli state, through its work to “slander and thwart” independent human rights organisations both in Israel and the Occupied Territories (Sfard, 2017). Others have gone further by concluding that the NGO Monitor cannot be viewed as

⁸⁰ The Durban Declaration was made in 2001 at the World Conference Against Racism in Durban, South Africa. During the conference, civil society leaders “equated Israel’s discriminatory policies throughout Israel and the Occupied Territories with apartheid and advocated BDS as the strategy of choice for fighting back...” (Erakat, 2010).

⁸¹ The NGO Monitor (2002) gained consultative status with the UN in 2013. Since then, it has used its accreditation to participate in the UPR process and in Human Rights Council sessions.

independent (Policy Working Group, 2018: 6). Former Israeli diplomats have noted that the organisation relies heavily on the Israeli state to facilitate advocacy meetings with foreign states and that a number of the organisation's staff and board members have consulted or worked for the Ministry of Strategic Affairs and Public Diplomacy (Policy Working Group, 2018: 6-7). Further, despite demanding transparency from other NGOs over their financing and activities, information about the NGO Monitor's sources of funding is not publicly available. The organisation has financial records missing on its website and those that are available only list donations from anonymous sources (Policy Working Group, 2018: 21) while those that are named have been revealed as conduits for anonymous donations (Ha'aretz, 2012).

Despite ambiguity over the group's financing, evidence would suggest that the NGO Monitor has close links with the Israeli state (NGO Monitor, 2017h). For example, in 2017 a spokesperson for the Israeli Ministry of Foreign Affairs cited that there is a "level of coordination and we share information" with the NGO Monitor (Burns, 2017). In 2013, Israel's Prime Minister personally praised the group in a televised address, saying:

"Its [NGO Monitor's] efforts exposing the political agenda and ideological bias of humanitarian organizations that use the discourse of human rights to discredit Israel and to undermine its position among the nations of the world." (PM Netanyahu Congratulates NGO Monitor on Receiving the Begin Prize 2013, 2013).

While the NGO Monitor rejects claims that it coordinates activities with the Israeli state, the evidence presented in this research would suggest otherwise.

State Permits Activities of Non-State Actor (Refuses to Quell for Political Gain)

In this final section on Israel and the Occupied Territories, I examine evidence to explore whether Israel has prosecuted the NGO Monitor for its activities and whether the state stands to gain from its activities.

In a reflection report documenting 15 years of the organisation's activities, the NGO Monitor drew attention to its "critical role" in justifying Israel's laws on foreign funding (NGO Monitor, 2017: 33). Prior to the drafting of the legislation, the NGO Monitor documented the activities of 20 Israeli human rights organisations that received funding from European donors in a publication entitled "Trojan Horse" (NGO Monitor, 2009i). The organisation provided evidence for Israeli officials to justify restrictions and continued to do so until the restrictions were implemented. One interviewee described this relationship, saying:

"The NGO Monitor works hand in glove with the Israeli government. Together they have pushed the narrative that human rights NGOs are dangerous, they are inherently antisemitic if they talk about Palestinians. Even if the NGOs and activists are Israelis themselves!"

Interview with a human rights defender, Jerusalem, Israel. 27 April 2019.

In particular, the NGO has gained prominence for its documentary reports outlining inconsistencies with human rights documentation by NGOs including, but not limited to, Al-Haq (NGO Monitor, 2020a), Amnesty International (NGO Monitor, 2020b), Breaking the Silence (NGO Monitor, 2018a), B'Tselem (NGO Monitor, 2020c), and Human Rights Watch (NGO Monitor, 2019b). More specifically, the organisation publishes profile pages of many human rights NGOs vocal on Palestinian human rights issues that contain information about each organisation's funding, their activities, and the political attitudes of high-profile activists affiliated to these organisations (*see* NGO Monitor, 2020d). It was frequently cited that these pages contain false or misleading information, which despite being brought to the attention of both the NGO Monitor and the state was not rectified. It was often mentioned that the actions of the NGO Monitor had been historically defended on grounds that Israel promotes and upholds civil society space, and the NGO Monitor's freedom of expression should be protected.

In Israel and the Occupied Territories, I find strong evidence to suggest that the Israeli state works with non-state actors such as the NGO Monitor to restrict critical NGOs. In doing so, the state of Israel can restrict critical Israeli groups and target NGOs working in the Occupied Territories through smears or allegations of “terrorist activity”. Following collusion with the NGO Monitor, the state of Israel preserves its international reputation as a highly democratic state while countering potentially harmful activity by NGOs such as those involved in the BDS campaign. Collusion with non-state actors is shown to be used against groups based in the Occupied Territories where Israel cannot impose restrictions without being exposed to high reputational costs. In this way, the state appears to draw both incentives of collusion by mobilising external non-state forces and then claiming deniability over their actions.

Drawing on my analysis of activist testimonies, my evidence shows that the NGO Monitor’s restrictions are more limited than in Bangladesh. Rather than torture, enforced disappearance, or extrajudicial killing, in Israel and the Occupied Territories the state prefers delegating smears against prominent NGOs and activists. These smears are then used as justification for further restriction, as seen in the Israeli state lobbying European donors to reduce funding to NGOs working in the Occupied Territories over allegations of terrorism. I systematically examine the nature of these smears and their targets in the next chapter.

Zimbabwe

In the final section of this first empirical chapter, I turn to Zimbabwe. Case evidence from Zimbabwe reveals that NGOs are particularly vocal on issues of torture and restrictions on civil society. Evidence from local NGOs reveals that advocacy increased around elections in 2008, 2013, and 2018, each of which saw clashes between the ruling

Zanu-PF party and political opposition. As noted in the previous chapter, data by Bakke, Mitchell and Smidt (2019) would appear to indicate that Zimbabwean activists faced numerous individual restrictions from the state. As a result, unlike Bangladesh, a survey of documentation from Zimbabwe’s review in the UPR process notably lacks input from local NGOs, which suggests that they may have been hesitant to “name and shame” the state in international arenas for fear of reprisal.⁸²

Zimbabwean NGOs were active in a variety of policy areas during the time period assessed in this study. Perhaps the most pressing policy issue was the humanitarian crisis Zimbabwe faced in 2009, which was later described as the country’s “nadir” (Jones, 2010: 285). The economic crisis inherited by the Government of National Unity (GNU) – a coalition between Zanu-PF and two factions of the Movement for Democratic Change (MDC) party – saw the country’s currency inflation rate soaring to over 200 million percent (Human Rights Watch, 2009b: 144). Shortages of food and a high prevalence of HIV/AIDS created a situation where Zanu-PF selectively withheld access to food and provision of healthcare for political gain (Human Rights Watch, 2009b: 144).

Given this socio-economic context, information from local groups such as the Zimbabwe Human Rights NGO Forum (2010) presents a disturbing picture. While the organisation noted that the frequency of human rights violations decreased following the formation of the GNU (Zimbabwe Human Rights NGO Forum, 2010b: 27), it also notes that serious human rights violations continued. For example, violations such as extrajudicial killing, sexual violence, torture, enforced disappearance, and arbitrary detention persisted, particularly against opposition activists and prominent human rights defenders

⁸² During fieldwork it became clear that some organisations would be hesitant to criticise the government openly for fear of reprisal. This is discussed at greater length in Chapters 5 and 6.

(Zimbabwe Human Rights NGO Forum, 2010b: 10-13). Evidence would indicate that these violations were openly perpetrated by the state (Zimbabwe Human Rights NGO Forum, 2010b: 10-13). International NGOs highlighted that under the GNU the Zanu-PF maintained control of the Zimbabwean security forces and other key institutions such as the judiciary, leading to a situation of impunity for perpetrators of violence committed before, during, and after the 2008 elections by the party and affiliated militias (Human Rights Watch, 2010: 186-187).

State “mistrust” of civil society (Zimbabwe Lawyers for Human Rights, 2010: 11) has been used to explain state harassment of civil society after the formation of the GNU, with “scores” of human rights defenders arrested and subjected to torture (Amnesty International, 2010: 358-359). Some have attributed this aggression to the “embeddedness” of prominent civil society activists within factions of the MDC (Zamchiya and Lewanika, 2015: 25-26). One activist highlighted this dynamic during an interview:

“Our [civil society’s] environment has never been friendly, politically. So much of this fight stems from the ruling party and the main opposition and the instability that brings. That on its own plays a role in the restrictions that we face...The parties want to claim you, there is a very tight space to be independent. It is hard to be non-partisan in Zimbabwe...If we want to conduct programmes, you have to get the nod from the ruling party, otherwise you will not be able to complete your activity or plan b will be very dangerous for you and your staff...”

Interview with a human rights defender, Harare, Zimbabwe. 2 June 2019.

In contrast to case evidence from Bangladesh and Palestine, evidence from Zimbabwe in the post-election period of 2009 suggests that, as opposed to other human rights concerns, NGOs in Zimbabwe were most vocal in campaigning against restrictions on their own activity. This is well captured by a statement from the Zimbabwe Human Rights NGO Forum (2010a) on the one-year anniversary of the GNU, which summed up the situation, saying:

“The Forum also remains concerned with the suppression of freedom of expression and association as demonstrated by the arrests and harassment of members of civic groups, the continued victimization, intimidation and abductions of political activists and human rights defenders...and the continued blocking of official visits by members of the international community invited to verify the human rights situation in the country.” (Zimbabwe Human Rights NGO Forum, 2010a).

The comments came after the UN Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was detained on arrival in Zimbabwe and subsequently deported in 2009 (UN News, 2009). The UN mandate holder was refused entry into Zimbabwe despite receiving an official invitation to conduct a fact-finding mission to seek evidence of violence during the election by the MDC main faction’s leader, Morgan Tsvangirai (Smith, 2009). While international observers were blocked or ignored, local NGOs were focusing their efforts on concerns over restrictions on their operation. For example, between 2010 and 2013 the Zimbabwe Human Rights NGO Forum consistently called for the government to uphold space for independent civil society and refrain from detaining activists and subjecting them to torture (Zimbabwe Human Rights NGO Forum, 2010, 2011: 4, 2012: 3, 2013: 2).

The organisation focused campaigning efforts on the repeal of two pieces of legislation that were repeatedly used as a pretext to harass and detain civil society, the Public Order and Security Act (POSA) and the Access to Information and Protection of Privacy Act (AIPPA).⁸³ During Zimbabwe’s UPR examination in 2011, both pieces of legislation

⁸³ The Public Order and Security Act (POSA) (2002) is an amended version of the colonial Law and Order Maintenance Act (LOMA) (1960), which provides provisions for the state to prohibit demonstrations in a given area for up to three months. Further, organisers of a demonstration are obliged to give Zimbabwean authorities seven days’ notice prior to a gathering. Under the POSA, security forces are empowered to use excessive and lethal force to disperse unlawful gatherings and to pre-emptively detain organisers without charge for up to seven days. In practice, the legislation is routinely used to suppress gatherings by civil society and political opposition and arrest prominent activists. For further information see International Center for Not-for-Profit Law (ICNL) (2010). The Access to Information and Protection of Privacy Act (AIPPA) (2002) regulates the operation of the media and governs the registration of media houses and journalist accreditation with the state. In practice the legislation has been selectively used to stifle the operation of independently critical media outlets, outlaw dissident journalists, and bar the publication of articles that are critical of Zanu-PF. For further information see Article 19 and MISA Zimbabwe (2004: 3-10).

were also highlighted by international groups such as Amnesty International (2011b: 1-2), Freedom House (2011: 3), and Human Rights Watch (2011b: 1-2), which joined local NGOs in calling for the repeal of the POSA and the AIPPA. All three INGOs drew attention in their submissions to the purposeful misuse of the POSA and the AIPPA to stifle local civil society (Amnesty International, 2011b: 2; Freedom House, 2011: 3-4; Human Rights Watch, 2011b: 1). The three organisations also drew attention to reports of widespread torture by security forces when activists were detained using the POSA and the AIPPA (Amnesty International, 2011b: 2; Freedom House, 2011: 1; Human Rights Watch, 2011b: 2). During its review at the UPR working group, Zimbabwe received 12 submissions from NGOs, only one of which came directly from a local NGO.⁸⁴ Given the repetition in both language and theme between the submissions of INGOs such as Amnesty International, Freedom House, and Human Rights Watch evidence would suggest that local NGOs passed information to international allies to campaign on their behalf for fear of raising sensitive issues themselves.⁸⁵

Evidence from Zimbabwe would highlight that Zanu-PF has taken significant steps to prevent scrutiny of its human rights record, by barring international observers and imposing individual restrictions on critical activists. There is also some evidence that suggests that restrictions were so severe that Zimbabwean NGOs avoided “naming and shaming” the state internationally for fear of reprisal.

State Restriction

⁸⁴ This submission is by the Zimbabwe Election Support Network (ZESN) (2011) and it makes no mention of the POSA, the AIPPA, or the issue of torture. Despite the organisation’s offices being raided in 2008 and a number of sources documenting ZESN staff being subject to intimidation and harassment, the UPR submission makes no mention of these restrictions on the organisation’s activities. See Zimbabwe Election Support Network (ZESN) (2008) for further information.

⁸⁵ This explanation is plausible because local NGOs were already facing persecution and may have feared further state aggression for openly criticising the government during the UPR process.

Data by the U.S State Department confirms evidence presented by local and international NGOs outlined in the previous section. For the period assessed, every single report from the U.S Department of State details a dual approach used by the Zimbabwean authorities.

Smears and Arrests

For all years covered in this study, the U.S State Department documents that the state used state-owned media to smear civil society while simultaneously using security forces to detain prominent activists (U.S. Department of State, 2010b; 2011b; 2012a; 2013a; 2014a; 2015a; 2016a; 2017a; 2018a; 2019a). In particular, U.S. Department of State (2013a; 2014a; 2015a; 2016a; 2017a; 2018a; 2019a) reports explicitly mention that state authorities in Zimbabwe targeted restrictions at NGOs and activists who exposed human rights violations perpetrated by the state or opposed state policies.

Torture

The evidence repeatedly describes a situation where prominent activists were arrested on vague allegations before being subjected to torture and then later released without charge by state authorities (U.S. Department of State, 2010b; 2011b; 2012a; 2013a; 2014a; 2015a; 2016a; 2017a; 2018a; 2019a). Specific cases are not mentioned in the source material.

In this section, my analysis of state restrictions in Zimbabwe indicates that the state has a preference for imposing individual restrictions. Documentary evidence would strongly suggest that activists and NGOs are targeted directly for criticising Zimbabwe's human rights record. Therefore, the evidence presented in this section clearly supports the theorised link between NGO advocacy and state restriction. In the next section, I examine

case material to understand whether activists have experienced additional restrictions from non-state actors.

Non-State Actor Restriction

Drawing from evidence presented in this chapter, the Zimbabwean state uses state apparatus to impose restrictions. However, data from NGOs and directly from activists in the form of testimonial data would suggest that the Zimbabwean state also works with non-state actors to restrict civil society. These non-state actors, such as the Zimbabwe National Liberation War Veterans Association (War Veterans) and the Green Bombers – Zanu-PF’s youth wing – are frequently characterised as pro-government militias (*see* Mitchell, Carey and Lowe, 2013).

McGregor (2002: 10) proposes a “close” relationship between Zanu-PF and the War Veterans, although it has been strained due to economic and political demands of the militia (*see* Dorman, 2003: 847). Mhanda (2011) argues that Zanu-PF has remedied dissent by imposing “compromised and pliant individuals as leaders of the War Veterans” to maintain a close relationship with the auxiliary force. Evidence would indicate that this strategy has been successful, as Sachikonye (2011: 48) notes that in the 2002, 2005, and 2008 elections the War Veterans worked “closely” with uniformed services to coordinate violence against political opponents of Zanu-PF. Testimonial evidence would suggest that these groups are active in restricting civil society. For example, during an interview, one activist said:

“Yes, restrictions come from the President’s office, the intelligence office, the police and the army. But they also have these militias controlled by Zanu-PF. These ones are worse, especially in rural areas. These are party men that disrupt meetings, that beat, that torture. They instil fear. They are totally out of control.”

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

In another interview, the theme of militia activity restricting NGO activity in rural areas was mentioned by an activist:

“If you do an assessment, you’ll see a deliberate link between state and non-state actors when it comes to restricting civil society... We’ve experienced restrictions accessing communities in rural areas and we have seen issues where state and non-state actors collude to prevent us from accessing these areas. It means you can’t get information or run projects, because there are gatekeepers affiliated to the state.”

Interview with a human rights defender, Harare, Zimbabwe. 28 May 2019.

When placed against the context of widespread unemployment and lack of opportunity, incentives for individuals to participate in militia activities become apparent (*see Moore, 2012: 2*). Further, the state has taken steps to enlist youth activists into militias. For example, the Green Bombers organisation has been viewed as interchangeable with the police and security services in Zimbabwe (*see Trocaire, 2004: 12-13*). While the force was traditionally comprised of graduates from Zimbabwe’s National Youth Service, it is now more broadly viewed as collective of Zanu-PF supporters. Testimonial evidence indicates that Zanu-PF’s youth militia continue to perpetrate violations against political opposition and civil society activists, which has a deterrent effect on activism.

“These youth militias are very prominent. They are used to harass and force down other activists, especially student movements. Sometimes it works. People leave the country in fear of their lives, others stop activism or stop participating. It is an effective deterrent because these people [youth militias] have been used as a tool to torture, detain, harass, and disrupt human rights activities. They can do these things because they have the backing of the state.”

Interview with a human rights defender, Harare. 4 June 2019.

The theme of state and non-state actor collusion came up repeatedly during interviews, as activists cited that non-state actors worked on behalf of the state and were more free to orchestrate more severe individual restrictions against activists. One interviewee summed up this dynamic, saying:

“Non-state actors work with total impunity in Zimbabwe. You are dealing with people that have state backing. If they call for the army, they will come. They can burn down your house and what will happen? These violations are much, much worse from non-state actors. They go from house to house, intimidating, torturing,

raping. They will kidnap and kill you...these guys [Zanu-PF affiliated militias] kill on behalf of Zanu-PF, but the state will shy away. Yes, they are involved in these things, but they want to avoid being seen.”

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

The evidence presented in this section would appear to indicate that in Zimbabwe, as with Bangladesh and Israel and Occupied Territories, the state works with non-state actors to restrict civil society. The evidence presented in this section would suggest that the state in Zimbabwe uses militias interchangeably with state forces to impose individual restrictions on prominent NGO activists. I now explore the links between the state and the War Veterans and Green Bombers.

The Relationship Between Non-State Actors and the State

Militias – War Veterans and the Green Bombers

While they are not documented in the U.S. State Department data on state restrictions, after engaging with activists it became clear that many NGOs and activists had experienced restrictions from militias affiliated to Zanu-PF. In particular, the War Veterans (*see* Mhanda, 2011) and the Green Bombers (*see* The New Humanitarian, 2002) were both named as militias known to impose restrictions on NGOs. Activists often noted that in rural areas, both of these militias acted as an auxiliary force to the state by restricting NGO activities. One activist drew attention to this, saying:

“When you try to gather people, the way that the state is structured, it is the non-state actors that are on the ground but are very influential. For example, youth officers these are party youth actors, who are given responsibility at a local level who reports to the party on who has been to a meeting and what was said. Then they report back, especially on contentious issues...Then you have the War Veterans, these are a very powerful, active, and visible. They create a sense of fear, intimidation around our activities. They create an environment where participating in politics is participating in a subversive process. Many of our meetings have been disrupted across the country...”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

The activities of militias in Zimbabwe appeared to be contingent on whether NGOs were conducting work considered to be political, such as human rights education, civic

education, and running workshops on voter rights, or viewed to be working with political opposition (*see* Movement for Democratic Change, 2011).

State Supports (Weapons, Personnel, Logistics, or Intelligence) and Sponsors (Finances)

In this section, I examine evidence to see whether the state supports or sponsors the activities of non-state actors.

During fieldwork it became clear that the state used both the War Veterans and the Green Bombers to restrict human rights activists. Evidence of links between these groups and the state can be evidenced by the training given to both actors. A youth activist drew on their own experience of the Green Bombers, saying:

“Zanu-PF has its own youth trained militia, which has historically been used to torture and harass activists. We confront these ones on a daily basis. I have been tortured by these groups; they abduct you then they torture you. So, the paramilitary wings, the ones linked to the ruling party, are very active...These people are trained by the military, they know what they are doing. Any organisation that speaks out about human rights is a target...the state is keen on having them do this.”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

In the excerpt above, this activist noted the types of restrictions imposed by the Green Bombers but also cited the training given to them by the state. The emergence of the group in the 2000s is attributed to government-sponsored “paramilitary training” (Solidarity Peace Trust, 2003: 10), where Zanu-PF focused efforts on youth training facilities (*see* Willems, 2013: 26). Mutenheri (2009) notes that the Green Bombers have been documented to be rewarded for their violence by immunity from prosecution or with jobs in the military and police forces in later life (*ibid.*: 213). This is further corroborated by the historic reluctance of the Zimbabwean state to prosecute the Green Bombers for perpetrating torture (*see* Chitimira and Mokone, 2017: 7-8).

Work examining the War Veterans emphasises the complex composition of this militia. For example, McGregor's (2002) work argues that it would be misleading to assume that the War Veterans are solely comprised of retired military personnel. Instead, she describes the group by saying, "...many people labelled as 'veterans' in popular discourse or in the media are simply Zanu-PF supporting youth or members of the army or intelligence services..." (McGregor, 2002: 11). McGregor's (2002) contribution illustrates the nexus between the state and the War Veterans, by highlighting the fluid transfer of personnel between army and intelligence and the War Veterans. The transfer of personnel between the state and a pro-government militia is often viewed as a clear sign of a contract between the two actors (*see* Mitchell and Carey, 2013: 13). Similarly to the Green Bombers, members of the War Veterans have been largely protected from prosecution and have been documented to profit financially from violence committed on behalf of the state (*see* Amnesty International, 2002: 2; Willems, 2013: 24).

State Permits Activities of Non-State Actor (Refuses to Quell for Political Gain)

In this final section of this empirical chapter, I turn to documentary evidence to explore whether the Zimbabwean state took steps to prosecute the War Veterans or Green Bombers and whether the state stood to benefit from their activities.

The state in Zimbabwe clearly gains from the activities of these militias. Both the War Veterans and the Green Bombers were broadly viewed as discouraging local participation in NGO activities and as infiltrating NGO activities, which could lead to future reprisals against participants. In a further indication of the state drawing benefit, the Zimbabwe Human Rights NGO Forum (2009b; a: 1), or the Zimbabwe Peace Project (2013: 5), and Human Rights Watch (2008a: 2; e: 5) all cite an increase in militia violence when political opposition threatened Zanu-PF's hold on power.

Evidence from both NGO communications and testimonial evidence from activists cited that these groups were particularly active around elections and perpetrated serious human rights violations including torture (Zimbabwe Human Rights NGO Forum, 2008a: 1) and a “pattern” of sexual violence (Amnesty International, 2002: 3-4) as well as enforced disappearance and extrajudicial killings. Most importantly, from the data surveyed for this project, no evidence could be found of a member of the War Veterans or Green Bombers being prosecuted by the state. This finding would appear to illustrate that the both the War Veterans and Green Bombers operate with near-complete impunity, with the state taking no observable steps to curtail their activities. The only record of a member of the War Veterans being arrested was when a spokesperson for the group publicly called for the former Zimbabwean President Robert Mugabe to resign in 2016 (*see* Al-Jazeera, 2016).

In Zimbabwe, I find strong evidence to suggest that the state mobilises non-state actors such as the War Veterans and Green Bombers to restrict civil society. Similarly to Bangladesh, I find evidence that the state prefers delegating individual restrictions to harass, arbitrarily detain, torture, and kill activists. While I find evidence to suggest that the state does mobilise non-state actors to restrict NGOs, I do not find evidence to suggest that the state draws the benefit of deniability. I find that the state simply uses additional forces in rural areas to restrict NGOs quickly without using state apparatus.

Conclusion

The case evidence presented in this chapter would appear to support the theorised mechanisms in my argument. Firstly, there is clear evidence that supports the first and second mechanism linking NGO advocacy and state restrictions. After identifying the key issues of contention in the first section of this chapter, I drew on case evidence to illustrate how states responded to NGO advocacy with restrictions. Case evidence in this

chapter would confirm emerging findings over state restrictions coming in response to the “informational role” of civil society (Smidt et al., 2020). Yet importantly, both interview and documentary data presented in this chapter also reveal that states collude with non-state actors to impose restrictions that complement their own restrictions against critical human rights NGOs.

In the case of Bangladesh and Israel and the Occupied Territories it is clear that the state used restrictions after NGOs began to campaign on domestic issues internationally. In Bangladesh, following “naming and shaming” at the UPR, the state used an escalating repertoire of restrictions, from project bans to arrests of activists, to deter criticism. In Israel, the state mobilised after the success of the BDS movement in a bid to delegitimise Palestinian NGOs and pressure donors into defunding their activities, as well as barring activists from Israel altogether. Similarly, after vocal domestic and international criticism of Israel’s human rights record, Israeli NGOs faced a range of smears and restrictive legislation to prevent their activity. In Zimbabwe, there is strong evidence to suggest that NGOs are simply viewed as a proxy for political opposition to Zanu-PF’s rule and are restricted as part of a struggle for power between Zanu-PF and the MDC.

Perhaps most importantly for this study, I find clear evidence from a range of sources to suggest that non-state actors with clear links to the state can and do restrict civil society. I also find compelling evidence that indicates that states collude with non-state actors to impose restrictions on NGOs. Using the example of the BCWS and NGOs working on enforced disappearance in Bangladesh, I detailed how campaigning activity led firstly to state restriction and then secondly to more severe individual restrictions by non-state actors including abduction, torture, and murder. Further, because non-state actors imposed these restrictions, it was harder for targeted NGOs to seek recourse. In Israel

and the Occupied Territories, I detailed how the NGO Monitor helps to bolster Israeli policy through smear campaigns against critical Palestinian and Israeli human rights NGOs that expose violations of international law. In doing so, Israel colludes with non-state actors to counter campaigns such as the BDS movement without directly implicating the state in these restrictive efforts. One explanation for this finding is that Israel may be more reticent than Bangladesh and Zimbabwe to tarnish its international reputation by imposing restrictions on civil society. Therefore, collusion with the NGO Monitor may offer a more effective way to reduce NGO activity, especially for groups based in the Occupied Territories.

Finally, in Zimbabwe the evidence presented in this chapter makes two important findings. Firstly, my analysis reveals that the state in Zimbabwe is seemingly unconcerned about using severe individual restrictions against critical human rights activists. In this sense there is a stark contrast between Zimbabwe on the one hand and Bangladesh and Israel and Occupied Territories on the other. In Bangladesh and Israel and the Occupied Territories, both states were reluctant to impose individual restrictions and were shown to be cautious of the international reputational costs associated with imposing these restrictions internationally. In contrast, in Zimbabwe my evidence suggests that the reputation of the state may have already been so low that the state did not see benefit in hiding its complicity in the imposition of severe individual restrictions. Instead, there may be geographic explanation for Zimbabwe's use of collusion. My evidence from Zimbabwe uncovers that the state prefers using militias to impose individual restrictions in rural areas. This suggests that rather than the incentive of deniability (Mitchell, 2004: 32, 2012: 34-38), in Zimbabwe the state draws the benefit of using collusion as a "force multiplier" (Donahue and Zeckhauser, 2011: 4). In doing so,

Zimbabwe mobilises additional forces to restrict activists in areas that it cannot reach easily or quickly (*see also* Staniland, 2015b: 772-777; Eck, 2015: 928-930).

This chapter contributes to existing literatures by proposing strong evidence for state collusion with non-state actors to impose restrictions in the cases studied. It also demonstrates that collusion of this nature can offer states a deniable way of stifling criticism from NGOs while protecting their international reputations. This claim of coordination and collusion is supported by examining the parameters suggested by Roessler (2005: 209), which include support (weapons, personnel, logistics or intelligence), sponsorship (finances), or permits (refusals to quell) for the activities of groups carrying out repression for political gain. All the non-state actors found to restrict civil society in this chapter fitted these parameters, which would indicate that collusion between states and non-state actors is likely to have taken place. Crucially, by examining these lines of support, I am able to rule out the explanation that non-state actors simply exploit state weakness for private gain (*see* Staniland 2015b: 779). This is because I have no observable evidence of the state taking any steps to constrain the activities of non-state actors in all three cases.

In the next chapter, I focus on the types of restrictions that are imposed by non-state actors. I seek to examine whether deniability through collusion encourages states to be complicit in allowing non-state actors to impose individual restrictions against activists.

What Type of Restrictions do States Allow Non-State Actors to Impose in Bangladesh, Israel and the Occupied Territories, and Zimbabwe?

Introduction

In the previous chapter, I used process tracing to analyse whether and why states collude with non-state actors to restrict human rights NGOs. In this chapter, I seek to examine the types of restrictions states allow non-state actors to impose. Drawing from my theoretical argument discussed in Chapter 2, I would expect that states allow non-state actors to impose what I refer to as ‘individual restrictions’ to complement their own restrictive measures. These are restrictions that directly endanger activists’ mental and physical well-being and that can violate states’ non-derogable commitments to human rights. I argue that there are two incentives for states to collude with non-state actors to impose restrictions on human rights NGOs, both of which would lead us to expect that individual restrictions are most likely to be imposed by non-state actors. Collusion to impose restrictions can be used both as a “force multiplier” to amplify and complement a state’s own restrictive efforts (Donahue and Zeckhauser, 2011: 4) and for deniability (Mitchell, 2004: 32, 2012: 34-38) when restrictions endanger individuals. My focus in this chapter is to test the second proposition of my argument. For reference I restate this proposition below:

2. *States allow non-state actors to impose individual restrictions.*

I organise this chapter as follows. I begin by surveying the incidence of non-state actor restrictions outlining the types of restrictions carried out by the non-state actors set out in the previous chapter. I then use testimonial evidence collected during fieldwork to corroborate this data and explore how activists perceive restrictions from non-state actors

to be different from those imposed by states. If states allow non-state actors to impose individual restrictions, then activists would be able to confirm experiencing these restrictions by non-state actors. In examining the experiences of activists, I seek to examine whether non-state actors that impose individual restrictions change or adapt their tactics to preserve the state's reputation, enabling the state to draw the benefit of deniability. Finally, I examine how states responded to individual restrictions by non-state actors and whether they were imposed with impunity. Using data from a range of sources, I survey documentary evidence to explore if and how states drew the incentives of a "force multiplier" (Donahue and Zeckhauser, 2011: 4) and deniability (Mitchell, 2004: 32, 2012: 34-38) through colluding with non-state actors. I discuss each of my cases in turn.

In this chapter, I find some evidence to support the assertion that states prefer allowing non-state actors to impose individual restrictions. My analysis in this chapter reveals that the incidence of torture and killing of activists by non-state actors is high in Bangladesh and Zimbabwe. In Bangladesh, my evidence demonstrates that non-state agents go to considerable lengths to obscure links between themselves and the state when imposing restrictions such as enforced disappearance, torture, and the murder of activists. In Zimbabwe, I find that non-state agents take less care to hide these links and non-state agents are viewed as working openly with the state to impose individual restrictions on activists. Indeed, I uncover evidence that activists experiencing individual restrictions such as torture often note being passed between state and non-state agents. Finally, I find that in Israel and the Occupied Territories, the state of Israel prefers colluding with non-state actors that impose organisational restrictions over individual restrictions. While this is true, I also find clear evidence that the state of Israel does enable and allow non-state actors to impose individual restrictions on activists working in the Occupied Territories

or on issues related to human rights in the Occupied Territories. These individual restrictions often include threats, smears, and public vilification of prominent activists.

Bangladesh

I begin by examining data for evidence of non-state actor restrictions. To build a dataset which examines the nature and frequency of restrictions, I use information from Odhikar's annual human rights reports (Odhikar, 2009a; 2010; 2011a; 2012; 2013; 2014; 2015; 2016; 2017b; 2018a; 2019a).⁸⁶ Every year Odhikar compiles verified cases of restrictions on civil society and other human rights violations and publishes them in a publicly available report. To create this dataset, I catalogued the incidents in each report to document the frequency of restrictions and the perpetrator. Firstly, I draw from the key "naming and shaming" issues identified in Chapter 4 to catalogue the use of torture by non-state actors. Specifically, I collated documented instances of death by torture which were alleged to have been carried out by the RAB. I chose the RAB since during interviews, this group was repeatedly mentioned by activists as the most feared non-state actor viewed to act on behalf of the state.

It is important to consider the inherent data biases when documenting cases of torture. During conversations with Odhikar, it became clear that it is challenging to verify case numbers of torture, due to issues of consent from the individual and problems in accurately identifying the perpetrator or even discussing the specific methods of torture

⁸⁶ To code this data, I used categories contained within Odhikar's annual reports. These categories are described in greater detail in Figures 5.1, 5.2 and 5.3. As a result, I do not include coding guidance as I did not reclassify any of the organisation's findings.

that an individual was subjected to.⁸⁷ As a result, I use figures released by Odhikar that document confirmed deaths from torture for the period assessed in this study.⁸⁸ The organisation records cases of death by torture that can be verified through post-mortem reports to document the type of abuse that the victim endured.⁸⁹

In Table 5.1, I present data on deaths from torture and the perpetrator of these violations, as documented by Odhikar. The data presented show an increase in deaths from torture perpetrated by the RAB in 2010 and then a decline for the rest of the period assessed in this study. While Table 5.1 may suggest a decrease in activity by the RAB, there are also several alternative explanations for this trend that I now discuss.

Table 5.1: Verified Cases of Death from Torture by the Rapid Action Battalion (2009 – 2019)

	Year										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Verified Cases of Death from Torture	3	9	6	5	1	1	2	0	1	0	0

⁸⁷ For many human rights organisations obtaining consent from the victim or their family to document cases of torture can be difficult, as individuals may be hesitant to discuss their experiences for fear of reprisal or stigma. This often leads to a large bias in data on torture, especially in contexts where sexual violence has been used as a method of torture. It is also important to highlight that the police in Bangladesh have a well-documented track record of using torture. In this dissertation, I have omitted data on police use of torture. This is because if an individual is unsure of which security agency subjected them to torture, the case is frequently attributed to the police, which can lead to false inflation of case numbers. Secondly, as discussed later in this chapter, activists often report being abducted by the RAB, the BCL, or the JL and then passed on to the police, which also leads to confusion over perpetrators, meaning that the case is documented with the police as the perpetrators. For further information on the prevalence of torture by the police see Odhikar (2019b). Documenting torture can be extremely challenging. Particularly acute challenges in documenting torture come if individuals have been subjected to sexual violence or other degrading acts of humiliation. As discussed later in this chapter, the RAB are well documented to torture victims' genitals, which may have led to omissions in the data presented here.

⁸⁸ It was often emphasised that this was the most accurate metric of torture. It was frequently stressed that the actual numbers of individuals subjected to torture who survived was likely to be significantly higher than those included in this dataset.

⁸⁹ This was ascertained through conversation with Odhikar's staff responsible for compiling the report. The organisation identifies these cases by surveying post-mortem reports and then verifying them with eyewitness accounts of abduction.

Firstly, and perhaps most pertinent to this study, are the restrictions on Odhikar's capacity to document between 2009 and 2019. In 2013 the organisation's Executive Director was arrested and by 2014 the government of Bangladesh had frozen Odhikar's access to international funding, leaving it unable to complete projects (Odhikar, 2013: 17-18, 2014: 16-17). By 2015, it is plausible to speculate that due to diminished resources, the organisation may have been forced to reduce capacity and the accuracy of its documentary activities may have been diminished. This explanation cannot be ruled out as an explanatory factor behind the trend presented in Table 5.1.

Secondly, it is also plausible to posit that the RAB may have adapted its methods following international criticism. For example, during Bangladesh's UPR in 2013, a variety of human rights NGOs and Human Rights Council member states criticised the RAB's methods of operation (Human Rights Forum Bangladesh, 2012: 7; Odhikar and Asian Legal Resource Centre, 2012: 6; National Human Rights Commission Bangladesh, 2012: 2; Amnesty International, 2012: 1-2; Human Rights Watch, 2012: 1-2; *see also* United Nations General Assembly, 2013: 8) with particular reference to torture and extrajudicial killing. By 2014, documentary evidence would suggest that the RAB had moved away from its preference of leaving bodies on the streets (*see* Human Rights Watch, 2006: 4). Instead, the RAB was now reported to be leaving bodies in rivers (Ganguly, 2017), by the sides of highways (Human Rights Watch, 2014: 43-44), or in houses that were later set on fire (Perera, 2019). The RAB's change in tactics would align with explanations in the literature that suggest that actors perpetrating human rights violations will strategically shift and adapt as international scrutiny increases (*see* Payne and Abouharb, 2016: 164-166). Consequently, for NGOs such as Odhikar, the use of post-mortem examination reports to verify instances of death from torture may have

become an increasingly ineffective strategy. This may have led to an omission bias in Odhikar's documentary activities. Simply put, when placed against further evidence, the data presented in Table 5.1 seem to add weight to the assertion that the RAB had begun using more sophisticated methods to conceal its activities.

Yet, as is clear from the issues outlined in the previous chapter, there are additional human rights concerns in addition to torture. I therefore also explore the issue of enforced disappearances. I use Odhikar's reports to code instances of disappearances perpetrated both by the RAB working on its own and in collaboration with the police, as well as instances where the perpetrator was unknown (Odhikar, 2009a; 2010; 2011a; 2012; 2013; 2014; 2015; 2016; 2017b; 2018a; 2019a).⁹⁰ I chose these categories as they highlight the RAB's activities and shed light on the level of collaboration with Bangladesh's police force, while cases that were unattributed are likely to have been perpetrated by another non-state actor, which could include the RAB.⁹¹

Firstly, in 2012, 2014 and 2015 there is evidence which highlights that the RAB and the police were working together to disappear people. In 2014 there is an increase in the number of disappearances that were attributed to the RAB (25) and a peak in 2016 (26), following a period that would appear to indicate declining activity. However, between 2015 and 2017, Odhikar's reports also suggest a rapid increase in disappearances perpetrated by unknown individuals. It is important to recognise that those coded as unknown simply relate to cases where the disappearance was perpetrated by individuals

⁹⁰ It is essential to recognise that these numbers only relate to cases where the person was witnessed being abducted or the individual survived and was willing to discuss their experiences. As a result, the actual number of those subjected to enforced disappearance in Bangladesh is likely to be significantly higher than the data presented here.

⁹¹ The inclusion of joint operations that captures collaboration between the RAB and the police seeks to add further support to issues discussed in Chapter 4 regarding state support of non-state actors carrying out human rights violations.

in plainclothes or who could not be identified by the victim. Once again this offers support for the suggestion that there has been an adaption mechanism used by the RAB.

I present this data in Table 5.2.

Table 5.2: Confirmed Instances of Enforced Disappearance and Perpetrator (2009 – 2019)

Perpetrator	Year										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Rapid Action Battalion (RAB)	3	15	15	10	23	25	23	26	12	10	9
RAB & Police	0	0	0	2	0	3	4	2	1	0	0
Unknown	0	0	4	6	13	1	8	28	35	15	13

When data in Table 5.2 are contrasted against the data on deaths from torture by non-state actors presented in Table 5.1 similar explanations appear credible. It is both plausible for both to argue that Odhikar’s documentary capacity may have led to a decline in specificity regarding the documentation of perpetrators of these disappearances.⁹² It may also be that the RAB had adapted to growing international scrutiny on the issue of enforced disappearance and began using more sophisticated methods to ensure deniability. Recent evidence from recorded conversations with members of the RAB would appear to support the assertion that the force adapted tactics to ensure deniability. In 2017, in an exposé by a Swedish radio station, a high-ranking member of the RAB who coordinated operations

⁹² There is evidence to support both theories. Given the state restrictions discussed in Chapter 4 that were imposed against Odhikar, it is conceivable to argue that these restrictions led to a reduction in documentation capacity.

involving enforced disappearances, extrajudicial killings, and torture was covertly recorded as saying:

“Everyone is not an expert on forced disappearances. We have to make sure no clue is left behind. No ID cards that slip-off. We have to wear gloves; we can't leave footprints behind and have to wear covers on our shoes to prevent that. We can't smoke during these operations.” (Radio Sveriges, 2017).

In Radio Sveriges' (2017) recording, the RAB leader goes on confess that the RAB carries out operations and enforced disappearances “every day” and that “anyone” can be killed in this way. Further, the source interview states that if unable to dispose of the body, members of the RAB simply plant a gun next to the victim and claim they acted in self-defence in a “crossfire” killing (Radio Sveriges, 2017).

An analysis of information from international groups documenting human rights violations by the RAB also provides additional evidence that the force began to take steps to conceal its operations. For example, in its first report on the RAB's activities, Human Rights Watch (2006: 33-49) documents several cases involving the RAB, and notes that the death squad did little to hide its operations and even purposefully chose to publicise activities in press statements (ibid.: 58). Yet by 2016 and after increasing international condemnation, evidence from Human Rights Watch documented that of 19 confirmed cases of enforced disappearance where a body was later found, 18 were reported to have been carried out by unknown individuals in plainclothes who were only suspected to be from the RAB (Human Rights Watch, 2017: 19-20). This trend was confirmed when speaking to activists. Testimonial evidence collected during fieldwork strongly emphasised that those who survived enforced disappearance and torture were often unclear as to whether it was RAB, the police, military intelligence, or a militia carrying

out the violations. In some cases, after abduction, activists even noted being passed between these forces.⁹³ For example, one activist said:

“I have been abducted three times. Kidnapped on three occasions and I thought they would kill me each time. The scars on my body remain from what they did to me while I was abducted. You think I know if it was state or non-state actors? Do you think they told me? All I know, is that I upset the local member of parliament with our work [with the local community affected by sand mining]. It was their people, the party people. Do you think the police work are going to protect me from them? The police work for them.

Interview with a human rights defender, Dhaka, Bangladesh. 13 July 2019.

Interview data would also seem to suggest that individuals carrying out disappearances in Bangladesh had altered their methods to ensure deniability. Given that data in Table 5.2 show that the RAB was already using disappearances as a strategy and that operatives from the force have admitted to trying to conceal their identity, the data in Table 5.2 may suggest that at least some of the cases coded as “unknown” were the RAB.

Finally, to gain a deeper insight into the activities of the non-state actors that I outlined in Chapter 4, I examined reports from Odhikar (2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019) for the broader category of extrajudicial killings. In particular, I assessed these reports for cases perpetrated by the RAB and cases of individuals killed in political violence, and for instances where the RAB had been viewed as working with the Bangladeshi law enforcement agencies.⁹⁴

It must be acknowledged that, as with the RAB, it is also extremely challenging to capture precisely violations by the BCL and the JL. This can be attributed to the fact that the majority of the violations perpetrated by these groups relate to threats of violence,

⁹³ It was often highlighted in interviews that the RAB or BCL activists would abduct individuals, subject them to torture, then hand them over to the police. This was frequently raised as an issue when seeking to hold perpetrators to account.

⁹⁴ Political violence is used to describe instances of deaths occurring in clashes of members of the BCL and the JL with opposition activists.

vandalism, torture, and, threats of sexual violence. These restrictions frequently go undocumented and this is a considerable limitation to the data presented here. Consequently, it is plausible to speculate that Odhikar was unable to capture all these threats against individuals. As a result, I was only able to include instances of violence between political groups as a proxy measure for the activities of youth leagues affiliated with the ruling party.

Data in Table 5.3 provide evidence to suggest that the RAB, the police and youth wings of political parties were particularly active in perpetrating electoral violence against political opposition. In Table 5.3, similarly to Table 5.1, the data would indicate an increase in human rights violations by all three actors during election years. The data presented in Table 5.3 show an increase in extrajudicial killings by the RAB in 2010 (68), 2018 (136), and 2019 (101), which would suggest that respect for human rights declined rapidly during elections and in the post-election period. Further, both 2010 and 2019 are years following Bangladesh’s UPRs sessions, which in interview data discussed in Chapter 4 was viewed by activists as a turning point for relations between the state and human rights NGOs. The data presented in Table 5.3 highlight that the RAB might have also targeted human rights NGOs and activists as reprisal for “naming and shaming”. Regarding deaths from clashes between political parties, the figure remains high throughout the period assessed, but peaks in confirmed cases of extrajudicial killings in 2013 (506) highlight that the youth wings of political parties were particularly active during elections that year. I present this data in Table 5.3.

Table 5.3: Confirmed Extrajudicial Killings and Perpetrator (2009 – 2019)

Year										
2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
41	68	43	40	38	29	53	51	33	136	101

Rapid Action Battalion (RAB)											
RAB and Police	25	9	4	2	64	0	0	1	0	0	1
Deaths from Clashes between Political Parties	251	220	135	169	506	190	197	215	77	120	70

Data from a variety of sources would appear to support the assertion that NGO “naming and shaming” of both the state and the RAB led to a change of tactics to increase deniability. Evidence would also suggest that the youth wings of political parties, notably the BCL and the JL, are regularly active in committing human rights violations such as extrajudicial killings. Yet the larger question relevant to this study, is whether states allow non-state actors to impose restrictions to target human rights NGOs to avoid the reputational costs of imposing individual restrictions themselves. To assess this, in the next section I turn to testimonial evidence from activists to examine their experiences of restrictions. In doing so, I also assess how restrictions from states differ from those imposed by non-state actors. I then verify this evidence with other sources of documentary evidence from local and international NGOs.

Activist Experiences of Non-State Actor Restrictions in Bangladesh

Torture and Extrajudicial Killing

Fear was a recurrent theme when interviewing human rights defenders in Bangladesh. Unsurprisingly, activists were extremely scared of being disappeared or subjected to torture by non-state actors. In one of the more harrowing interviews, I met with an activist who had been tortured by the RAB. While I did not ask directly about their experience in detention, unprompted they recounted what happened to a friend after they had been disappeared by the RAB. During the interview, the participant said:

“This is a torture centre. Purpose built. You can scream and scream, and no sound will come out. They are careful. They don’t want to kill you, but they hit you with

iron rods in the legs and carefully leave your face untouched. They hang your hands above your head, strip you naked. Then they tied a rope with a brick to down there [gestures to genitals] and leave you. You are the never the same after that.”

Interview with a human rights defender, Dhaka, Bangladesh. 19 August 2019.

The testimonial evidence gathered in this interview can be confirmed by recordings of RAB personnel discussing their methods of torture. In Radio Sveriges' (2017) recording, a commanding officer from the RAB is captured describing the torture of one individual by saying they stripped him naked and “tied bricks to his testicles”. Further, Amnesty International (2011: 7) notes the “routine” use of beating, kicking, suspensions from the ceiling, sleep deprivation, and electric shocks to the genitals. Human Rights Watch (2006) documented the RAB’s use of “beatings with batons on the soles of the feet and other parts of the body, boring holes with electric drills and applying electric shocks.” (ibid.: 3). Documentation of bodies where individuals died after being subjected to torture by the RAB were often noted to feature wounds consistent with drill marks below the knees and in the calves (Human Rights Watch, 2006: 37, 2009: 29; *see also* Asian Federation Against Involuntary Disappearances, 2017).

These marks in and around the knee area have appeared on the bodies of several disappeared activists who were openly critical of the government (Odhikar, 2013: 96, 2014: 72, 2017: 27). For example, a mentioned in Chapter 4, a BCSW staff member was disappeared and killed after the NGO’s sustained campaigning for improved working conditions of garment sector workers (Ackerly, 2018: 2). After several arrests by the police failed to deter the BCSW’s advocacy, it would appear that the RAB intervened. On 4 April 2012, a prominent member of the BSCW’s staff, Aminul Islam, noticed a van outside the organisation’s premises after finishing work (Human Rights Watch, 2012a). Islam reportedly received a phone call from an individual who was believed to be a RAB informant (International Labor Rights Forum, 2012; Ain O Salish Kendra, 2013),

requesting his immediate assistance. After leaving home to assist in the case, he was abducted by unknown individuals and was missing until the next day, when Islam's body was discovered by the side of a motorway nearly 100 km from where he was last seen. The post-mortem report appeared to confirm that he had been subjected to torture before his death as Human Rights Watch (2012a) notes "...his legs had severe torture marks including a hole made by a sharp object [below the knee]. All of his toes were broken." Despite a police investigation, no one was ever held to account for Aminul Islam's death (Asian Federation Against Involuntary Disappearances, 2017). While unconfirmed, many activists in Bangladesh's human rights community believe that the most likely perpetrator was the RAB, owing largely to the marks on his body.

In an interview, Amnesty International describes that the number of cases of disappearances have "skyrocketed" in Bangladesh and many of those targeted by the RAB's operations are "activists or those belonging to political opposition" (Radio Sveriges, 2017). Evidence would appear to support the assertion that the RAB is active in torturing and disappearing activists who criticise the government. Similarly, data from NGOs and testimonial evidence would also support the assertion that these orders to torture or disappear activists come directly from the highest offices of the state, as recordings by Radio Sveriges (2017) of RAB operatives note that members of the RAB make phone calls to "high-ups" to decide whether individuals subjected to torture should live or die (*see* Bergman, 2020).

Several activists also cited being fearful of torture by the BCL and the JL. During fieldwork, it became apparent that these groups were particularly active on university campuses where they are tasked with building political support for the AL through coercion (*see* The Daily Star, 2019). During interviews, a theme that emerged was that

these groups were active in forcing students to pay fealty to the AL or face severe consequences for seemingly minor acts of dissent. For example, in an interview a student human rights activist affiliated with a prominent human rights NGO commented on their experiences of the BCL. They said:

“I put a post a on Facebook, criticising the government for their response to a protest. Then it happened. They took me from the university halls and tortured me all night. In a room there in the halls. They [BCL] beat me all night. In the morning, I was handed over to the university proctor. He then passed me over to the police.”⁹⁵ That’s how it works.”

Interview with a human rights defender, Dhaka, Bangladesh. 20 July 2019.

The interviewee highlighted that the BCL had control of all major public universities in Bangladesh and a new student would ensure their safety if they were an active member of the BCL or the JL. The experiences detailed in this account can be verified through other reports of deaths from torture that were attributed to the BCL. These include the murder of student Abrar Fahad in 2019, who criticised a water-sharing agreement made by the government in a post on Facebook. Fahad was dragged to a “torture room” and tortured to death by individuals belonging to the BCL with “broken bottles, knives and cricket stumps” (Organized Crime and Corruption Reporting Project (OCCRP), 2019). Human Rights Watch (2019) noted that the AL had consistently failed to hold the BCL to account for human rights violations which had enabled the organisation to run a “torture room”. Widespread protest by students across Bangladesh against the BCL led to an investigation into Fahad’s death which saw the arrest of 25 members of the organisation (BBC, 2019). However, as the excerpt from interview data highlights, there are likely to be many more cases that did not attract domestic and international attention, and consequently are yet to be investigated and remain unpunished.

⁹⁵ It is important to clarify that in this instance the proctor did not hand the activist over to the police for protection. Rather, the activist was interrogated by the police and accused of being a member of the Islamist student group Chhatra Shibir. During the interview, the activist consistently described the BCL, the university authorities, and the police as being “the same”.

The context of fear created by the BCL on university campuses was reinforced through conversations with other human rights activists with children who openly spoke of being too scared to send them to public universities for their own safety.⁹⁶

Enforced Disappearance

Evidence would appear to support the assertion that other activists have been subjected to enforced disappearance by non-state actors. For example, in 2014, Mohammed Nur Khan, then the Director of investigations at ASK, was subjected to an attempted abduction by individuals suspected of belonging to the RAB (Odhikar, 2014: 13). Evidence from press statements notes that he was travelling home when a vehicle containing men in plainclothes attempted to intercept the rickshaw he was travelling in (Asian Human Rights Commission, 2014). Khan managed to escape by fleeing the rickshaw before he could be detained. It later transpired that he had been under surveillance for some time and staff at ASK had been approached by men in plainclothes asking about Khan's routine (The Daily Star, 2014). Prior to the attempt to disappear him, ASK had produced several documentation reports of enforced disappearances in Bangladesh that were strongly rebutted by the state (Ain O Salish Kendra, 2013). During conversations with activists, it was widely suspected that the RAB had organised the attempted abduction as retaliation for this advocacy activity.

During fieldwork, I interviewed an activist who was the victim of enforced disappearance after directly criticising the RAB's use of extrajudicial killings. Although the activist did

⁹⁶ During my time in Bangladesh, I was invited to give a lecture at a private university on civil society issues and human rights. After the lecture, I used the space to speak to students about human rights issues in Bangladesh. Many of the issues outlined here were voluntarily evidenced by the students. I also had the opportunity to meet with a number of the children of prominent human rights defenders who participated in this study. It was clear that many students were openly fearful of actors such as BCL.

not know who was responsible for disappearing him, he described the impact of being abducted by individuals in plainclothes.⁹⁷ During the interview he said:

“The impact on my mental health has been massive. I have borderline post-traumatic stress disorder. And there are legal costs, lawyers, and medical fees which come with putting your life back together after something like that happens. I have to visit a physiotherapist now [after being subject to torture]. Every time I leave Bangladesh, I worry I won’t be allowed back in. The stress is such a huge factor. But I am the citizen of an independent state, and I will continue to exercise my constitutional rights.”

Interview with a human rights defender, Dhaka, Bangladesh. 16 July 2019.

In Bangladesh, given the number of cases presented in Table 5.2, it would be fair to characterise the situation as a climate of frequent abductions. When speaking to activists, the impact of always fearing disappearance or being “picked up” or “vanished” was particularly evident and often acted as a deterrent against being openly critical of the government. For example, during informal conversations with activists, many cited refusing to travel in cars alone and had hired drivers who could act as witnesses. Some refused to go out at night. Others described changing their routine every week or scheduling meetings such as public speaking appointments at the last moment to avoid making their schedule publicly available. All prominent activists used multiple mobile phones or avoided using a mobile phone altogether so they could not be traced or recorded. It was not uncommon to be asked to leave my phone in a drawer or another room if discussing human rights issues with local activists.

Surveillance of Prominent Individuals

As in the case of Mohammed Nur Khan, activists frequently and informally noted being under surveillance by non-state actors in Bangladesh. This is a trend that has been documented by a number of INGOs (*see* CIVICUS, 2012; Human Rights Watch, 2014a;

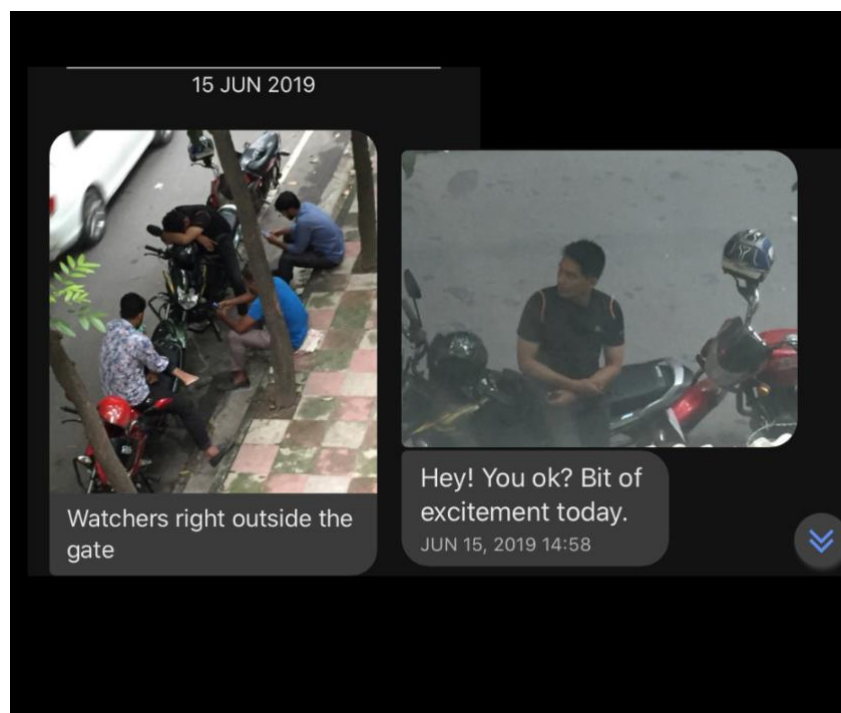
⁹⁷ This was a common theme in Bangladesh. This interviewee later speculated that the most likely perpetrator was the RAB, but given his connection to international groups, the activist was too prominent to kill.

Amnesty International, 2018). Often individuals in plainclothes would wait outside the offices or meetings of human rights NGOs with the intention of intimidating activists. This is a restriction that I experienced first-hand while in Bangladesh. During fieldwork, I was invited to attend a meeting at Odhikar's office in Dhaka with several prominent national and international human rights groups as well as representatives from the diplomatic community to hear testimonies of enforced disappearances. After arriving, I was informed that individuals in plainclothes, suspected to be from military police or the RAB, were outside the office and photographing attendees. During the meeting, the pictures below were shared with me on a secure messaging service with the caption, "watchers right outside the gate". One participant arrived by rickshaw and was clearly shaken upon entering the meeting. He reported that one of the individuals waiting outside the office had brandished a handgun at him and gestured "I'm watching you" while he was entering the office. During the meeting, the telephone was cut off, then the electricity stopped working. The situation only deescalated after members of the diplomatic community volunteered to go out first and wave at the individuals next to a car marked with diplomatic number plates directly outside the premises, which prompted the surveillance team to leave.⁹⁸ All participants were asked to join a secure messaging group and confirm they returned home safely following the incident. Shortly after, a representative working for an internationally recognised NGO, the International Federation for Human Rights (FIDH), who was photographed attending the meeting, was detained when next visiting Bangladesh. During detention they were interrogated about FIDH's work documenting enforced disappearances before being declared a persona non

⁹⁸ After discussing how to get the local activists safely out of the meeting without placing them in danger, the diplomats noted that the RAB were unlikely to raid the offices if they knew diplomatic staff were inside. Some diplomatic passport holders went out first while other diplomatic passport holders requested that their cars with diplomatic number plates wait outside the office. No further incident occurred after the meeting.

grata and deported.⁹⁹ To date, this international activist has been unable to return to Bangladesh.

Figure 5.1: Photographs of Surveillance Team Outside of Civil Society Meeting



Interview data also confirmed that activists were used to being placed under surveillance and this experience was not out of the ordinary. However, it also became clear that not all local activists have the protection of knowing staff of INGOs or diplomatic contacts that they can call upon if they are under threat. It was also openly stated by many attendees that without the presence of both international and diplomatic staff, it is highly likely that the meeting may have been disrupted or raided.

Activist Perceptions of State Restrictions and Non-State Actor Restrictions in Bangladesh

As outlined earlier in this chapter, activists and organisations who participated in this study reported experiencing a variety of restrictions imposed by both the state and non-state actors. Yet when asked about the impact of restrictions, activists were often more

⁹⁹ There is no public record of this incident available, but the details presented here were confirmed through interview with the individual in question following the incident.

fearful of restrictions from non-state actors. Feelings of fear surrounding the actions of these groups may be explained by the fact that holding them to account or seeking justice after human rights violations was perceived as more challenging. One of the characteristics that became quickly apparent was a difference in restrictions between state restrictions, which were understood as legal or bureaucratic, and restrictions from non-state actors, which were seen as more violent. For example, one of the interviewees described the difference between state and non-state actor restrictions as indirect and direct. During the interview, they described this difference as:

“I explain it to you like this. The government has to work indirectly, they have to raise allegations, or they impose laws, or they plant drugs on you to say you are a drug dealer or a terrorist. But they [non-state actors] work directly. The Chhatra League comes to the office and demands money, beats you up. They take everything. Or the government gives them your name, your picture – your identity. You’re waiting for a bus or having tea on the roadside, and you’ll just disappear. Never seen again. That’s the difference.”

Interview with a human rights defender, Dhaka, Bangladesh. 15 July 2019.

As highlighted by the previous excerpt, many interviewees noted that they were able to fight against state restrictions by lobbying for the repeal of laws or alerting international publics to human rights violations (cf. Keck and Sikkink, 1998). Yet with non-state actors there was a feeling of hopelessness in trying to advocate against restrictions imposed by these groups. This was primarily because holding non-state actors to account by using domestic and international human rights mechanisms was viewed as more challenging or less effective. State collusion with non-state actors to impose restrictions causes specific problems for activists. As outlined above the unpredictability of non-state actor restrictions alongside non-state actors’ perceived protection from prosecution, was frequently cited as source of stress and anxiety for activists.

Another interviewee described how the collusion with non-state actors complemented state restrictions when quelling situations that the state was unable to control. During the interview they said:

“The police, the Chhatra League, the RAB. It’s all the same. They just choose which will work better. Sometimes they come at the same time. They work together [state and non-state actor]. If a situation arises and they cannot control it and they think it will harm them, they mobilise these thugs. And they become violent, violent, violent [gasps] my gosh they become violent. Everyone in Bangladesh knows they are worse, more brutal. No one can raise any voice against these groups. Who will save us? God?! [laughs]”

Interview with a human rights defender, Dhaka, Bangladesh. 21 July 2019.

In this instance, the interviewee referred to student-led nationwide protests in 2018 during which the state openly collaborated with the BCL to quell dissent (*see* Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020). After being called upon by the state (*see* Shahidul Alam interview with Al Jazeera Television, 2018), the BCL and the JL were documented as assisting state forces by attacking protesters with “metal rods and cleavers” (Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 8). Students involved in protests such as the Quota Reform Movement, which challenged government policy in 2018 (Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 7), and the Road Safety Movement (*ibid.*: 15) in the same year have been documented to have been subjected to torture by the BCL (*see* bdnews24.com, 2018). For example, a female student at the University of Dhaka is reported to have been tortured by having the tendons in her foot severed by the BCL for encouraging her peers to participate in the Quota Reform Movement (The Daily Star, 2018a). There are also numerous other testimonies documenting experiences of protesters being beaten on the streets or later tortured for alleged participation in the 2018 protests (*see* Human Rights Watch, 2018). In this instance the BCL and the JL were viewed as auxiliary forces that were used to supplement state apparatus when students challenged the state. During the interview, an activist said:

“The police have always protected the state and the ruling party. No party is unique in that regard. But nowadays, you have the police officially requesting support from the Chhatra League to control protests. Openly calling for the help of political thugs and they know exactly what they’ll do [perpetrate human rights violations]. That’s the level of coordination here.”

Interview with a human rights defender, Dhaka, Bangladesh. 16 July 2019.

The activist in this excerpt clearly outlines that the state is aware of the strengths of the non-state actors that it colludes with and recognises the potential outcome of collusion. Therefore, it would appear that the state colludes with non-state actors to enhance its own restrictive efforts.

State Incentives to Collude with Non-State Actors in Bangladesh

In Bangladesh I find clear evidence of both the incentives I theorised. Firstly, my analysis reveals that the state colludes with non-state actors to impose restrictions and therefore uses collusion as a “force multiplier” (Donahue and Zeckhauser, 2011: 4), which in practice means mobilising additional non-state forces to restrict civil society. Actors such as the RAB, the BCL, and the JL are clearly documented as restricting prominent activists after human rights advocacy. This is further confirmed by testimonies from activists, who outline that these restrictions are the “same” as state restrictions and link restrictions by these groups to criticism of the state.

At the same time, I also find evidence that the state draws benefits from collusion such as plausible deniability (Mitchell, 2004: 32, 2012: 34-38). For example, in the preceding sections I outlined how the RAB took steps to conceal its activities after international criticism of Bangladesh’s human rights record during the 2013 UPR. Testimonial evidence demonstrates that RAB restrictions are linked to NGO advocacy and would appear to be directed by the state. That the RAB takes steps to ensure that it does not leave forensic evidence provides further proof of a contract with the state, as this action would appear to protect the state’s reputation. In further support of this, I also find

evidence that the RAB takes particular care to conceal its identity when imposing the most severe individual restrictions, such as disappearing, torturing, and murdering activists. In doing so, the state is able to draw the benefit of deniability by claiming no knowledge of the RAB's action.

Finally, I also find evidence that strongly suggests that the RAB is protected from prosecution. In a resolution on Bangladesh, the European Parliament (2014) stressed that the RAB acted with near impunity for enforced disappearance, torture, and contract killing of activists and political opposition. As noted in the resolution, for the first time since its formation in 2004, only in 2014 did the RAB admit that "some of its personnel had been implicated in an enforced disappearance" (European Parliament, 2014). The state's reluctance to prosecute the RAB also highlights the indirect incentive (Donahue and Zeckhauser, 2011: 219) of impunity and is further evidence of a contract.

While I find no evidence that the BCL or the JL attempt to hide their identities, they draw the indirect incentive (Donahue and Zeckhauser, 2011: 219) of impunity. For example, during the widespread protests in 2018, both the BCL and the JL were deployed in addition to state security forces to quell protesters. Yet crucially, both organisations were protected from prosecution. Both organisations were able to uphold their reputations for brutal violence, while being protected by the state for attacking and torturing protesters. This inaction by the state provides further evidence of deniability. For example, during road safety protests in 2018, documentary evidence notes that the police were bystanders while the BCL attacked journalists covering the protests with machetes and injured them (*see* The Daily Star, 2018b). Evidence would suggest that unless cases of violence by the BCL or the JL attract international condemnation, the state is reluctant to prosecute the

perpetrators of violence (*see* BBC, 2019). The pattern of protection from prosecution in this way provides further evidence of a contract between state and non-state actor.

In Bangladesh, the case evidence presented in this chapter provides strong support for my second proposition. My examination of case evidence would strongly support the assertion that the state prefers to collude with non-state actors to allow them to impose individual restrictions, driven by the preservation of its international reputation. Through my analysis of local documentary sources and interview material I find that the preference of the RAB, the BCL, and the JL for individual restrictions of enforced disappearance, torture, extrajudicial killing, and surveillance are the most feared by human rights activists. Further, the state rarely takes steps to protect activists experiencing these restrictions and instead, most activists view the activities of non-state actors as linked to the state.

My use of testimonial evidence also highlights that activists clearly see a distinction between state restrictions and restrictions by non-state actors. I also find important evidence to suggest that the RAB takes steps to obscure links between its restrictions and the state of Bangladesh. For the RAB, the BCL, and the JL, I find that the state purposefully incentivises restrictions from these non-state actors by creating an environment of impunity for their individual restrictions.

Israel and the Occupied Territories

To assess the frequency and nature of restrictions by non-state actors on Palestinian and Israeli human rights NGOs I created a dataset by reading press statements made by the NGO Monitor during the period assessed in this study. Although as described in Chapter 4, it is important to recognise that there are a variety of different non-state actors that are known to restrict NGOs in both Israel and the Occupied Territories, I focus on assessing

the activities of the NGO Monitor as every single NGO that participated in this study explicitly mentioned experiencing restrictions from this organisation. My focus on the NGO Monitor is further corroborated by a recent survey of 17 prominent human rights NGOs working in the Occupied Territories by international NGO 11.11.11 (2020), which found that both the NGO Monitor and the Israeli Ministry for Strategic Affairs and Public Diplomacy shared first place for “being the largest threat to civic space” (ibid.: 10). This viewing of restrictions from the NGO Monitor and the Israeli state as being on equal footing in terms of restrictions echoes many of the interview testimonies that I collected during fieldwork.

To understand the actions and the types of restrictions imposed by the NGO Monitor, I surveyed the 335 publicly available press statements released by the NGO Monitor between 2009 and 2019, available on their website.¹⁰⁰ By examining these public communications I analysed the nature of the NGO Monitor’s advocacy activities as well as the NGOs mentioned in its public communications. When assessing press statements by the NGO Monitor, I coded the source data into three categories.¹⁰¹ Firstly, I examined the text for evidence that the NGO Monitor had imposed organisational restrictions. In practice this would mean accusing another NGO of engaging in biased or ideological reporting on human rights issues that aimed to delegitimise Israel, or evidence that the NGO Monitor had claimed that reports or information on human rights violations presented by other NGOs was factually inaccurate.¹⁰² I also examined press releases by

¹⁰⁰ For source data see NGO Monitor (2020). I provide coding guidance for each of these categories in Appendix 2 of this dissertation.

¹⁰¹ As discussed in this section, most of these public communications by the NGO Monitor contained a mixture of restrictions. When coding press statements, the text could be coded into more than one category.

¹⁰² I examined press statements for language that condemned other NGO’s activities on human rights issues using language such as: “demonise Israel”, “ideologically opposed to the Israeli state”, “biased against Israel”, “antisemitic” and “anti-Israel”. A claim of false information would mean that the NGO Monitor directly contested claims made by another NGO or critiqued the methodology used to collect data; for example, it might dispute the number of those injured during a protest, or the anonymisation of interviewees for testimonial reports. This was frequently used to discredit anonymous eyewitness reports or testimonies of human rights violations by claiming they were fabricated.

the NGO Monitor for evidence that the organisation had lobbied international aid agencies and private foundations to cease funding NGOs based on their campaigns on Israel's human rights record. Secondly, I analysed NGO Monitor press statements for evidence of individual restrictions. In particular, I focused on whether activists were mentioned by name and whether the NGO Monitor accused these individuals of being antisemitic, promoting terrorism, or being ideologically against the state of Israel. Finally, I also coded whether the NGO Monitor's press releases contained no criticism of another NGO.

Analysis of the organisation's press statements broadly confirms the conclusions of 11.11.11 (2020: 10) and interview data from both Israeli and Palestinian human rights activists on the prevalence of restrictions from the NGO Monitor presented in the previous chapter. In an indication of the NGO Monitor's activities, out of 335 press statements assessed only 24 public communications did not contain an accusation against another NGO or activist. For the most part, these 24 statements were announcements of the organisation's own activities (e.g. NGO Monitor, 2009e), communications about Israeli state actions against NGOs (e.g. NGO Monitor, 2010c), or announcements of changes to the organisation's governance structure such as its Board of Directors (e.g. NGO Monitor, 2013, 2014b). Out of 335 press statements analysed in this study, 255 of them contained smears against another organisation, by claiming that their information was incorrect, asserting they were ideologically biased against the state of Israel, claiming they were disloyal to Israel, alleging antisemitism, or accusing them of being involved in BDS activity.¹⁰³

¹⁰³ I provide an overview of both organisational and individual smears with indicative examples from the NGO Monitor in Annex 2.

For example, if an NGO published a report criticising Israel’s human rights record, the NGO Monitor would promptly respond by releasing a press statement discrediting the organisation or claiming that the report contained factual inaccuracies. The NGO Monitor released press statements after reports that provided information on human rights violations by Israel by organisations including Amnesty International (i.e. NGO Monitor, 2009b, 2012, 2014), Breaking the Silence (i.e. NGO Monitor, 2009c, 2017), B’Tselem (i.e. NGO Monitor, 2009a, 2010a, 2015), and Human Rights Watch (i.e. NGO Monitor, 2009d, 2010b). In these press statements, the NGO Monitor accused these organisations of being biased against Israel and publicising information that the NGO Monitor alleged was factually inaccurate.

The data also suggest that the NGO Monitor levels restrictions at individuals belonging to prominent NGOs. In public communications the organisation named individuals working for NGOs 88 times between 2009 and 2019. It is important to note that press releases often contained a mixture of both organisational and individual smears and focused on defending Israel’s human rights record. This means one press statement may contain both individual and organisational smears, which accounts for why the figures in Table 5.4 are higher than the total number of statements. I present an overview of my analysis of the data in Table 5.4.

Table 5.4: Overview of Smears in NGO Monitor Press Statements 2009 to 2019.

Categorisation of Restriction	Count
Organisational Smears Against NGOs	255
Personal Smears Against Activists	88
No Accusation Against Another NGO or Activist	24

My analysis of press statements illustrates that the NGO Monitor prefers imposing organisational restrictions on critical NGOs. While the evidence also highlights that the NGO Monitor targets individuals, I find that most of its restrictions focus on smearing organisations.

To explore the themes presented in Table 5.4, I conducted a further analysis to examine which NGOs were targeted using the restrictions outlined above. To conduct this analysis, I assessed the text of the press statements for negative references to NGOs. After analysing the data, it became clear that when levelling accusations the NGO Monitor did not discriminate between different organisations and individuals depending on their location. An examination of the organisation's press statements would appear to indicate that it targeted prominent NGOs and affiliated activists whether they were international, Israeli, or working in the Occupied Territories. The common thread linking the NGO Monitor's response was criticism of Israel and in particular, "naming and shaming" of Israel's human rights record.

During the period assessed, the NGO Monitor released public communications featuring 110 NGOs based across the world, which were known to criticise Israel's human rights record. These organisations were targeted after being featured on the NGO Monitor's publicly available "blacklist" of 250 NGOs hosted on the organisation's website (NGO Monitor, 2020d). An analysis of NGOs targeted through press statements shows a striking crossover with those organisations that were evidenced to experience state restrictions in Chapter 4. For example, the most targeted NGO by far was Human Rights Watch, which featured in 64 press statements containing organisational smears over the impartiality and veracity of its reporting (NGO Monitor, 2009g; 2010c), but also claims

that employees collected “Nazi memorabilia” (NGO Monitor, 2009c), were biased (NGO Monitor, 2009b; 2011b; 2017f), or covertly engaged in supporting the BDS movement (NGO Monitor, 2016b; 2018b). Other targeted NGOs included Amnesty International (46), and of Palestinian NGOs, Al-Haq (31), and the Palestinian Centre for Human Rights (31), and in Israel, perhaps the best-known Israeli human rights group B’Tselem (31). I present the top ten NGOs that were negatively featured in the NGO Monitor’s press statements in Table 5.5.

Table 5.5: Overview of Top Ten NGOs targeted by NGO Monitor Between 2009 to 2019.

Organisation	Times Featured in NGO Monitor	Location
Human Rights Watch	64	International
Amnesty International	46	International
Al-Haq	31	Palestine
B’Tselem	31	Israel
Palestinian Centre for Human Rights	31	Palestine
New Israel Fund	21	International
Adalah	17	Israel
Breaking the Silence	17	Israel
Al Mezan	11	Palestine
Badil	11	Palestine

Analysis of press statements would suggest that the NGO Monitor’s primary tactic against these organisations is to portray them as “enemies” of Israel that produce factually incorrect information. These targets also correlate with the targets of state restrictions. According to the U.S. Department of State (2017, 2018), Human Rights Watch faced visa denials in 2017, while in 2018 the organisation’s country director for Israel and Palestine,

Omar Shakir, was deported from the country. Between 2017 and 2018, Human Rights Watch was directly targeted by the NGO Monitor on seven occasions. In five of these statements, Shakir was mentioned by name and accused of being a BDS activist who was actively pursuing an anti-Israel agenda (NGO Monitor, 2017b; 2017a; 2017c; 2018d; 2018c). During Shakir’s hearing to appeal against the deportation decision, the NGO Monitor joined the High Court of Appeal as an amicus curiae in support of the state, to offer evidence against Shakir and Human Rights Watch, where it accused both of “deep-seated bias against Israel” (NGO Monitor, 2019a). In a press release after the appeal against the deportation was overturned, Human Rights Watch (2019b) reiterated that neither the organisation or Shakir had ever called for a boycott of Israel.

Targeting the funding of critical organisations is another notable tactic used by the NGO Monitor. The organisation often took a particular stance of avoiding advocating for the imposition of legal restrictions on the operation of critical NGOs, but rather directly lobbying donor governments to stop funding the NGOs listed in Table 5.5. An NGO Monitor (2017a) press statement helps to clarify this strategy by offering evidence that the organisation was critical of proposals by Israel to impose restrictions on NGO access to foreign funding. In particular, the organisation feared that state-imposed legal restrictions on NGO funding might tarnish Israel’s international reputation and bring undue attention on the situation for human rights in Israel and the Occupied Territories.

In a press statement, the organisation said:

“As a research institute, NGO Monitor has presented evidence that restrictive laws are often ineffective and counterproductive, damaging Israel’s international reputation and strengthening NGO fundraising efforts. In addition, any legislation will only apply to Israeli NGOs, and cannot address the more serious problems of millions for radical Palestinian and international groups that operate outside Israel’s jurisdiction, transparency laws, and reporting requirements.” (NGO Monitor, 2017g).

In a press statement the NGO Monitor goes on to urge the Israeli state to engage in a “constructive dialogue” with funders of critical civil society groups. Evidence would suggest that these calls were heeded. The U.S. Department of State (2015) notes that Israeli state officials took steps to pressure donor agencies into ceasing funding to three prominent Israeli groups: Adalah, Breaking the Silence, and B’Tselem.

Yet evidence would suggest that Israeli officials went further. While visiting the UK in February 2017, the then-Israeli Prime Minister, Benjamin Netanyahu, took the opportunity to lobby the then-UK Prime Minister Theresa May to cease all UK funding to NGOs involved in “anti-occupation activities”, allegedly citing research by the NGO Monitor (Julian, 2017; *see also* NGO Monitor, 2017a). In particular, Netanyahu is reported to have singled out Breaking the Silence and requested that the UK government immediately cease funding to the NGO (Julian, 2017). The founder of Breaking the Silence remarked that the meeting was evidence that Netanyahu and the Israeli state was “intent on stopping us...[encouraging] a public debate on the reality of occupation” (Shaul, 2017).

Shortly after Netanyahu’s visit to the UK, in April 2017, the NGO Monitor submitted information to the UK’s Foreign Affairs Committee Inquiry regarding the actions of UK-based human rights NGOs and UK-funded NGOs operating in Israel and the Occupied Territories (NGO Monitor, 2017e). In its submission, the NGO Monitor draws attention to perceived bias by organisations such as Amnesty International and Badil, a prominent Palestinian group involved in the BDS campaign, as well as the UK’s role in enabling and funding these NGOs’ activities (NGO Monitor, 2017e). In closing, the submission urges the UK government to “re-evaluate” funding to these NGOs (NGO Monitor, 2017e).

The pattern of the NGO Monitor's activities to protect the Israeli state from criticism on human rights issues can be further examined through events in 2011 when Israel was accused of committing war crimes. In 2011, the NGO Monitor increased advocacy efforts in response to the Goldstone Report, which was a fact-finding mission into IDF actions during "Operation Cast Lead" in 2008 to 2009 (*see* United Nations General Assembly, 2009). In 2011, Richard Goldstone, who led the fact-finding mission, released an op-ed in which he expressed reservations about the report's central finding that Israel had purposefully targeted Palestinian civilians during the military campaign (Goldstone, 2011). Later that year in October 2011, the NGO Monitor also released a report and a series of press statements discrediting the report's findings and the NGOs that provided information to the UN (NGO Monitor, 2011d; 2011e).

A similar story emerges in 2014. An increase in NGO Monitor activities coincides with the Gaza war and the Israeli operation "Operation Protective Edge". After rockets by Hamas militants were fired into Israeli territory on 12 June 2014, Israeli security forces began an aerial and ground offensive (Israel Ministry of Foreign Affairs, 2014a). According to Amnesty International (2014), the ensuing confrontation saw an estimated 2,000 people killed in a seven-week conflict between Israel and Hamas. In response, the NGO Monitor invested considerable effort into questioning the motivations of human rights NGOs that documented and criticised the IDF's actions. This can be evidenced by the fact the organisation released 36 press statements, of which 17 accused NGOs of being biased against Israel (*see* NGO Monitor, 2014a, d, g, f; c). In these statements the NGO Monitor repeatedly focused on the activities of prominent critical international human rights groups, including Amnesty International and Human Rights Watch, and importantly pre-empted criticism from these organisations of IDF operations in Gaza. For

example, in advance of a report by Amnesty International documenting civilian casualties in operation “Operation Protective Edge”, the NGO Monitor states:

“The report is expected to repeat the standard accusations of war crimes, including claims that the Israeli military purposefully targeted civilians. The charges will again be made despite Amnesty’s lack of access to military intelligence and other vital decision-making information necessary to support its politicized allegations. NGO Monitor urges journalists to approach all such factual and legal claims with caution.” (NGO Monitor, 2014c).

Importantly, these sentiments, which firstly question the report’s methodology and secondly accuse Amnesty International of bias against Israel were reiterated in a statement by Israel's Ministry of Foreign Affairs (2014b). The state formally responded to Amnesty International’s report in a press communication that rejects the report’s “extreme bias” and argues that the report’s “methodology raises questions” (Israel Ministry of Foreign Affairs, 2014b). Consequently, the NGO Monitor’s advocacy can be viewed as aligning with that of the Israeli state by providing a counternarrative to human rights concerns through casting doubt on the integrity of the methodology used to collect data. The report in question, “Families Under Rubble: Israeli Attacks on Inhabited Homes”, documents the targeting of multiple homes by Israeli attacks that led to the deaths of 104 people (Amnesty International, 2014a: 5). The report concludes that evidence presented regarding the targeting of civilians could constitute war crimes (Amnesty International, 2014a: 40).¹⁰⁴

In this section, I find evidence that suggests the state does collude with the NGO Monitor. Interestingly, my analysis also proposes that the NGO Monitor’s restrictions can help provide justification for state restrictions against NGOs. The evidence laid out in this chapter would suggest that the NGO Monitor helps to support state aggression against

¹⁰⁴ The report concedes that it is likely that some Hamas combatants may have been present in the targeted homes. However, the organisation makes clear that targeting of civilian infrastructure as well as civilian loss of life or injury as “collateral damage” is disproportionate and should be promptly investigated. See Amnesty International (2014a: 6).

NGOs by advancing an environment of hostility against critical groups in both Israel and the Occupied Territories. This can then be utilised by the state in the form of state-sponsored smears or legislative restrictions against specific NGOs.

Activist Experiences of Non-State Actor Restrictions in Israel and the Occupied Territories

Smears

The data from Israel on the NGO Monitor highlight that the organisation frequently levels smears against NGOs, and sometimes activists, for allegedly being “anti-Israel” or ideologically opposed to the state of Israel. When engaging with activists, some described this as a “multi-pronged” attack, in which the restrictions from the state of Israel and restrictions from the NGO Monitor were coordinated yet targeted different facets of an NGO’s activity. For example, it was often cited those restrictions on foreign funding were problematic, time-consuming and challenging to overcome. However, they were viewed as less dangerous than accusations that an NGO or affiliated activists were involved in supporting terrorism. A Palestinian activist directly described the distinction between state and non-state actor restrictions during an interview, saying:

“The Israeli right-wing organisations, like the NGO Monitor, impose the worst restrictions. I think it is because they are imposing the restrictions directly on individuals. In their campaigns, in their statements, in their reports, they mention the names of employees, so they directly target and smear you as an individual. Not just the organisation or our work. This is so much worse than any legal restrictions we face...”

Interview with a human rights defender, Ramallah, Palestine. 28 April 2019.

Another Israeli activist cited how these restrictions from non-state actors form part of a “multi-pronged” attack on critical civil society. As a result, non-state actors restricted civil society in ways that states could not. They said:

“You have to understand that this is a multi-pronged attack. The state [Israel] imposes these legal restrictions. But then there are other things that go on as well. NGOs close to the [Israeli] authorities carry out attacks against us. The nature of these attacks are several: they go after our funding, use smear campaigns,

organise character assassinations against prominent individuals, constantly bombard us with allegations of affiliation with terrorism.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

Testimonial evidence from Israel and the Occupied Territories emphasises the coordinated nature of restrictions between the state and the NGO Monitor. In the excerpts above, activists in both Israel and the Occupied Territories note that these smears are worse than legal restrictions. As opposed to case evidence from Bangladesh, my analysis in Israel and the Occupied Territories reveals that the NGO Monitor often restricts NGOs first ahead of legislative restrictions by the state. Consequently, the work of the NGO Monitor could be seen as helping to lay the groundwork for justifying for state restrictions by building hostility against critical human rights NGOs. One activist summed up this dynamic well, saying:

“What has intensified is the state support for non-state actor smear campaigns. The state gives them power, money, access to enable them. The Ministry of Strategic Affairs takes what these right-wing groups are already doing and turbocharges them. And what can you do in response? Sue for libel? There is absolutely no point. What is worse is when the Ministry of Strategic Affairs uses this information and publicises it. All you can do is stand in solidarity with other Israeli and Palestinian groups who are also being targeted.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

In another interview with a Palestinian human rights defender, this dynamic was explored in greater detail. In particular, the theme of coordination between the Israeli state and the NGO Monitor was repeated several times. Some activists viewed this coordination as a cycle whereby the NGO Monitor would be vocal in attacking individuals or NGOs and then the state would add further restrictions. One activist captured this dynamic, saying:

“Of course, there is coordination [between the NGO Monitor and the Israeli state]. These groups are openly working with the state to spread their rumours against us. Then the state reacts to these rumours with more restrictions. It is part of a coordinated effort to silence us and stop our work. It’s like a cycle...”

Interview with a human rights defender, Ramallah, Palestine. 28 April 2019.

Interviewees also emphasised the tactic of attempting to rebrand affiliation with the BDS movement as a terrorist activity. One of the host organisations for the BDS campaign stressed that the NGO Monitor has been supported by the Israeli state to purposefully tie organisations affiliated with the BDS movement to terrorist activities taking place across the Occupied Territories:

“[After BDS] The NGO Monitor attacked us and all of our members...They say we are supporting terrorists and we are like a gang. The Israeli authorities then use this information to submit to the European Union, which is our main donor. They know the BDS hurts them, and they are stuck without a real response. So, they try to shut us down by going after funding. That is their strategy.”

Interview with a human rights defender, Ramallah, Palestine. 2 May 2019.

Furthermore, it was clear when interviewing Israeli NGOs that activists were concerned about any perception of affiliation with the BDS movement. This tended to manifest in a situation where Israeli NGOs would support the “right” to call for BDS but would refrain from offering a political position on the aims of the campaign. It could be surmised that this is partly down to the number of restrictions that the Israeli state has levelled at NGOs and activists allegedly affiliated with the global campaign.

Activist Perceptions of State Restrictions and Non-State Actor Restrictions in Israel and the Occupied Territories

In Palestine activists often referred to restrictions from non-state actors as “another arm” of the state. Consequently, these restrictions were viewed to be more dangerous on the basis that the state was complicit in allowing non-state actors to impose restrictions that it would be reluctant to be seen imposing itself. One activist characterised the situation, saying:

“These [NGO Monitor] restrictions are another arm of state restrictions. We can’t differentiate. The laws, the bans, the travel restrictions: these state restrictions is one arm. But these [non-state actor restrictions] are just the other arm which are used more openly to hinder our work. Non-state actors have support from the government, and they have increased budget and access, but they don’t publish their links with the state. They say they are independent. But we can see that they have huge outreach – governments, parliamentarians, unions, churches – with their campaigns. Unlimited access to anyone and everyone. How?

This is how they pressure everyone [NGOs that criticise Israel]. The state [Israel] can't do this openly without looking really bad in the eyes of the international community."

Interview with a human rights defender, Ramallah, Palestine. 4 May 2019.

In the above excerpt the individual refers to the fact that the NGO Monitor imposed restrictions that would damage Israel's reputation if the state imposed the restrictions on its own. Consequently, non-state actor restrictions, which were enabled by the state were viewed to be more openly hostile against critical civil society and, as a result, more dangerous. In Israel, activists also highlighted how the NGO Monitor could target individuals whereas the state preferred to target NGOs. This provides evidence that Israel can be cautious of unnecessarily tarnishing its international reputation by targeting activists, when instead it could collude with the NGO Monitor to impose individual restrictions. During an interview, one activist summed this dynamic:

"Listen, smear campaigns have always been there. Very sophisticated ones at that. But what has changed is groups like the NGO Monitor have taken to scouring social media and internet to find so-called "incriminating evidence" against individuals affiliated with critical NGOs, which is stuff they may or may not have said. Or if they did, they do so in a personal capacity. They [the NGO Monitor] then holds this up as evidence that the organisation is inherently antisemitic, bad Israelis, or terrorists if they are Palestinians. They campaign against you as an individual. The state won't do that. They won't publicly go after activists like that."

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

The excerpt above helps to clarify that the strategies used by the state and non-state actors are different. As a result, Israel can draw the benefit of deniability while groups such as the NGO Monitor can publicly smear individuals with a view to suppressing their advocacy.

State Incentives to Collude with Non-State Actors in Israel and the Occupied Territories

In this chapter, I find evidence that the state of Israel does collude with the NGO Monitor to impose restrictions. As outlined in Chapter 2, given that Israel is a highly democratic

state, my theory expected a preference for collusion over organisational restrictions for fear of audience costs (*see* Fearon, 1994: 580; Schultz, 1998: 834; Choi, 2010: 446). Yet despite this preference for organisational restrictions, both incentives to collude with non-state actors are still found in Israel.

Activists in both Israel and Palestine view restrictions from the NGO Monitor as coordinated by the state. An analysis of the timing of restrictions between the state and the NGO Monitor would also appear to support the claim of collusion. As such, it seems that the first incentive to collude with non-state actors, where the state mobilises additional non-state actors as a “force multiplier” (Donahue and Zeckhauser, 2011: 4) is highly evident. Interestingly, in Israel my research appears to provide evidence that the state uses work by the NGO Monitor to provide justification for further state restriction. Therefore, the state uses research and publications as well as organisational and individual smear campaigns produced by the NGO Monitor to legitimise tighter control of NGOs working on issues related to the Occupied Territories. The state therefore draws the benefit of a “force multiplier” (Donahue and Zeckhauser, 2011: 4) in a different way to Bangladesh, which is observed to mobilise actors such as the RAB if state restrictions are unsuccessful. In Israel, it would seem that NGO Monitor restrictions are a precursor to state restrictions.

The state of Israel clearly gains benefits from the NGO Monitor’s activities. Firstly, the state draws the benefit that the organisations targeted by the NGO Monitor may face additional difficulties in raising funds or winning public support for their work. These additional restrictions may distract NGOs from advocacy on core human rights issues. It is also important to note that the repeated smearing of Palestinian organisations, in the way that the NGO Monitor does, is challenging to do as a state actor. Unless there are

substantive and credible grounds to suggest affiliation with terrorist organisations (*see* Ministry of Strategic Affairs and Public Diplomacy, 2018, 2019), openly smearing Palestinian NGOs would be likely to cause Israel unnecessary international reputational damage to its image as a highly democratic state. Therefore, Israel also gains the benefit of specialisation through collusion with the NGO Monitor to impose restrictions.

I also find some evidence that the state of Israel draws the benefit of deniability through collusion (Mitchell, 2004: 32, 2012: 34-38). For example, the NGO Monitor is careful to avoid publicly stating that it shares information with the state, despite evidence suggesting that it does (*see* Sfar, 2017; Policy Working Group, 2018: 6; White, 2020: 73). Secondly, the state is equally careful to never directly cite the NGO Monitor in publications or communications that criticise human rights NGOs, despite drawing from the NGO Monitor's work. In consideration of this, it is important to recognise that the NGO Monitor imposes individual restrictions as well as organisational restrictions. Because of this, the state of Israel may wish to distance itself from these individual restrictions, for fear of reputational costs, and therefore ensure plausible deniability. It is also important to emphasise that every single activist who participated in this study, whether Israeli or Palestinian, highlighted that the state of Israel benefitted from claiming that the NGO Monitor was an independent organisation. Exactly this argument is often used by the state of Israel to justify failing to intervene to protect critical Israeli activists facing individual restrictions, such as smears from the NGO Monitor. Evidence would therefore suggest that deniability is a key incentive for Israel to collude with the NGO Monitor.

In this section, I have found some evidence to support the implications of the theorised processes underpinning my argument. Firstly, and in contrast to case evidence from

Bangladesh, I find limited evidence to suggest that the state of Israel has a clear preference for colluding with non-state actors to impose individual restrictions. Instead, while activists report that the NGO Monitor frequently smears individual activists, my analysis of the NGO Monitor's outputs would suggest otherwise. However, the impact of the individual restrictions that the NGO Monitor does impose should not be underestimated. The testimonial evidence gathered as part of this research would highlight that the individual restrictions imposed by the NGO Monitor, in the form of personal smears, play a vital role in complementing state restrictions on critical NGOs. When it comes to organisational restrictions, the environment created by the NGO Monitor's restrictions aids in building public support for further state restrictions.

This section also finds strong evidence to suggest that Israel is complicit in allowing the NGO Monitor to impose restrictions that it would prefer not to impose itself. This is particularly true if information on Israel's military actions reaches international audiences. In doing so, Israel uses the NGO Monitor, as an NGO, to impose restrictions it cannot easily impose itself or where it would incur reputational costs that are bypassed by collusion.

Zimbabwe

To understand the frequency and prevalence of non-state actor restrictions in Zimbabwe, I use reports from the Zimbabwe Peace Project (ZPP). The ZPP has produced monthly documentation records of human rights violations in Zimbabwe from 2003 to the present day (Zimbabwe Peace Project, 2003). I select the ZPP's monthly human rights reports as they are the most consistent publicly available effort to document human rights violations, including some types of restrictions on civil society, between 2009 and 2019. Therefore, ZPP's reports offer an indication of the incidence of violations.

When compiling its documentary reports, the ZPP draws on evidence from a network of 420 human rights defenders located across Zimbabwe who monitor and capture first-hand reports from victims (Zimbabwe Peace Project, 2020). ZPP also uses information from member organisations, many of which are human rights NGOs, which are then cross-referenced and aggregated for inclusion in its monthly reports (Zimbabwe Peace Project, 2020).¹⁰⁵ Given the organisation's geographic reach, the aggregated information contained in the ZPP's monthly monitoring reports have formed the bedrock of multiple domestic and international campaigns to promote human rights and civil society space in Zimbabwe (*see* Mashingaidze, 2016: 379-380).

I surveyed 114 monthly reports by the ZPP to gain an insight into the activities of state and non-state actors.¹⁰⁶ The ZPP captures the following violations: murder (extrajudicial killing), assault, sexual violence, unlawful detention, torture, harassment and intimidation, theft or looting, discrimination, and displacement. If used against activists, murder, assault, sexual violence, unlawful detention, torture, harassment, and intimidation would be characterised as individual restrictions. However, it is important to acknowledge that the ZPP does not include information on the activities of the victims of these violations and specifically, whether they were involved in human rights activity. While this is a limitation to this data, the ZPP's data still provides a useful insight into the prevalence of both state and non-state actor activity in Zimbabwe.

¹⁰⁵ Current member organisations of the Zimbabwe Peace Project are the Catholic Commission of Justice and Peace in Zimbabwe, Civic Education Network Trust, Counselling Services Unit, Evangelical Fellowship of Zimbabwe, Habbakuk Trust, Women's Coalition of Zimbabwe, Zimbabwe Council of Churches, Zimbabwe Human Rights Association, and Zimbabwe Lawyers for Human Rights. For further information see Zimbabwe Peace Project (2020).

¹⁰⁶ I aggregated the categories contained within the ZPP monthly totals to provide annual overviews. I did not reclassify the data and therefore do not offer any coding guidance in this dissertation.

When surveying the data by the ZPP, I used the organisation's five categories of perpetrator.¹⁰⁷ The first category is Zanu-PF groups, which identifies local members of the ruling party or affiliated groups that the ZPP was able to verify belonged to the ruling party. The second is state actors, such as the police, the military, and the Central Intelligence Organisation (CIO). The third includes violations perpetrated by unknown actors, which captures violations by individuals who remained unidentified by the ZPP.¹⁰⁸ The fourth captures violations by the Zanu-PF affiliated militia, the War Veterans.¹⁰⁹ The fifth includes evidence where another militia has been directly named, including the Green Bombers.¹¹⁰

According to the ZPP, for every year assessed in this study, instances of violations by groups affiliated to Zanu-PF were higher than human rights violations recorded as being carried out by the state. For example, in 2009, 11,646 human rights violations by non-state actors affiliated to Zanu-PF were recorded, compared to a documented 755 violations by the state. The large discrepancy between these two figures offers insight into the frequency of non-state actor activities and would appear to indicate that non-state actors are more active in violating human rights than the state. In a further indicative example, in 2011, the ZPP suggests that 9,372 violations were carried out by non-state actors, compared to 331 violations conducted by the state. In 2013, 4,858 individuals affiliated to Zanu-PF were identified as carrying out human rights violations in contrast to 221 by the state.

¹⁰⁷ It is important to acknowledge the violations included in this dissertation involve violations where there were multiple perpetrators for one violation. Where possible, this has been recorded.

¹⁰⁸ This category primarily includes violations where there were no eyewitnesses.

¹⁰⁹ It must be considered that there is considerable overlap between Zanu-PF supporters and individuals carrying out violations as War Veterans. Consequently, I have only included violations where individuals were openly operating as the War Veterans or could be identified as the War Veterans.

¹¹⁰ Similarly, this final category has considerable overlap with Zanu-PF groups as it only relates to violations carried out by militias where the perpetrator could directly be clearly identified as belonging to another militia.

For the period assessed in this study, data from the ZPP would appear to indicate that non-state actors were more active in violating human rights than the police, army, or intelligence services. It is plausible to argue that the high numbers of violations perpetrated by individuals affiliated to Zanu-PF in comparison to state actors may be explained by the fact that state agents took steps to conceal their identities. Testimonial evidence indicates that individuals in plainclothes, often suspected to be working for the CIO, were complicit in carrying out beatings and torture of activists (Human Rights Watch, 2008a: 17; c: 30; The Observatory for the Protection of Human Rights Defenders, 2012: 23). Given the severity of these individual restrictions, it is possible to speculate that state agents may have concealed their identities and were recorded as Zanu-PF supporters by the ZPP. This may have led to bias in reporting human rights violations by the ZPP's information-gathering network.

Other explanations for this large difference focus on the nexus between state and non-state agents in Zimbabwe, with particular reference to police loyalty to Zanu-PF. For example, the suburb of Mbare in Harare has been described by Sachikonye (2011: 64) as being “notorious” for a pattern of torture and in particular, sexual violence against women to coerce support for Zanu-PF (*see also* Mutongwizo, 2014: 31). This situation would see both police and Zanu-PF militias working together to target critical NGOs and vocal opponents of the ruling party in the area (Sachikonye, 2011: 64-65). While Zanu-PF and police have denied the existence of such power-sharing agreements, Mutongwizo (2014: 37-38) argues that there is compelling evidence to suggest that both are an “active bystander” or an “enabler” to these human rights violations to shore up party support. The point here is to use Mbare to illustrate that state and non-state actors are deeply

entwined in Zimbabwe, a phenomenon that complicates the accurate identification and coding of perpetrators of human rights violations.

The ZPP's reports do not provide data on the victims of violations. If used against activists, murder, assault, sexual violence, unlawful detention, torture, harassment, and intimidation would be characterised as individual restrictions. A survey of other sources of documentary evidence would appear to confirm that activists are targeted by non-state actors in Zimbabwe. For example, Chitimira and Mokone (2017: 7) note that human rights defenders have been subjected to torture such as "beatings, rape, electric shocks" by non-state actors. Others have expanded these actions and specified acts of torture by non-state actors of human rights activists to include beating on the soles of feet (known as "falanga") (Brinkley, 2002: 4), beating with plastic mallets (Allison, 2016), attempts to burst eardrums, burning with hot plastics, and scalding with hot water (Zimbabwe Human Rights NGO Forum, 2008a: 1).

The aforementioned literature alongside documentary evidence by the ZPP would point towards individual restrictions being used against human rights activists by non-state agents in Zimbabwe. In the next section, I draw from testimonial evidence collected during fieldwork to interrogate this assertion in closer detail.

Activist Experiences of Non-State Actor Restrictions in Zimbabwe

Torture and Extrajudicial Killing

The theme of non-state actors acting as brutal perpetrators of human rights violations in addition to state security forces, as seen in Bangladesh, was repeated in Zimbabwe. In particular, a theme that emerged during fieldwork was that activists would be tortured by non-state actors before being handed over to the police and charged. During one

interview, an activist highlighted this dynamic in an idiosyncratic description of their own experiences of torture. They said:

“I had a dream; well, it was more like a nightmare. And I think it reflects my experiences. I was abducted by these guys in plainclothes. I don’t know who they were. They tortured me. It went on for hours and honestly, I thought I was going to die. The next thing I remember was being handed over to the police. I thought they would save me. Instead they beat me more. Then I went to the court and while I was being held, I was beaten again. In my dream every room is a like a different part of the state. You think in each room, someone will come to save you, but no one will. In Zimbabwe it is just about power. If you challenge power here, do not expect anyone to come and save you.”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

The experiences of this activist would appear to offer evidence that the state works in collaboration with non-state actors to abduct and torture activists. Similarly to Bangladesh, it would suggest that non-state actors are active in severely restricting individuals before handing them back over to the state agents such as the police. State authorities may then choose to charge the activists or subject them to further abuse.

This interview data can be corroborated with documentary evidence that also captures the interactions between state and non-state actors. For example, in 2016, the year that the above activist reported experiencing torture, the Zimbabwe Human Rights NGO Forum (2017: 2-4) documented that at least 15 individuals were abducted and subjected to torture by unknown individuals as a result of their activism on human rights issues. Of these 15 cases, at least five individuals were abducted and could remember being taken to the Zanu-PF headquarters before being subject to beatings, sexual abuse, mock executions, and electrocution of the feet and genitals (Zimbabwe Human Rights NGO Forum, 2017).

One activist described their experiences during an interview:

“I was taken to the Zanu-PF offices and offered a deal. My brother, you must understand that the state and the Zanu-PF, it is the same thing. They mentioned that we’ll charge you with so and so [laughs]. Then some guys came and threatened me. They said, you are with us or you are not. These people have many people on the payroll, they actively try to recruit activists. They have infiltrated many NGOs now, even big ones [names several international NGOs]. If you don’t

agree, then things will get very bad for you. It really got bad for me. When they were done, I was handed over to the police. Then they make up these allegations against you and it continues like that...

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

In this excerpt the activist also hints at state infiltration of NGOs through the use of coercion and torture. The above quotation also adds weight to the assertion that party activists or militias affiliated with Zanu-PF work directly with the state to restrict civil society. During their unlawful detention by non-state actors, other activists have described their treatment in greater detail. Some described being hung upside down as “21 men and youths exchanged turns to beat me until I passed out” and then “dangled over a large drum of sulphuric acid” (Allison, 2016). The method of torture by suspension and then prolonged beating by non-state actors affiliated to Zanu-PF was repeatedly mentioned during fieldwork and can be corroborated through other testimonies (*see* Howden, 2009).

Enforced Disappearance

Testimonial evidence also emphasised that activists would be abducted then interrogated, often being subjected to torture while being pressured to pass over information on the activities of other activists in Zimbabwe’s human rights community. Often activists reported being passed over to the police when non-state agents had finished imposing individual restrictions on them. In the next Chapter, I discuss the case of ZPP’s Executive Director, Jestina Mukoko, whose experience captures this dynamic well.

Evidence from local NGOs would appear to support the sequence of collusion between non-state agents and the state outlined above. For example, Zimbabwe Human Rights NGO Forum (2017: 2-4) noted that of the 15 activists who were abducted and tortured, every single one was later handed over to police custody. Therefore, testimonial evidence

and local documentary activities would seem to support the data presented by ZPP earlier in this chapter regarding state collusion with non-state actors to perpetrate the abduction and torture of activists. During an interview, an activist described this issue, saying:

“With these ones [militias], they vanish you and then they kill you or they give you to the police. The state knows with the police you can hold them to account. So and so was taken by police on this day, where are they being held? But these people that take you are people without IDs, without uniforms, you have no idea who they are. These are the ones that are used to deal with activists. People who know how to seek justice. And if you are going to reappear again, they’ll just pass you back to police when they are done.”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

During interviews it became clear that by passing activists back to the state after abduction, the police could open investigations into their disappearances, which were rarely solved. This enabled the state to claim that an investigation was ongoing if the case was publicised. Activists frequently noted that police often told activists that they needed to “bring perpetrators to the police station” to complete their investigation. In practice, this made prosecuting the militia members responsible almost impossible.

Surveillance of Prominent Individuals

In Zimbabwe, it is clear that non-state actors play a role in watching the activities of activists and passing critical information back to state authorities. One interviewee summed up this dynamic by highlighting how the strategy of collusion with non-state actors to gather intelligence created an environment of fear around civil society organising. For example, they noted that the presence of individuals or organisations at meetings loosely affiliated with the ruling party could stifle activities or dissuade participation. During the interview they said:

“In the community level, in Mbare for example, Zanu-PF militias are enough. Just to turn up it’s enough to intimidate the community away from participating. They don’t even need to do anything, no violence, nothing, they just wait there. That’s the level of fear.”

Interview with a human rights defender, Harare, Zimbabwe. 9 June 2019.

Another interviewee picked up on this theme by highlighting that if NGOs know that meetings are infiltrated by non-state actors, it leads to a situation of self-censorship that stifles collective action between NGOs. For example, when discussing the issue of surveillance of meetings, one activist noted that organisations had been forced to take evasive measures to coordinate activity between NGOs. During the interview they said:

“The fear of these people [Zanu-PF militias] is huge. You can’t openly organise meetings anymore. If NGOs working in the fields of human rights want to get together and coordinate activities or plan a campaign, then there is a real risk of infiltration. People will be scared to write or take notes. That has a real impact on our work. Nowadays, it is safer to ask the church to organise meetings between NGOs. If they organise it, then it is much less likely that they will be infiltrated. They are much less political.”

Interview with a human rights defender, Harare, Zimbabwe. 11 June 2019.

In this instance, the activist cited that collective action between NGOs had been impeded as a result of surveillance. Perhaps one unexplored impact of surveillance is that activists are unsure if they are being followed or not, which creates a sense of fear around their work. Activists would often simply presume they are under constant surveillance, leading to a situation of “paranoia”, “fear” or “constantly watching over their shoulder”. In sum, this was viewed to have a negative impact on their ability to operate as human rights advocates. On a personal level, it is clear that this fear clearly had an impact on their mental health. I discuss this theme and individual adaption to surveillance in greater detail in Chapter 6.

Differences between State Restrictions and Non-State Actor Restrictions in Zimbabwe

In Zimbabwe, there appears to be a geographic advantage for the state to collude with non-state actors to impose individual restrictions. In this case, the ability to leverage a non-state agent’s specialist skill was viewed as an incentive for the Zimbabwean state to

collude with non-state actors. One activist highlighted this dynamic during an interview by saying:

“They [non-state agents] do not have any parameters. The state is ruled by law, and we work within that law. But, when you deal with non-state actors, they don’t have any limits. They do whatever they want, especially outside of Harare. Let me give you an example. I once went to a meeting outside of Chinhoyi [a city in central northern Zimbabwe] on human rights and civic education. As the meeting was progressing, a group of Zanu-PF youth militia members turned up. We were just discussing in an organised fashion, people were contributing, it was a normal meeting, you know? But these guys just turned up and told everyone to leave. I tried to take video of them and one of them grabbed my phone and threw it on the ground, smashing the screen. He just laughed and said, “go and report this if you want”. Nothing is going to happen to these people, and they know it. These people operate with complete impunity in Zimbabwe because they have the backing of the state. And of course, everyone left the meeting out of fear.”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

In this instance, collusion was viewed as an additional tool to complement the state’s restrictions. These were viewed as aligning to their agent’s strengths, including location and the capacity to impose restrictions that the state could not easily impose on its own. During an interview, one activist elaborated on the nexus between state restrictions and non-state restrictions, saying:

“These restrictions are not linear or straightforward. They use which is best for that specific activity which challenges the state. At national level there are these laws that target organisations and how they access things like funding or information, among other things. If you keep going, then you’ll be targeted personally. At the individual level, for lack of a better description, they have these hit squads that go in the night and abduct people, threaten and torture people, harass them and their family. Without uniforms they will come. I would say this is just another strategy that the government uses. It is meant to silence; it is meant to intimidate, and it is meant to brainwash people into thinking that they cannot challenge the government or push for democratic reforms. It is just another tool they use to evade accountability.”

Interview with a human rights defender, Harare, Zimbabwe. 9 June 2019.

Others noted that collusion was purposefully used to ensure deniability for individual restrictions. Another activist noted that repression perpetrated by the state carried reputational risks and therefore collusion to impose restrictions was an adaptation to this “backlash”. During the interview they said:

“All the evidence we have seen points to the state using unmarked vehicles, individuals without insignia or without uniforms. So, in August they used military personnel [to repress civil society] and then there was an international backlash. In January, we started seeing images and videos of guys in plainclothes carrying military equipment. Carrying out brutal repression against us. And when you see them, their stance, the way they hold the gun. It is obvious they have received weapons and training from the state. They take their orders from the state. But at the end of the day, you can’t say for certain. This is the thing. We can only guess that this was state-organised.”

Interview with a human rights defender, Harare, Zimbabwe. 9 June 2019.

Given the frequency and severity of individual restrictions, human rights defenders in Zimbabwe often reported feeling “helpless” or “stuck”. Interviewees often noted feeling concerned for their physical safety and that of their constituents as they felt that the state was proactively trying to persecute them. They also often expressed the view that if they were subject to enforced disappearance, torture, and sexual abuse by non-state actors, the state was unlikely to offer any protection. Unsurprisingly, this feeling of helplessness was undoubtedly made worse by the severity of individual restrictions imposed by both state and non-state actors. Other interviewees pointed out that while non-state actor restrictions were more severe than those of the state, they were particularly fearful of occasions when the state and non-state actors worked together. One activist said:

“Their ways [Zanu-PF affiliated militias] of punishing people are so severe. Especially, when they work with the army and the police, there are so many cases in Zimbabwe of people subject to torture. This is the worst. It does not get worse than that.”

Interview with a human rights defender, Harare, Zimbabwe. 7 June 2019.

State Incentives to Collude with Non-State Actors in in Zimbabwe

In a contrast to Israel and the Occupied Territories, in Zimbabwe I find clear evidence that the state prefers colluding with non-state agents to impose individual restrictions. Once again, I find evidence to support both incentives for the state to collude with non-state actors. I find strong evidence that the state in Zimbabwe uses collusion as a “force multiplier” (Donahue and Zeckhauser, 2011: 4), by using pro-government militias to

impose individual restrictions on human rights activists. My examination of case material highlights that in Zimbabwe, the state frequently colludes with non-state actors to impose restrictions such as surveillance, enforced disappearance, torture, and murder. As highlighted by the ZPP dataset, local documentation would also suggest that state-affiliated non-state actors are more active than the state in perpetrating human rights violations. As described in this chapter, if murder, assault, sexual violence, unlawful detention, torture, harassment, and intimidation are used against activists, these would be characterised as individual restrictions. The testimonial evidence presented throughout this chapter demonstrates that participants in this study experienced enforced disappearance, torture and surveillance by non-state actors and clearly link them to the state.

My evidence also suggests that the Zimbabwean state prefers to use these groups to impose individual restrictions on activists in rural settings. One explanation may be that the state in Zimbabwe colludes with militias in rural locations to achieve efficiency gains (*see Staniland 2015b: 779*) by avoiding the deployment of state agents. This may also serve to ensure that the state achieves deniability, by claiming no knowledge of these groups' activities outside urban centres.

I find evidence of the Zimbabwean state using collusion to ensure deniability for restrictions imposed by non-state actors with clear links to the state (Mitchell, 2004: 32, 2012: 34-38). Testimonial evidence collected during fieldwork shows that individuals in plainclothes are often the perpetrators of enforced disappearance, torture, and murder of activists. A key finding from this research is that activists are often unsure of the identities of their captors, and this dynamic is addressed in further detail in the next chapter. While this is true, it is also important to highlight that Zimbabwean state forces are also well

documented as imposing individual restrictions on activists through arrests and torture. Consequently, and given the publicised nature of these restrictions, it would appear that the Zimbabwean state is less concerned about its international reputation than Bangladesh and Israel. Although this is true, case evidence would still highlight that the state in Zimbabwe appears to have some inclination to hide evidence of enforced disappearance, torture and murder of activists and therefore uses collusion with non-state actors to hide these restrictions. My study reveals that in Zimbabwe the state has a preference for colluding with militias to carry out the worst forms of prolonged torture. This approach may also enable the state to draw the incentive of deniability, if evidence of these restrictions reaches an international audience.

These violations are nearly always committed with complete impunity, highlighting a further link between non-state actor restriction and the state. This indicates that the state has created an “indirect incentive” (Donahue and Zeckhauser, 2011: 219) for state agents, with perpetrators often boasting of having the state’s protection. This illustrates a further link between the state and non-state agent, as my testimonial evidence suggests that the state is often reluctant to prosecute non-state actors who target individuals.

In this section, I have found clear evidence that non-state actors in Zimbabwe are highly active and frequently level individual restrictions at activists working for NGOs that criticise the state. I find strong evidence to suggest that the state prefers colluding with non-state actors to impose individual restrictions such as enforced disappearance, torture, surveillance, and the murder of activists. Crucially, it does so principally in rural areas that the state cannot reach easily.

Conclusion

In this chapter, I presented data from a variety of sources to provide evidence that states prefer colluding with non-state actors to impose more severe restrictions. The data presented early in this chapter offer strong evidence that a variety of non-state actors are active in restricting civil society in the cases assessed in this study. By looking at the timing of these restrictions it is plausible to draw several important conclusions. Firstly, the data presented throughout this chapter highlight that there is clear variation in non-state actor restriction, which may be attributed to regime type. For example, in Israel, a highly democratic country, my evidence suggests that the state colludes with groups like the NGO Monitor to impose restrictions that are designed to smear, coerce, and harass activists into silence. My analysis reveals that the Israeli state uses collusion as a “force multiplier” to amplify its own restrictions on critical NGOs. I find strong evidence to suggest that the Israeli state in particular draws on the incentive of the NGO Monitor’s attributes, which is the incentive of specialisation, to restrict international and Palestinian NGOs that the Israeli state cannot restrict easily on its own. These take the form of smears against activists and attempts to discredit advocacy output. Yet there is also evidence that the Israeli state takes proactive steps to conceal evidence of a relationship between itself and the NGO Monitor. For example, despite clearly sharing information the Ministry of Strategic Affairs and Public Diplomacy is careful to avoid directly citing the NGO Monitor in its reports. Therefore, it is plausible to assert that both incentives are likely present, as the Israeli state takes advantage of the NGO Monitor’s specialist attributes to restrict Israeli, Palestinian, and international NGOs while also denying links with the NGO Monitor.

In contrast to Israel and the Occupied Territories, in Bangladesh, I found a stark difference in the types of restriction that have been documented as being imposed on NGOs and

activists by non-state actors. There, I found credible evidence to suggest that non-state agents imposed the most severe kinds of individual restrictions by torturing, disappearing, and murdering activists. Importantly in Bangladesh, my data reveal that both the incentives of specialisation and efficiency are at play. Firstly, regarding specialisation, I found evidence that the RAB is used by the state as an elite “death squad” that primarily conducts operations with plainclothes personnel. As a result, the state takes advantage of the RAB’s specialist skills to place activists under surveillance, forcibly disappear them, murder them, or subject individuals to specific types of torture to gain intelligence. Further, if evidence of the RAB’s individual restrictions on activists reaches domestic and international audiences, the state also has the option of deniability due to the RAB’s preference for conducting operations out of uniform. Secondly and with direct reference to the BCL, I find evidence of the incentive to collude with non-state actors through efficiency. In this chapter, my data highlight that when under pressure from unexpected acts of dissent such as protest, the state can draw benefits from being complicit in allowing non-state actor restrictions on activists affiliated with prominent human rights NGOs. I find that the BCL can be quickly deployed to coerce, abduct, and torture activists.

Finally, in Zimbabwe I find that although the state would appear to be less concerned about its reputation than Bangladesh or Israel, it still has a preference for colluding with non-state actors to impose individual restrictions. In this instance there is a geographic component to the state’s incentive to collude with non-state actors to impose individual restrictions on activists. My analysis of case evidence highlights that the state uses collusion to reach activists in rural locations or to impose the most severe individual restrictions, such as severe forms of prolonged torture and the murder of activists. However, there are some important differences to the other countries in this study.

Perhaps the most striking is that the state and non-state agents in Zimbabwe do not take any steps to distance their actions from one another. This is best demonstrated through activists being abducted and tortured by militias who then passed the activists back to the police for further interrogation. While in other cases, we may expect the state to at least be seen as conducting an investigation, my case evidence from Zimbabwe highlights that the police actively discourage and block activists from holding militias to account. These close linkages between the state and non-state actors illustrate how collusion between state and militias is commonplace in Zimbabwe. It also means that the state is confident that in the absence of independent institutions, competitive elections, or a free media, the state will not face audience costs for failing to protect activists (*see* Powell and Staton, 2009: 151; Conrad and Moore, 2010: 473).

Most importantly, using a variety of data sources I reveal that non-state actors frequently impose individual restrictions that seek to endanger activists or subject them to physical harm.

The data presented throughout this chapter would appear to suggest that in some cases, states and non-state actors adapt and tailor their operations in response to international criticism and the intensity of NGO “naming and shaming”. More specifically, in more democratic countries, groups that work on behalf of the state take proactive steps to conceal links with the state and invest considerable effort in ensuring that their activities are deniable.

In an important contribution of this study, both testimonial and documentary evidence reveals that activists are more scared of restrictions by non-state actors in all cases. This

is partly because activists view non-state actors as more free to impose individual restrictions and see less opportunity to hold these groups to account for their restrictions.

In a telling indication of collusion, all activists affiliated to independent NGOs who participated in this study feel they are unable to distinguish or delineate between state and non-state actor restrictions. Non-state actor restrictions were often viewed as the “same” as or a “different arm” of the state. It would also seem that the evidence presented in this chapter offers strong evidence that a number of restrictions perpetrated against human rights NGOs go undocumented and are strongly linked to state activities.

In the next chapter, I seek to understand how these restrictions actually influence NGO activity. While it may seem logical that individual restrictions may be more effective in reducing NGO advocacy, there is a serious gap in the literature to support this assertion. In the final empirical chapter of this dissertation, I seek to remedy this gap by assessing how NGOs respond to restrictions imposed by non-state actors.

Do Restrictions Impact on NGO Activity?

Introduction

In the previous two empirical chapters, I have examined evidence to assess whether states collude with non-state actors to impose restrictions on human rights NGOs. In doing so, I have also examined which types of restrictions they are most likely to allow non-state actors to impose. In this chapter I shift my focus to examine the impact of these restrictions on NGO activity. I aim to unpack the theoretical distinction made in Chapter 2 between individual restrictions that target activists and organisational restrictions that target NGOs. My focus is to explore whether individual restrictions are effective at reducing NGO activity. In developing this argument, I draw from contemporary approaches that view restrictions on NGOs as a method of controlling the dissemination of information on human rights abuses being disseminated to domestic and international publics (cf. Keck and Sikkink, 1998; Risse, Ropp and Sikkink, 1999; Smidt et al., 2020).

In Chapter 5, case evidence from Bangladesh, Israel and the Occupied Territories, and Zimbabwe would suggest that states primarily collude with non-state actors to impose individual restrictions. For example, in Bangladesh and Zimbabwe there is evidence to support the assertion that states are complicit in allowing non-state actors to perpetrate serious restrictions including enforced disappearance, torture, and extrajudicial killing of activists. In Israel and the Occupied Territories, the data discussed in Chapter 5 would appear to highlight that non-state actors impose individual restrictions in the form of smear campaigns with a view to discouraging public criticism of Israel's human rights record. Findings from Chapter 5 also suggest that activists are more fearful of individual restrictions imposed by non-state actors.

Yet there has not been a systematic examination of how individual restrictions influence NGO activity. In this chapter, I seek to investigate proposition three as outlined in Chapter 2. For reference, I restate this proposition below:

3. *Individual restrictions are effective at reducing NGO activity by creating fear among activists.*

In this chapter, I find evidence to suggest that individual restrictions impose a high toll on activists' physical safety and mental well-being. Case evidence from Bangladesh, Israel and the Occupied Territories, and Zimbabwe highlights that for activists, the costs of adaptation to individual restrictions are high. In Israel, although I find less evidence of individual restrictions imposed on Israeli activists, my data show that participants in this study felt additional pressure to ramp up advocacy in support of Palestinian activists facing individual restrictions. My analysis uncovers that the imposition of individual restrictions can leave activists fearful, isolated, and unable to take part in human rights advocacy. When the frequency of individual restrictions is high, unsurprisingly I also find that advocacy on human rights issues quickly drops. In Bangladesh, the Occupied Territories, and Zimbabwe, evidence highlights that states have a preference for using individual restrictions against activists when they expose human rights violations on an international stage. However, and remarkably, while these individual restrictions are successful at creating fear among activists, they are not always successful at discouraging activists from continuing their work.

While organisational restrictions may place less stress on activists, I find that they can still be used by states to distract NGOs away from advocacy on human rights issues. In Israel, evidence suggests that the state uses organisational restrictions to prevent advocacy

by human rights NGOs by stopping funding, censoring, or banning an organisation entirely. In response NGOs are forced to shift focus and lobby against measures that threaten their operation, which can decrease advocacy output. In Bangladesh, I also find evidence to suggest that certain types of organisational restrictions, such as state co-optation of staff members and freezing of bank accounts, can be particularly effective at reducing critical advocacy. In all three cases, I find evidence that NGOs adapt by taking measures to protect their organisation. These include hiding office spaces, moving operations to other countries, offering staff psychosocial support, and lobbying donors for flexible funding to shift approaches to work quickly and adapt to new restrictions. Importantly, I find that some NGOs working on specific issues, such as sexual minority rights, and certain human rights defenders, notably women human rights defenders face higher costs of restrictions than other human rights NGOs and activists.

Crucially, and of critical importance for this study, my analysis of case material reveals that both organisational restrictions and individual restrictions can be imposed simultaneously by both state and non-state actors. I now turn to evidence from each of my cases, starting with Bangladesh.

Bangladesh

NGO Experiences of Restrictions in Bangladesh

Organisational Restrictions

When engaging with activists, it became clear that organisational restrictions could influence the advocacy output of targeted NGOs. In Bangladesh, data by Bakke, Mitchell and Smidt (2019) would suggest that NGOs have primarily experienced organisational restrictions from the state. As discussed in Chapter 4, these have mainly taken the form of bureaucratic and legal restrictions that impose additional requirements when

registering with the government and accessing foreign funding.¹¹¹ It is clear that a number of these restrictions have forced NGOs to adapt. As one activist in Bangladesh reported, legislative restrictions had created obstacles for their NGO's ability to receive international funding. In turn, this led to a demonstrable decrease in the organisation's national network as it struggled to finance its national network of activists. Similarly, at an operational level, if an NGO was unable to operate legally, it may become harder for the organisation to be viewed both domestically and internationally as a legitimate source of reliable information. Therefore, there is a negative reputational impact that comes with barring registration. During an interview, an activist affiliated with prominent human rights NGO Odhikar noted how this chain of events influenced their operational capacity.

They said:

“The impact of these restrictions is enormous. Because of persecution against us, we can't keep staff. We aren't able to pay staff as our bank accounts are frozen and our registration with the NGO Affairs Bureau hasn't been renewed. It is still pending. So, we are stuck. This means you can't receive anything [funding] from abroad. It is only as a result of our network of national human rights defenders, that we can keep going. But even that has reduced from 40 states to 25, as we can't pay all of them for their work.”

Interview with a human rights activist, Dhaka, Bangladesh. 18 July 2019.

Commensurate with a decrease in resources and increasing inability to fund a national network, it is also plausible to expect a decline in the collection and dissemination of information on human rights violations and NGO campaigning capacity. Documentary

¹¹¹ For example, the Foreign Donations (Voluntary Activities) Regulation Act (2016) enables authorities in Bangladesh to withhold or reject an NGO's registration for anti-state activities, making malicious and derogatory statements against the Constitution and constitutional bodies of Bangladesh, subversive activities, financing and sponsorship of terror and militancy, and trafficking in women and children. For further information see Rahman and Ahmad (2016). The Information Communication Technology Act (2006) permits the detention of activists on vague grounds: “If any person deliberately publishes or transmits or causes to be published or transmitted in the website or in electronic form any material which is fake and obscene or its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it, or causes to deteriorate or creates possibility to deteriorate law and order, prejudice the image of the State or person or causes to hurt or may hurt religious belief or instigate against any person or organization, then this activity of his will be regarded as an offence.” For further information see International Center for Not-for-Profit Law (ICNL) (2020). For examples of how these laws have been misused to target activists see CIVICUS (2017: 3-8).

evidence would seem to support this assertion. In 2010, Odhikar had projects documenting torture cancelled after participating in the UPR process (U.S. Department of State, 2011a). In 2014, Bangladesh's NGO Affairs Bureau failed to renew Odhikar's NGO registration, leaving it unable to access its organisational bank accounts (Odhikar, 2018b). From its formation, Odhikar produced monthly documentation reports detailing cases of human rights violation across Bangladesh (*see* Odhikar, 2020), as used in this study. Yet by 2019, Odhikar lacked the resources to produce monthly reports and decreased its activity, producing quarterly reports to compensate for its lack of capacity (*see* Odhikar, 2019). In its 2019 annual report, the organisation reported that it needed "to practice restraint in its reporting" (Odhikar, 2019a: 2), presumably to ensure the safety of individuals affiliated with the NGO. In an interview with an activist affiliated to Odhikar, the proposed link between organisational restrictions and documentary capacity became even clearer. They said:

"After all of this happened [organisational restrictions], we had to reduce our activities. We used to do monthly reports; now we can only manage one every three months. We do what we can, but we couldn't keep some of our best people because we couldn't pay their wages. You can only get so far on donations and goodwill."

Interview with a human rights defender, Dhaka, Bangladesh. 19 July 2019.

Case evidence would suggest that when faced with organisational restrictions NGOs are far from passive. Continuing with the example of Odhikar, the NGO tried on multiple occasions to legally challenge the state's strategy from 2014 of leaving its application with the NGO Affairs Bureau pending. Despite uncertainty over its registration with the government, Odhikar has continued to operate as a network of activists and volunteers, while being unable to receive funds legally. However, as highlighted in an interview with the organisation's legal representative, the process for challenging the state can be expensive and time consuming. In an interview they said:

"To be frank, the odds are against us. Our case is strong, but legal processes here, especially if the state is involved, are long-winded. The strategy of failing to

respond to Odhikar's application is clever, because in the eyes of the law they have grounds to argue that they haven't done anything wrong. And, they know Odhikar is still operating without a licence which makes things more tense."

Interview with a human rights defender, Dhaka, Bangladesh. 16 July 2019.

In this instance perhaps the largest impact of legal restrictions against NGOs was the time involved in attempting to either oppose them or formulate an adaption strategy.¹¹²

Another organisational restriction is co-optation of staff or board members. In Bangladesh, the example of one of the organisations discussed at length in Chapter 5, ASK, offers a useful insight. Since its foundation in 1986, ASK had gained a reputation as one of Bangladesh's most prominent human rights NGOs for its vocal "naming and shaming" of Bangladesh in international fora (*see* Ain O Salish Kendra, 2008). However, from 2017 there have been a number of questions raised by domestic, regional, and international human rights networks over ASK's independence.

In a striking indication of a shift, between 2009 and 2017, ASK released an annual human rights report documenting key human rights violations in Bangladesh. The reports heavily emphasised the use of enforced disappearance, torture, and extrajudicial killing through the presentation of verified portraits of victims, statistics on the frequency of the violations, and details of ASK's advocacy activities to seek justice for the victims or their families (Ain O Salish Kendra, 2009: 16-17, 2010: 23-28, 2011: 9, 40, 2012: 1-5, 2013: 16-18, 2014: 4-5, 2015: 29-32, 2016: 10-13, 2017: 11-12, 14-15). Yet from 2018 ASK stopped producing these reports. Instead, the organisation appeared to refocus efforts away from contentious issues such as enforced disappearances and torture to other subjects such as the rights of children (Ain O Salish Kendra, 2020) and protection of children from online sexual exploitation (Ain O Salish Kendra, 2019).

¹¹² These adaption strategies are discussed in the next section.

One explanation for this shift was the appointment of a new Executive Director, Sheeba Hafiza in 2017. While Hafiza clearly has a background in human rights activism, particularly on gender justice and poverty reduction (*see* The Daily Star, 2017), her appointment provoked criticism from the domestic human rights community. Perhaps the most controversial aspect of Hafiza’s appointment relates to her connections to the AL. Hafiza’s older brother, AK Abdul Momen, is currently serving as Bangladesh’s Minister for Foreign Affairs for the AL government (Ministry of Foreign Affairs Bangladesh, 2020). Activists, including current members of staff working for ASK, openly noted that Hafiza is known to take time off from overseeing ASK to campaign on behalf of her brother and the AL.¹¹³ In an explanation for the shift in activities, Hafiza has commented that when ASK highlights issues of enforced disappearance, extrajudicial killing and torture “allegations” are raised against the organisation (Forum Asia, 2019). Instead, she highlights ASK’s work with Rohingya refugees from Myanmar and children’s rights as areas of success (Forum Asia, 2019). Both areas are issues on which the ASK has helped to paint the government of Bangladesh in a more positive light among the international community.¹¹⁴

During fieldwork this dynamic was mentioned by several interviewees, with particular reference to how organisations such as ASK had switched focus and now actively campaigned against other independent groups. For example, one activist said:

“Pro-government NGOs very actively campaign against us. In Bangladesh a section of the NGOs work to support the government: one country, one leader, one nation. This is ultra-nationalism...But there are others, old human rights groups, we work with them where we can. The government openly boasts that it has “gained control” of them. They say the right thing and they won’t criticise

¹¹³ When I visited ASK, I had initially hoped to meet with Hafiza. However, on arrival I was informed that she was out of the office “campaigning”, which a junior staff member later clarified as working to support the government with efforts to assist Rohingya refugees in Cox’s Bazaar.

¹¹⁴ The government of Bangladesh has consistently received praise from the international community for hosting Rohingya refugees from Myanmar and for reforming child labour rights.

any major issues [such as torture or extrajudicial killing], they take their funds from the government, they receive funds from abroad without any problem. They inform the government of what we say within civil society during meetings. I don't blame them; it is easier to be a GONGO in Bangladesh these days. But it creates fear and disunity within civil society."

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

Given that I wanted to engage with a wide variety of perspectives during fieldwork, I interviewed several staff members of ASK. During interviews, it was clear that they would not raise issues related to serious human rights violations such as enforced disappearance and torture. In one interview with an ASK staff member, I was asked to stop recording after asking a question about the organisation's historical documentary programmes on torture and extrajudicial killing. I was then asked to sign a letter to the government to declare the intention of my visit to Bangladesh and provide ASK with a copy of my passport. It was firmly stated that the interview would be finished if I did not oblige and I would be asked to leave. When asked directly about whether they experience any restrictions, the ASK staff member claimed that there were no restrictions on civil society in Bangladesh. A transcript from the interview highlights their unwillingness to talk about state restrictions on civil society. They said:

"There are no obstacles from the government, we haven't experienced anything like that. No restrictions, no problems operating or organising meetings..."

Interview with a human rights defender, Dhaka, Bangladesh. 17 June 2019.

For the rest of the interview, the staff member talked about ASK's work supporting the government of Bangladesh's efforts with Rohingya refugees from Myanmar in Cox's Bazaar. Shortly after the meeting with ASK took place, I was informed that I was being monitored by individuals in plainclothes.¹¹⁵

¹¹⁵ I was warned that this may happen by other local independent NGOs. As a result, I purposefully left this interview until I had met with activists who were under threat. For the remainder of my trip, I met with other NGOs that were openly working with the government on less contentious issues.

A similar experience happened when interviewing the Bangladesh Legal Aid Services Trust (BLAST), where participants asked for the interview to end when I asked them about state restrictions on their work. This approach was a drastic change in public communications as compared to both ASK and BLAST's inputs to Bangladesh's 2009 UPR, where both NGOs were openly critical of the government.

Evidence surveyed in this section using the examples of Odhikar, ASK, and BLAST shows that organisational restrictions have medium-term to long-term impacts on NGO operation. While these restrictions and their effects are often not immediately felt, the cascading impact of organisational restrictions can lead to declining advocacy outputs or a dramatic change in area of focus to less contentious issues. In the case of Odhikar, sequential organisational restrictions from project bans to the failure to renew its organisational NGO licence and freezing of its bank accounts led to an exodus of staff. In turn, this led to an eventual decrease in Odhikar's national network and a connected decline in advocacy.

With ASK, organisational restrictions entailed an apparent co-optation of its leadership. In the light of this, ASK shifted from producing documentary evidence on serious human rights violations such as enforced disappearance to safer and less contentious subjects. While the organisation still produces advocacy outputs, the content of those outputs has changed considerably. The long-term impacts of this shift may influence ASK's standing within international human rights networks. For example, during my time in Bangladesh, I met with several staff from leading human rights INGOs, who openly stated that their organisations will not work with ASK anymore. When asked why, they stated that with such questions over the organisation's independence, the accuracy of its reporting could no longer be trusted.

Individual Restrictions

I begin by once again looking at Odhikar in Bangladesh. In the previous section, I cited an excerpt from an interview where an activist affiliated with Odhikar suggested that organisational restrictions led to a lack of resources which in turn left the NGO unable to pay its national network. Later in the same interview, the activist drew attention to the fact that their network had also faced restrictions aimed at individuals. The activist said:

“As I said, we used to have a network in 40 districts but now only in 25. And these people take huge risks to document human rights violations. Many of them have been abducted, tortured, detained, or even killed.”

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

This would appear to bring in a further dimension to the evidence outlined in the previous section by adding individual restrictions to organisational restrictions. In 2017, prior to Odhikar’s reduction of activity from monthly to quarterly reports in 2019, the NGO stated that its network was under pressure. In Odhikar’s monthly documentation report for February 2017, the organisation states that “human rights defenders who are associated with Odhikar are being watched and sometimes harassed” (Odhikar, 2017: 23). The report goes on to document the murder of Abdul Hakim Shimul, who the NGO states was “associated” with Odhikar (2017: 23) as part of its national of human rights network. On 2 February 2017, Shimul was fatally wounded after being shot by an AL leader while attempting to photograph evidence of human rights violations during infighting between rival factions of the BCL.

According to Odhikar, fighting between rival factions of the BCL had erupted over a disputed building contract tender, which led to clashes (Odhikar, 2017: 10). A report by the INGO Front Line Defenders (2017) states that the mayor of Shahzadpur municipality, Halimul Haque Miru arrived brandishing a shotgun accompanied by members of the BCL

aligned to him. Video footage of the incident captures clashes between two groups of young men, believed to be members of rival BCL factions, carrying machetes and poles, with an individual walking behind one group carrying a shotgun (*see Dhaka Tribune, 2017*). According to Front Line Defenders (2017), after spotting Shimul attempting to photograph the incident, Miru shot him several times. The activist died in hospital the next day from injuries sustained during the attack (Front Line Defenders, 2017). The case attracted international attention from a variety of INGOs (*see Front Line Defenders, 2017; International Federation of Journalists (IFJ), 2017; Committee to Protect Journalists (CPJ), 2017; Article 19, 2018*), meaning that there was some pressure on the state to act.

The AL responded to growing international criticism by expelling Miru and immediately arresting eight people in connection with the murder (*bdnews24.com, 2017*). After a further investigation, state prosecuting authorities brought charges against a total of 38 people in connection with the case (*New Age, 2019*). From the pattern of collusion with non-state actors such as the BCL and the RAB discussed in the previous chapter, it would appear that state prosecution of individuals involved in repressing human rights defenders would be contingent on domestic and international awareness of an issue.

The point here is to outline that there were individual restrictions imposed on human rights defenders, especially in rural areas. Further, the evidence would suggest that the state in Bangladesh initially used organisational restrictions in an attempt to stifle Odhikar's work. When that failed to quell the NGO's documentary activities, non-state actors affiliated to the state took to using individual restrictions against activists. Considering that after 2014 Odhikar was effectively an illegal NGO and was unable to pay its network, working for the organisation may have been an increasingly unappealing prospect. By 2017, despite Odhikar's efforts to continue to work, the murder of

individuals such as Abdul Hakim Shimul by the BCL, coupled with escalating threats against local human rights defenders, may have provided additional disincentives for local activists. These issues are likely to have been a cause for serious concern for members of Odhikar's network, dropping from 40 districts to 25, which may have been a contributing factor in individuals' decision to abandon their association with the NGO. This cumulative impact of multiple restrictions may explain Odhikar's cited decrease in its national network and attendant decline in advocacy.

The events outlined above and in the previous section highlight two key findings. Firstly, in Bangladesh state restrictions and non-state actor restrictions on NGOs can happen simultaneously, making it difficult to isolate the impact of each restriction. Secondly, the threat of physical violence in addition to a lack of financial incentives may discourage activists from engaging in human rights activism.

Importantly, the example of Bangladesh highlights the psychological burden of fear of severe restrictions. A key consequence of individual restrictions is the psychological trauma involved in fearing restrictions such as arrest, torture, or disappearance, or seeing friends and co-workers subject to these restrictions. The imposition of these restrictions can have a ripple effect on other activists. One of the issues that became clear in interactions with activists was the fear of always thinking that something could happen to themselves, a co-worker, or a member of their family. During one interview, an activist highlighted the impact of this constant concern and balancing it with keeping the attention of the international community:

“If I could stop tomorrow, I would – especially for my children. I’d love to give this all up [human rights activism], but I’m stuck. I’ve come too far now. It’s a bit like walking a tightrope. If I stop now, I’ll lose the protection of international groups like Human Rights Watch, FIDH, CIVICUS. They’ll [the state will] come for me straight away. So, we’re always trying to say something controversial about human rights. Always trying to stay relevant. But we have to be careful not

to be too controversial, too critical, otherwise they will definitely come for us. This is what I mean about a constant tightrope. We're stuck."

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

A recurrent theme when in the field was a feeling that activists would be extremely fearful of the impact of restrictions on their families or co-workers. As noted in the excerpt above, activists, particularly those in prominent leadership positions in particular, felt these restrictions acutely as they carried the additional burden of concern for the safety of their staff members.

NGO Adaption to Individual and Organisation Restrictions in Bangladesh

Adaption Costs for NGOs in Bangladesh

In response to restrictions, NGOs are often forced to adapt. For example, after Odhikar had projects cancelled, it collaborated with INGOs such as Front Line Defenders to advocate for the repeal of restrictions (Front Line Defenders, 2009). These INGOs then took up the cause and called upon Bangladeshi authorities to protect activists and take steps to improve the environment for human rights defenders. This is the most obvious adaption strategy used by groups such as Odhikar in Bangladesh.

Yet restrictions clearly also influence the way that NGOs operate. During an interview with Odhikar staff members, I was able to understand how these restrictions influenced the organisation's operational arrangements. Perhaps the most obvious was a drastic drop in staff members as the organisation had projects banned and was unable to complete projects for donor organisations. This then had a further impact on the organisation, as it struggled to attract funding for future projects by being viewed as "too dangerous", "too political", or simply "unreliable" by donor organisations.¹¹⁶ Interviewees stressed that as

¹¹⁶ This became clear after spending time at Odhikar's offices and speaking to all staff and affiliated members.

their work was increasingly dangerous, it was difficult to attract staff to work for them.

In an interview, a member of staff said:

“We used to have 19 staff. Now we are five and most of those are volunteers. Yes, repression is a problem and people are scared to work for us. But at the same time, since we’re unable to receive funds we can’t pay people. We survive on donations and the goodwill of our members, but this arrangement is not sustainable. So, they get you from both angles. This is why connection to international groups is key to our survival now.”

Interview with a human rights defender, Dhaka, Bangladesh. 18 July 2019.

In this instance the cumulative impact of both organisational and individual restrictions had left Odhikar unable to maintain staffing levels due to financial problems and staff being scared about working for the organisation.

One way of mitigating risks faced by human rights NGOs was to hide contentious activities from the state. In some cases, this took the form of attempting to mask an organisation’s activities or make them appear less confrontational. For example, one activist in Bangladesh noted that they did not advertise where their organisation was located for fear of persecution by state and non-state actors. During an interview they commented on the strategic decision to physically hide their organisation’s premises:

“You’ll notice on the door, there is no sign for [the NGO]. Instead, you’ll just see the name of my law chambers. This is protection. You’ll notice we share our office with a branch of the [INGO]. This is also protection. They know what is happening to us and helped by placing international staff here in case something happens. We have to have guards outside, 24 hours a day. Again, in case we are raided, or they try to abduct someone. We know we are being watched constantly. How can we possibly operate effectively under these circumstances? We try, but this situation is impossible.”

Interview with a human rights defender, Dhaka, Bangladesh. 17 July 2019.

In Bangladesh, individual restrictions have created an environment where physically operating as a critical NGO can be almost impossible. International cooperation seems to have the potential to make the situation either better or worse. On the one hand, international collaboration can help protect activists from severe individual restrictions,

but on the other, it can create an environment of suspicion around their activities. As discussed in the previous chapter, Odhikar's connections to INGOs was often cited as part of the reason that the organisation is under constant surveillance.

Other NGOs were forced to adapt, but part of the costs of adaptation was to forego a physical office space where staff could meet and coordinate activities. Without a physical office, it was made clear that the costs of safely organising meetings with local human rights defenders or INGOs had risen dramatically.

Activist Adaption to Individual and Organisation Restrictions in Bangladesh

Adaption Costs for Individual Activists in Bangladesh

Restrictions can also prevent activists from passing information onto international allies. Case evidence from this study would indicate that states and non-state actors can keep activists under the constant threat of violence or continuous individual harassment and surveillance, making it harder to continue their work. This is something I experienced first-hand. During fieldwork, I was asked to meet with a student activist affiliated to several prominent NGOs in Bangladesh who had been involved in coordinating student protests in 2018 (*see* Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020; Human Rights Watch, 2018). While the activist had proactively asked to be interviewed, I was informed that this would be a dangerous meeting as the activist openly stated they were under constant surveillance. My instructions were to arrive by rickshaw and change drivers at least twice, and then to walk for the final part of the journey. The location of the meeting was only given minutes before the interview. I was instructed to go to a middle of a park that was unlit and pitch black. The park was purposefully next to a busy road to ensure that any audio recording equipment would not be able to capture the conversation. Unfortunately, this also meant that my recording

device only clearly captured the first few moments of our seven-minute conversation.

The activist said:

“Bhai [brother], it is not safe for us here. We must be fast. I led the biggest student movement across the country, and I am being watched. This is what happens to successful activists. I was held and tortured for 15 days for leading this movement for my work. These are the lengths we must go to now. This is the way things are for us now. It is not safe here.”

Interview with a human rights defender, Dhaka, Bangladesh. 20 July 2019.

In this example, the effort involved in safely organising meetings had risen to the point where the activist had become isolated from other parts of the domestic and international human rights movement. Even meeting with other individuals had become extremely challenging. The individual restriction of constant surveillance had made it too dangerous for this activist to participate meaningfully in human rights advocacy.

In a recent report examining the 2018 protests, international and regional human rights groups Front Line Defenders, CIVICUS and South Asians for Human Rights (2020), noted that student activists in Bangladesh “continue to face surveillance, intimidation and harassment long after protests ended illustrating how repression extends beyond detention, which effectively silences future dissent” (Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 4). In particular, these activists faced the dual threat of surveillance from the state, and the BCL, which was used as an “auxiliary force” by Bangladeshi security forces to perpetrate violence against protesters (Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 9). Evidence from international groups would suggest that students prominently involved in the 2018 protests continue to experience restrictions such as surveillance from state and non-state actors to this day (Human Rights Watch, 2018; Front Line Defenders, CIVICUS and South Asians for Human Rights, 2020: 4-6).

This strategy of continually imposing individual restrictions on prominent individuals had the impact of leaving these protest movements effectively leaderless. Individual restrictions were therefore effective in obstructing the mobilisation of these groups and it was often cited that targeting leaders “sent a message” to participants, which discouraged continued participation.¹¹⁷ While challenging to quantify, it should be acknowledged that these individual restrictions created a climate of fear among activists, which acted as a deterrent to advocacy.

Case evidence from Bangladesh presented in this chapter provides contrasting results. On the one hand case it demonstrates that individual restrictions are indeed effective at reducing NGO advocacy. Individual restrictions force both activists and NGOs adapt in complicated ways. My interview data in particular show that individual restrictions can leave activists fearful and unable to participate in human rights activity, a finding that provides strong support for proposition three. This is because the adaption costs to individual restrictions can take a high toll on activists’ physical and mental well-being which in turn, can cause participation in NGO activities to decrease. Yet I also find evidence that both individual restrictions and organisational restrictions can be imposed simultaneously. Findings from Bangladesh demonstrate that the impact of restrictions should be viewed as cumulative rather than singular.

Israel and the Occupied Territories

NGO Experiences of Restrictions in Israel and the Occupied Territories

Organisational Restrictions

Activists in Israel stated that the efforts to lobby against organisational restrictions, and the resources that this requires, can be a distraction from their mandated activities. For

¹¹⁷ This is a theme that was consistently mentioned by activists during fieldwork in Bangladesh.

example, B'Tselem has faced threats, project bans and repeated organisational smears (U.S. Department of State, 2010c; 2015b). In the time period assessed in this study, B'Tselem has devoted significant effort to advocating for the repeal of organisational restrictions. In B'Tselem's (2017) annual report, the NGO highlighted its domestic advocacy to lobbying against "several bills that intend to obstruct human rights work" (ibid.: 21). While essential to ensure its survival, these efforts surely involved investing resources away from B'Tselem's central mission to "end Israel's occupation" (B'Tselem, 2020).

In 2018, a draft bill was rumoured to include provisions to prosecute individuals found filming Israeli soldiers. Perhaps most provocatively, the draft bill was thought to explicitly mention B'Tselem, as well as other NGOs, Breaking the Silence and Machsom Watch, in relation to the intent to disrupt their documentary activities. The draft measures were openly packaged as a purposeful attempt to prevent human rights NGOs documenting human rights violations against civilians (B'Tselem, 2018: 18; *see also* Greenslade, 2018). Israeli officials played up to the fears of civil society. For example, the minister who proposed the bill, Robert Ilatov, was quoted in multiple international media outlets saying the bill would end the "absurdity" of IDF soldiers being prosecuted for human rights violations after investigations by Israeli NGOs (Al-Jazeera, 2018; Heller, 2018).

In the preceding years, Israeli authorities had proposed a number of legislative restrictions on NGO funding (Times of Israel, 2016) and NGO tax statuses (Lis, 2017), and had even put forward draft bills to ban certain NGOs from addressing children in Israeli schools (Wootliff, 2017). In response, in 2018, Israeli human rights NGOs launched a coordinated campaign against the text of the draft bill banning the filming of Israeli

soldiers. B'Tselem, alongside other Israeli NGOs including Breaking the Silence, Machsom Watch, and the New Israel Fund, dedicated itself to opposing the bill through debates and press appearances (B'Tselem, 2018; New Israel Fund (NIF), 2018). To the surprise of the NGOs, the final text contained no provisions regarding the filming of IDF soldiers. Rather, the bill only ever contained articles that would make “obstructing” an IDF soldier punishable by law (Gur, 2018). Domestic journalists later noted that the inflammatory and aggressive rhetoric by Israeli officials was a tactic to appeal to right-wing voters and distract human rights NGOs (Gur, 2018).

By analysing this interaction between NGOs and the state, it can be seen that human rights groups in Israel may dedicate significant resources to opposing state organisational restrictions. Crucially, this can be exploited by the state to provoke a response at the expense of NGOs’ time, energy, and money. Evidence would also suggest that inflammatory rhetoric against human rights groups is a favoured tactic in Israel that can sometimes be followed up with tangible action. Around the same time as concerns over the draft bill, the Deputy Minister for Public Affairs labelled the aforementioned NGOs as “terrorists” (U.S. Department of State, 2017b) and just a year later, the Israeli state ordered the deportation of Human Rights Watch’s country director (U.S. Department of State, 2019b), as discussed earlier.

As one Israeli activist mentioned during an interview quoted below, constant fear of organisational restrictions forced a change in their fundraising strategy. Israeli NGOs, especially NGOs that regularly criticise Israel’s human rights record, cited the need for long-term flexible financial support that enabled them to shift staff time from discrete projects monitoring human rights issues to opposing restrictions on their activity. This flexibility enabled them to redeploy staff capacity quickly to oppose legislative

restrictions through the coordination of domestic and international advocacy. One NGO worker said:

“These restrictions have a hidden implication on funding. And that is another point we constantly have to make with our funders and explain to them that we divert increasing amounts of time and effort fighting against these restrictions. To be honest, much of this stuff is outside of our organisation’s focus. We’re not just fighting against occupation anymore; we’re now also fighting so we can stay afloat.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

The experiences of Palestinian organisations offers further evidence about the harmful nature of organisational restrictions. The following example also sheds light on the use of organisational restrictions to suppress information. In late 2015 Al-Haq, a prominent Palestinian NGO, suffered a spate of organisational restrictions while providing evidence to the ICC. The timing of the restrictions, which coincided with the NGO’s activities at the ICC that aimed to highlight Israel’s alleged war crimes committed in the Gaza Strip during 2014’s “Operation Protective Edge”, would suggest a desire by the state to prevent the organisation from submitting its evidence (Al-Haq, 2015).

A series of letters purporting to be from the PNA were sent to Al-Haq’s European donors claiming that the NGO was being investigated by financial auditors for “financial irregularities, corruption, fraud and misuse of donations and funds” (World Organisation Against Torture (OMCT), 2016). At the same time, Al-Haq was subject to a sophisticated cyber attack that aimed to access its information and corrupt its files (International Federation for Human Rights (FIDH), 2017). While the accusations of financial mismanagement all proved to be false, Al-Haq was forced to devote time and effort into counteracting the organisational smears. This is confirmed in a report by the UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, who noted that Al-Haq was forced to “expend considerable resources refuting the unfounded allegations” (United Nations Human Rights Council, 2017: 10-11).

A few months later in August 2016, Al-Haq drew attention to the “systematic campaign” by the Israeli authorities against Al-Haq itself and other NGOs – Al-Mezan, the Palestinian Centre for Human Rights, and the Resource Center for Palestinian Residency and Refugee Rights – that aimed to “disrupt” their work at the ICC (Al-Haq, 2016). Despite the organisational restrictions and the distractions from their work at the ICC, it would seem that these restrictions were unsuccessful in preventing NGOs from submitting evidence. In an interview, an individual affiliated with one of the targeted NGOs commented on their experiences:

“The police [in the Netherlands] looked at the case, the prosecutor opened up an investigation, but no suspect was identified. But they also said they have no reason to doubt our story. This was extremely difficult for us. The only thing the prosecutor did say was that this was highly unlikely that a non-state actor would be able to carry out such a sophisticated attack on us. From our point of view, it is plainly apparent who organised this and why.”

Interview with a human rights defender, Ramallah, Palestine. 8 May 2019.

The evidence presented thus far suggests that organisational restrictions can be used to distract NGOs by shifting focus away from core human rights issues and towards efforts to lobby for the repeal of restrictive measures. Further, and as with Al-Haq, they can be used to try to discredit NGOs or suppress their ability to collect and disseminate documentary information.

Individual Restrictions

In Israel, smears against individuals and threats of violence were perceived to increase after inflammatory statements directed at NGOs by public officials. Activists noted that their advocacy has been branded as a “threat to Israel’s security” (Gordon, 2014: 329), that smears have provided fuel for an international “chorus of slander” (Ravid, 2016), and that B’Tselem has been called a “disgrace” (The New Arab, 2018), and identified these as moments that threatened the security of their staff. In this context, NGOs were forced

to take steps to protect the physical security and mental health of staff. During an interview, one activist commented on this, saying:

“We take a lot of care over the safety of our staff. We take precautions that I don’t want to discuss, but we have to make sure everyone is safe. We give our staff psychological support. Even my granny has even received threats over the work that I do. That’s how deep seated this is. And it gets worse if an Israeli politician says something about us.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019.

As mentioned in the above quotation, individual restrictions often mean that NGOs need to dedicate further resources to ensuring that the physical and mental well-being of staff are protected. Once again, this has a resource implication, especially if NGOs need to offer psychosocial support to staff in order to retain them.

In the previous section, I discussed Al-Haq and how it was targeted by cyber attacks prior to providing evidence to the ICC. While Al-Haq first faced organisational restrictions, which failed to stop its work, the attacks quickly escalated to individual restrictions. For example, following Al-Haq’s activity at the ICC and the accusations it made of Israeli war crimes, Al-Haq’s representative in the Hague, Nada Kiswanson, began to face intensifying individual restrictions. Kiswanson has been documented as facing continuous death threats and smears since 2016. In an interview, Kiswanson described this pattern of interplay between organisational and individual restrictions, saying:

“The attackers’ initial strategy was to try to undermine the support and credibility of the organisation itself. Emails were sent to our donors and partners, with some pretending to be Al-Haq staff members claiming that they were too afraid to criticise or speak out against the organisation. But the attackers realised early on that this strategy was failing; none of the donors and partners bought the lies, and the staff were firmly behind the organisation. So, the attackers decided instead to try intimidating and dissuading individual staff members from continuing their work, to break and weaken Al-Haq’s capacity internally.” (Iraqi, 2016).

From February 2016 onwards, Kiswanson received regular phone calls from unknown individual calling himself “Rami”, who claimed to be Palestinian and spoke in broken Arabic, and made threats including, “we’ll eliminate you off the face of the earth”,

“honey, you are in grave danger” and “you have to stop what you're doing.” (Iraqi, 2016). After the calls started, Kiswanson filed the incident with police in the Netherlands and immediately left the country for fear of her safety. Still, the threats continued. Even when Kiswanson tried to adapt by changing her number (International Federation for Human Rights (FIDH), 2016) the calls continued. Following an investigation into the calls by police in the Netherlands, no number could be traced. This was described as “extremely rare” and the attacks were cited as being “too sophisticated for an individual without the backing of a state” (Van Nierop, 2016: 4). Kiswanson later reported that all of her communication channels had been compromised, including encrypted platforms (Front Line Defenders, 2016b).

After returning to her home in the Netherlands to participate on behalf of Al-Haq at the ICC, Kiswanson arrived at her residence to find a bouquet of flowers, similar to those left on a coffin, accompanied by a note, which stated, “Dear Nada, we appreciate your work, and we’ll take good care of you.” (Front Line Defenders, 2016b). Later, while taking her children to the park, Kiswanson reported that an unknown man in a suit had stared at her for 20 minutes while she pushed her child on the swings (Van Nierop, 2016). By May 2016, hundreds of leaflets were distributed in Kiswanson’s neighbourhood in the Netherlands containing her name, phone number, and address and claiming that she and Al-Haq were “working to strengthen the Islamic base in the country”, prompting a backlash from her neighbours (Van Nierop, 2016: 7). As a dual Jordanian and Swedish national, whenever Kiswanson travelled abroad to see family, she cited that relatives would receive a phone call from “Rami” welcoming her to the country (Iraqi, 2016; Van Nierop, 2016: 8). When discussing her experiences, Kiswanson makes clear that these threats focused exclusively on her home life despite clearly being linked to her professional activities (Van Nierop, 2016: 5). It is clear that these individual restrictions

were imposed with the intention of ensuring maximum impact on Kiswanson's personal life by including her family in the threats. This may have had the impact of making her fear not only for her own safety but also and the safety of her husband and young children. When asked how she coped with these restrictions, Kiswanson has previously replied that "stubbornness" enabled her to continue her work (Human Rights Defenders World Summit, 2018).

While Kiswanson openly states that the Israeli state is behind the attacks (*see* Iraqi, 2016; Van Nierop, 2016), representatives of the state have denied any involvement in attempts to intimidate her. In a statement, a spokesperson for the Israeli Ministry of Foreign Affairs simply said, "we do not react to such preposterous allegations" (Corder, 2016).

Despite the odds Kiswanson submitted Al-Haq's evidence to the ICC, citing that she feared that no one would take on the case if she did not (Van Nierop, 2016: 6). Rather, for protection, Kiswanson took the approach of highlighting the case with international media in the hope of alerting international publics about the threats that she was facing (Iraqi, 2016). In many of these interviews, she "named and shamed" Israel, by stating it was directly responsible (*see* Front Line Defenders, 2016; International Federation for Human Rights (FIDH), 2016; Corder, 2016; Iraqi, 2016; Van Nierop, 2016; International Federation for Human Rights (FIDH), 2017). After an intervention by the ICC, the intelligence agencies in the Netherlands stated that they had begun an inquiry and were "taking this very seriously" by involving international partners in their investigations (Corder, 2016). In an interview, an activist affiliated with Al-Haq commented on how the situation ended and in particular how international connections helped to protect Kiswanson. They emphasised that information and Al-Haq's connections with

international groups helped to end the harassment of the organisation. During an interview, they said:

“Once the ICC got involved, everything stopped. Once Nada went to the media, they backed off. She also went on maternity leave around that time, and we really started to take online security really seriously. We changed her email and changed our cyber security protocols. But we just don’t know why these things stopped, it’s probably a combination of all of them. At that point, we’d handed over the case to the ICC and they might have realised that it was pointless to pressure Nada and instead they focused on trying to pressure the ICC. It’s probably a combination of all these things. We can only speculate to be honest.”

Interview with a human rights defender, Ramallah, Palestine. 8 May 2019.

Using the example of Al-Haq at the ICC, I have aimed to highlight how organisational and individual restrictions can be used in an attempt to curtail NGO activity by states. In this instance, individual restrictions were used as an additional tactic when organisational restrictions failed to prevent “naming and shaming” by NGOs. In the case of Al-Haq and Nada Kiswanson, unknown attackers went to considerable lengths to try to weaken Al-Haq’s institutional capacity and prevent it from passing information to its ICC representative. When that failed, it is plausible to suggest that the state, or individuals in close proximity to the state, used individual restrictions to try to isolate and intimidate Kiswanson to prevent her from submitting sensitive information to the ICC. However, the activist used international connections to protect herself (*see* Iraqi, 2016; Van Nierop, 2016). As international awareness increased, the Israeli state took steps to distance itself from restrictions imposed against both Al-Haq and Kiswanson. Despite the organisational and individual restrictions, Kiswanson and Al-Haq submitted thousands of pages of evidence to the ICC alleging war crimes and crimes against humanity (Al-Haq, 2016; Human Rights Defenders World Summit, 2018).

NGO Adaption to Individual and Organisation Restrictions in Israel and Palestine

Adaptation Costs for NGOs in Israel and Palestine

In Israel and Palestine, NGOs can be seen to be quickly adapting to restrictions. For example, since 2008, B'Tselem established satellite staff members in the USA, dubbed "B'Tselem USA" (B'Tselem, 2009: 7-8). In doing so, the organisation claims it was able to mobilise "awareness of human rights in the American Jewish community" and to be able to "name and shame" Israel from outside the state. Furthermore, from 2011 B'Tselem began using staff members based in Europe who worked to "inform governments...[of] human rights issues in the Occupied Territories" (B'Tselem, 2011: 2). It would seem that B'Tselem adapted to growing hostility by attempting to build support for its work from abroad.

Perhaps the most obvious restrictions imposed by Israeli authorities were measures to challenge NGOs' access to external funding (U.S. Department of State, 2009, 2010, 2011b, 2012a, 2013, 2014, 2015, 2016). Given these restrictions, evidence suggests that Israeli NGOs adapted. As B'Tselem staff had not faced any travel restrictions, the international component of its working increased. When adapting to restrictions, B'Tselem would appear to have adopted the strategy of increasing international collaboration and took proactive steps to enable staff members to address a variety of international audiences. In response to the 2015 law that obliged NGOs in receipt of over 50 percent of their funding from foreign sources to declare their income in all public communications (U.S. Department of State, 2015b), B'Tselem (2015: 25-26) documents in its annual report that it coordinated advocacy with a variety of Israeli NGOs and other international NGOs such as Amnesty International (*ibid.*: 26). Similarly, B'Tselem indicated that Israeli officials used diplomatic channels to pressure donors such as the EU to cease funding prominent critics of Israeli human rights violations (*see* Ravid, 2015; Ahren, 2016). In response, the annual report notes that B'Tselem organised a meeting with 10 diplomats who expressed "concern about the progress anti-democratic measures

are making in Israel” (B’Tselem, 2015: 26). The director of B’Tselem, Hagai El-Ad, also took the opportunity to address the EU-NGO Forum on Human Rights in December 2015. During his intervention he raised Israel’s new foreign funding law alongside the increasing smears faced by human rights defenders in Israel, both of which were recorded in the conference’s outcome report (Human Rights and Democracy Network, 2015: 10). International groups were also starting to take note; for example global alliance CIVICUS (2015) issued a press statement expressing concern over a “campaign” against NGOs working on politically sensitive issues.

Further, as discussed at length earlier in this chapter, Al-Haq also took the strategic decision to base staff in the Netherlands with the intention of passing information to the ICC (*see* Al-Haq, 2015). After speaking directly to several members of staff, the organisation was forced to employ staff members based in Europe to participate in international human rights mechanisms such as the ICC and the UN Human Rights Council. The decision to base staff in Europe was taken after individuals affiliated to the NGO were repeatedly given travel bans by Israeli authorities (Al-Haq, 2008; 2009a; 2012). In making the change, the NGO bypassed local organisational restrictions to continue advocacy on human rights issues in international fora.

Individual Adaption to Individual and Organisation Restrictions in Israel and Palestine

Adaptation Costs for Individuals in Israel and Palestine

For activists in Israel, it would appear that, in the light of less severe restrictions, adaption costs remained reasonably low. While this might be true, when interviewing Israeli activists, it became clear that they felt additional pressure, despite smear campaigns, to use the relative freedoms they have to continue fighting for the rights of Palestinians or

minorities in Israel. One activist summed up this dynamic during an interview. When asked about how restrictions altered their approach as an activist they said:

“Firstly, solidarity between Israeli and Palestinian activists is everything. We face the same threats, but we have more of a voice. We must stand with the Palestinians and speak with them. We are also open about our aims. When we speak to public, when we speak to government, to foreign diplomats. We don’t seek to hide it. Our objective is to end the occupation. It is as simple as that.”

Interview with a human rights defender, Jerusalem, Israel. 29 April 2019

In this sense, some Israeli activists felt emboldened, or perhaps experienced added pressure, to use the space available to them to fight for the rights of others.

For Palestinian activists, it was clear that individuals had been forced to adapt to individual restrictions. For example, one prominent activist highlighted that they and their colleagues were hesitant before making public statements or posting their views on social media. During the interview they said:

“There is always something at the back of your mind. It’s always there. When you face this kind of aggression, the smears, the restrictions, it changes you. It makes you much more aggressive. You want to write over the top stuff, that shows you are on the offensive, that you punch back. But then I have to stop and think carefully about the consequences. The repercussions for [organisation]. It’s just not worth it. So, you get angrier but wait silently.”

Interview with a human rights defender, Ramallah, Palestine. 8 May 2019.

In this instance it would appear that some activists in Palestine adapted by refraining from offering any personal views on the political situation in Palestine for fear of reprisal. Instead, they later clarified they would only publicise these issues using technical human rights language, rooted in international law, from organisational social media accounts. They noted being openly scared of maintaining personal social media accounts for the sake of their mental health.

In another interview, a Palestinian activist who had spent time representing their NGO abroad highlighted the adaption strategies that had been forced upon them. While initially

being based abroad had helped them lobby foreign states on human rights, they noted that this was no longer the case. The individual smears against them from actors close to the Israeli state had led to a situation where it was impossible for them to engage openly with and lobby with foreign governments. They said:

“They have more to lose than we do [overseas politicians in other countries], they don’t want to be associated with us, they want everything behind closed doors. They have so much more to lose than we do...If a politician is seen to engage with an activist who has been smeared as an antisemite, that is impossible to recover from politically, even in their own parties sometimes. And of course, they know it is not true. It seeps in slowly over time. You lose access and become less effective as an advocate. We are lucky, as we work closely with [prominent Israeli human rights NGO], but it is always such a hostile environment against us, against me.”

Interview with a human rights defender, Ramallah, Palestine. 8 May 2019.

In this instance, organisational adaption by placing staff members in foreign countries had been neutralised by continuous smears against an individual. Therefore, the individual had been forced to adapt by only being able to work in another country by leveraging connections with prominent Israeli activists. While no doubt an effective strategy, it is also clear that this adaption had left them less effective as an advocate for their organisation or Palestinian human rights issues more generally.

Drawing on case evidence from Israel and the Occupied Territories, my analysis shows some support for proposition three. I have shown that individual restrictions – such as those imposed on Nada Kiswanson – can target activists’ personal life in the hope of discouraging them from human rights activity. The impact of these individual restrictions on activists should not be understated. While I find strong evidence that these restrictions do take a high toll on activists’ well-being, I find limited evidence to suggest that the imposition of individual restrictions leads to a clear decline in NGO activity. Rather, I find that in some circumstances it can lead activists to be more determined to advocate on critical human rights issues, as they view restrictions as proof that their activities are working.

Zimbabwe

NGO Experiences of Restrictions in Zimbabwe

Organisational Restrictions

In Zimbabwe, NGOs experience a different range of organisational restrictions. The case of the ZPP, an NGO discussed at length in the previous chapter, provides a useful and illustrative example. In February 2013, ahead of a constitutional referendum, the ZPP's offices were raided by police who seized office equipment and files as well as radios and smartphones that the ZPP planned to distribute to citizens to document instances of electoral violence (Mashingaidze, 2016: 387). The ZPP had been working with international partners on plans to create an early warning system using citizen documentation of human rights violations in Zimbabwe when its offices were raided (Mashingaidze, 2016: 387). As noted at the time by Zimbabwe's umbrella body of human rights NGOs, the National Association of NGOs (NANGO), the raid was a pre-emptive strike to stifle the ZPP's work ahead of the vote. In a statement at the time a spokesperson for NANGO said:

“When you are tracking violence, the point is to have an early warning system in place to come up with appropriate intervention. But when it is criminalised it means there is someone who is intending to ensure violence is not monitored properly.” (Bell, 2013).

In another statement, NANGO members, including the prominent human rights organisation Crisis in Zimbabwe Coalition, commented on the attack, saying it was driven by ZPP's “unpalatable” work of documenting abuses and that the actions of the police were designed to “intimidate” the ZPP and the human rights community (Southern Africa Litigation Centre, 2013). Zimbabwean security forces later justified the raid by claiming they were searching for “subversive material and illegal immigrants” (Amnesty International, 2013). The months before the referendum witnessed an increase in restrictions, with a number of activists arrested (World Organisation Against Torture (OMCT), 2013). Available evidence would suggest that office raids were the

Zimbabwean authorities' preferred tactic. Between January and March 2013, the offices of ZimRights and the Zimbabwe Election Support Network in Harare, and of the National Youth Development Trust in Bulawayo, were all raided by Zimbabwean police on grounds of vague allegations (Newsday, 2013). As with the ZPP, all three of these organisations were actively involved in documenting human rights violations in the run up to the referendum.

When assessed against the broader political backdrop of Zimbabwe's constitutional referendum, it would appear that the office raids on the ZPP and other NGOs were designed to prevent information on state violence reaching broader audiences. However, while the raids were successful in stopping local documentation efforts, evidence would indicate that they also placed an international spotlight on conditions for human rights NGOs in Zimbabwe. Following the raids, a number of INGOs increased communications on Zimbabwe by releasing press statements that called on the government to end harassment of human rights defenders. Organisations such as Amnesty International (2013), Human Rights Watch (2013), the International Commission of Jurists (2013), and the World Organisation Against Torture (OMCT) (2013) all released press statements directly condemning the raids on the Zimbabwean NGOs' offices. Consequently, case evidence would appear to confirm that low levels of organisational restrictions can cause backlash by international allies against states seeking to stifle domestic critics.

Individual Restrictions

Concerns over the safety of activists' families was a recurring theme during fieldwork and was often identified as acting as a deterrent to activists. It was clear that restrictions were particularly acutely experienced if activists had children, as they would fear for their

safety. One activist in Zimbabwe highlighted how they felt when they were told they were being watched. During the interview, the participant said:

“It [surveillance] brings about fear, intimidation. Once I was stopped and told of my routine and that shakes you. They know when I go to work, what road I take, when I leave, where I eat my lunch. If you are not strong enough, I don’t know if that’s the right word, but not committed enough, you question if you have options elsewhere. Why continue to take the risks? Your boss, your colleagues, your friends get arrested. It makes you stop and think, is this what I want to do with my life? Is this safe for me and my family? For my children?”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

While partly outside the period assessed in this study, the case of the ZPP’s executive director, Jestina Mukoko, in 2008 serves to illustrate the types of individual restrictions imposed against activists. After working to document instances of state and non-state actor violence against Zimbabweans through documentary evidence, Mukoko was abducted from her home at 5am on 3 December 2008 by individuals in plainclothes. After being blindfolded and taken away in an unmarked car with no number plate, Mukoko was tortured for 87 days in a bid to extract information on “big fishes” in the human rights movement (The Observatory for the Protection of Human Rights Defenders, 2012: 19). During her unlawful detention, Mukoko was repeatedly assaulted, beaten on the soles of her feet, and subjected to simulated drowning and other acts of humiliation including psychological torture regarding the safety of her children. She later experienced a mock execution, was locked in a freezer, and forced to kneel in gravel with cut knees for several hours as punishment for failing to “confess” to trying to overthrow the Zanu-PF government (The Observatory for the Protection of Human Rights Defenders, 2012: 19). Throughout the prolonged ordeal, Mukoko was repeatedly pressured to reveal the whereabouts of critical human rights defenders.

In an interview some years after these events, Mukoko has been recorded speaking openly of her approach to dealing with prolonged torture. During an interview in 2015, she said:

“Initially, I think I might have screamed once or twice. But later on, I said to myself, I will not give them the satisfaction. They have not won this. I decided I would hold on to that pain while they went on to thrash me. The beating (on the soles of the feet) went on throughout the day and quite late into the night.” (Jestina Mukoko: Torture, 2015).

Mukoko also highlighted that psychological torture “was the order of the day” (Jestina Mukoko - In Mugabe’s Crosshairs, 2012), primarily focusing on her personal life and the whereabouts of her children. Despite the fact that Mukoko had clearly been targeted as a result of her work on human rights issues, her abductors chose to focus on her family life to try and extract a false confession (Jestina Mukoko - In Mugabe’s Crosshairs, 2012).

It was only after an international statement by The Elders, who publicly cited Mukoko’s case and the “flagrant human rights abuses” happening in Zimbabwe (The Elders, 2009), that the Zimbabwean authorities confirmed Mukoko’s whereabouts.¹¹⁸ After 19 days, she was blindfolded and left at a police station, where she was charged and held for a further 68 days by the state (The Observatory for the Protection of Human Rights Defenders, 2012: 20). In later interviews, Mukoko has highlighted that she could not establish the identities of the original captors who had abducted and tortured her. They did not wear uniforms and they drove unmarked cars. She cites that they were “...quite obviously not the police. My thoughts were torn between them being Zanu-PF militia or the Central Intelligence Organisation.” (Jestina Mukoko - In Mugabe’s Crosshairs, 2012).

Although there are a number of unknowns regarding Mukoko’s case, and especially at what point she was handed over to Zimbabwean state authorities, the state’s reluctance to confirm her whereabouts suggests that the state colluded with non-state actors to perpetrate Mukoko’s abduction and then torture to ensure deniability. This was quickly

¹¹⁸ The Elders is a grouping of prominent former global leaders founded by former South African President Nelson Mandela. The group frequently advocates on issues of human rights across the world.

dropped as international awareness over the case increased. It is possible that this came when the state wanted to prove that Mukoko was still alive to quell international criticism that she had been murdered as a consequence of her work.

The example of Jestina Mukoko provides clear evidence that the international community can offer protection to activists facing severe individual restrictions. However, despite the terrible restrictions she endured, Mukoko continued her work. The ZPP continues documenting human rights violations perpetrated by the Zimbabwean state and non-state actors to this day. In 2018 after long-running court case against the state, Mukoko won 150,000 USD in compensation for her abduction, torture, and unlawful detention in 2008 (International Federation for Human Rights (FIDH), 2018). The High Court also ruled that Mukoko could also pursue legal action against the plainclothes personnel who illegally arrested her in their personal capacities (International Federation for Human Rights (FIDH), 2018). Mukoko's experience and the High Court ruling provides further evidence of the nexus between state and non-state actors imposing individual restrictions on critical human rights activists. This incident also further serves to highlight how the use of out-of-uniform personnel can provide a state with plausible deniability for individual restrictions.

As with the experiences of Al-Haq's Nada Kiswanson, somehow Jestina Mukoko and the ZPP managed to continue their work despite the unbelievable pressure. In both cases, a large part of their ability to continue after suffering serious individual restrictions may be attributed to their international connections. Case evidence from both Palestine and Zimbabwe would appear to suggest that individual restrictions against prominent activists can quickly mobilise international allies. In contrast, organisational restrictions may be less likely to garner the attention and assistance of international allies (cf. Bob, 2010).

Therefore, local NGOs may be forced to oppose organisational restrictions without the support of international allies and, as a result, expend more organisational resources. However, despite the value that can come from international connections, the harm individual restrictions cause to activists' mental and physical well-being cannot be understated, as the harrowing experiences of Nada Kiswanson and Jestina Mukoko have served to highlight. The ordeal endured by both activists is likely to have affected them and their personal lives to this day.

NGO Adaption to Individual and Organisation Restrictions in Zimbabwe

Adaptation Costs for Organisations

In Zimbabwe one activist described in great detail the steps their NGO had been forced to take when facing restrictions such as enforced disappearance and torture. These measures included adding security cameras to protect organisational premises, regular check-ins with staff, changing the location of planned activities to avoid alerting Zimbabwean authorities to public meetings, and leaving Zimbabwe altogether.¹¹⁹ One interviewee discussed this at length, saying:

“The most notable impact for us is the restrictions on the space which make our work very difficult. I would say almost impossible in some places. But for our team, it brings this aspect of fear given what we are going through, it is trauma. Our staff are traumatised. You can call it displacement. For example, in the past three weeks we’ve not been in a fixed place for more than a week. We change our routines constantly to protect ourselves. We move our staff constantly in case they are being watched. You constantly check to make sure staff get home ok. It’s extremely tiring after a while and also disrupts our work.”

Interview with a human rights defender, Harare, Zimbabwe. 28 May 2019.

In the quotation above it is possible to see how adaption strategies to protect staff can have an impact on NGOs' programmatic work. In this case, the activist being interviewed was in a leadership position. A theme running throughout this interview was that

¹¹⁹ This is based on all interviews that took place with Zimbabwean activists. Every Zimbabwean activist who took part in this study had implemented some kind of security measure to ensure the physical safety of NGO staff, members, or stakeholders.

leadership in an environment of high restrictions added an additional layer of stress. The interviewee cited feeling less concerned for their own safety than feeling responsible for safety of staff they were managing. This had to be balanced with continuing advocacy and raising funds, so that the NGO could remain financially viable. Later in the interview, the activist clarified the dilemma they faced from a management perspective. They said:

“We are supposed to be working on an EU funding proposal that was due last week. But because my team is scattered, they are disrupted, they are stressed. They are not sure if we’ll even be able to implement the project. Even if we get the money, will it be safe to do the activities? Can I guarantee my staff will be okay and safe when running the project? Will they get home okay to their families? It takes so much longer to organise and coordinate to build momentum around a new idea or project these days. Yes, the donors understand at one level, but on another, at the end of the day they value impact. It looks bad when we do not respond to such calls, or we are late.”

Interview with a human rights defender, Harare, Zimbabwe. 28 May 2019.

Clearly, in this instance the individual felt as though they were being forced to balance the safety of staff with raising funds for human rights programmes. Given the poor economic situation in Zimbabwe, activists in leadership positions of prominent NGOs often cited a tension between needing to maintain organisational resources to keep staff employed and also ensuring their safety.

For some well-resourced NGOs, adaption was enabled by physically moving to locations and operating outside Zimbabwe. A number of prominent Zimbabwean NGOs created satellite offices outside Zimbabwe that were used to coordinate contentious activities. For example, the Crisis in Zimbabwe Coalition set up an office in Johannesburg, South Africa in 2003 to coordinate advocacy activities from across the border and mobilise Zimbabwe’s diaspora community in South Africa (Betts and Jones, 2016: 57-58). Satellite offices created by well-resourced organisations such as the Crisis in Zimbabwe Coalition were often cited as providing a refuge for activists from other NGOs that were under threat or in danger of violence from the Zimbabwean state. One interviewee said:

“I was called for questioning by state agents, but they did it through the bank. The bank kept asking questions about where we were getting our money from. I knew I was being watched as well...I quickly spoke to our board, and they advised that I leave Zimbabwe as soon as possible. That night in the dark hours I left for Johannesburg and stayed there for a month working from the Crisis [in Zimbabwe Coalition] office.”

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

However, as restrictions on the Crisis in Zimbabwe Coalition increased, by 2019 the NGO was no longer able to operate in Zimbabwe and was forced to work entirely remotely from South Africa (Rusare, 2019). Another prominent NGOs, the Zimbabwe Human Rights NGO Forum, also set up international liaison offices in London, the UK in 2002 (Zimbabwe Human Rights NGO Forum, 2002). In a press release, the organisation explained that the satellite office was established against a backdrop of “genuine fear” that the state would crack down on critical NGOs. The objectives of the office were clear, as the press release stated that the new presence in London would be an “outlet for the release of reports that cannot safely be released in Zimbabwe” (Zimbabwe Human Rights NGO Forum, 2002). After setting up the office, evidence would suggest that the Zimbabwe Human Rights NGO Forum used it to engage with the diplomatic community based in London regarding human rights violations in Zimbabwe (*see* Zimbabwe Human Rights NGO Forum, 2013a). One activist commented on how important the Crisis in Zimbabwe office in Johannesburg and the Zimbabwe Human Rights NGO Forum office in London were, saying:

“These partnerships with SADC [Southern African Development Community] became more relevant. Crisis opened a regional office [in Johannesburg] and that became our entry point and gateway to influence opinions outside, so that the challenges and obstacles locally were also well understood globally. Regionally, most importantly our sisters and brothers in SADC started to stand with us. So, the Crisis office was a rallying point for most of us. And the NGO Forum with their work with the African Union and their office in London suddenly became very important. So those spaces were used. Demonstrations [on human rights in Zimbabwe] took place in South Africa or outside in London to attract attention. The Forum office became a space for us to do things in the UK that we could not do internally as it allowed us to put pressure on the government from outside. It also helped bring us closer to our allies.”

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

This evidence shows that despite increasing organisational restrictions on NGOs in Zimbabwe, well-resourced NGOs were able to continue advocacy by taking the drastic step of establishing new offices outside Zimbabwe or leave the country all together.

Activist Adaption to Individual and Organisation Restrictions in Zimbabwe

Adaption Costs for Individuals

The continued pressure of individual restrictions was a theme that was also apparent in Zimbabwe. During fieldwork, I had the opportunity to meet with a student leader who was strongly affiliated to a number of human rights NGOs in Zimbabwe. They had asked to meet in a busy coffee shop in Harare. However, our meeting was quickly interrupted by the arrival of individuals in plainclothes who were believed to have followed the activist. The moment that the activist realised they were being followed was captured in the audio recording:

“Comrade, we are being watched. We must move from here quickly and go somewhere more private. I do not think it is safe here for us. Let us move quickly to your hotel room.”

Interview with a human rights activist, Harare, Zimbabwe. 4 June 2019.

It became clear during the interview that the activist had been subjected to serious individual restrictions including enforced disappearance and torture. They described surveillance in Zimbabwe as “normal” or a “part of life” and “just another thing we have to deal with”, and laughed by saying “we are used to it”. They were unconcerned by the revelation that they were being followed and confessed to knowing they were under surveillance most of the time. However, after the incident, they were unsure of whether they had made the right decision and stated that if you avoid being watched it can look as though “you have something to hide”. They openly stated, “we are doing nothing wrong”; we were just talking about issues facing civil society in Zimbabwe. Yet importantly, they felt this issue was serious enough to warrant hiding their actions from unknown

individuals. It remains unclear whether they were being followed, but the point is to illustrate further how individual restrictions impose costs on activists by creating a sense of fear about whether they will be persecuted for discussing relatively uncontroversial issues. The constant fear of persecution forces adaptation that undoubtedly reduces activists' freedom, confidence, and ability to campaign on human rights issues, as well as affecting their mental health. In this instance, the fear of further restriction had the impact of curtailing this individual's ability to discuss issues relevant to civil society openly.

One interviewee summed up this feeling of fear and in particular focused on how it had made their work more difficult. In particular, the participant stressed throughout the interview that the extra steps taken to ensure the safety of staff and participants placed an additional burden on organising human rights activities. During the interview they said:

“There are now certain things that are just not possible. You can't hold marches; you don't dare organise these things for fear of violence. You can't play the disruptive role civil society is supposed to play...It has meant we have to camouflage our work; even organising a workshop means we are scared. You cannot run a training for local human rights defenders in Zimbabwe now, because those participants will then be at risk. Unless you have the backing of international groups and you do things outside in Johannesburg, in London, in Geneva. We are not safe here.”

Interview with a human rights defender, Harare, Zimbabwe. 6 June 2019.

Again, and as highlighted throughout this section, international collaboration was viewed as essential for prominent human rights defenders.

I have used interview data and my own experiences in Zimbabwe to highlight how individual restrictions can force adaptation in activists' behaviour to protect themselves. The case evidence from Zimbabwe provides strong support for proposition three. While individual restrictions impose obvious costs in terms of liberty and protection of physical integrity, there are also undocumented costs of adaptation. Adaptation often means isolation from engaging in human rights advocacy or a conscious move away from

contentious issues for fear of reprisal, and sometimes, as was the case in the interview excerpts presented in this section, both.

The Increased Costs of Adaption for Women Human Rights Defenders (WHRDs)

There is also an important gendered element to individual restrictions. In closing this chapter, I examine this dynamic. To analyse this variance in experience, it is first important to understand that the isolating impact of restrictions, as revealed in several of the excerpts above, affects activists in different ways. This became particularly apparent in Zimbabwe, where I interviewed several women human rights defenders (WHRDs) to discuss their experiences of restrictions from both the state and non-state actors. During these conversations, it became clear that WHRDs were often subjected to a distinct set of individual smears that related to accusations of infidelity or promiscuity. This had prompted adaptation in ways that were particularly distinct to WHRDs. In one interview, an activist said:

“There have been so many allegations against me. They claim I have slept with this person, that person. I only get funding because I sleep with this influential person and not because of my work. It is constant. And okay, I get it, at the start you can laugh off these accusations. But they keep coming, the allegations. I’m going with this one, with that one. It is tiring. My husband, my mother-in-law, my own mother starts to believe these things in the papers about me. My children see them. In Zimbabwe, you cannot run workshops or hold meetings on human rights, you have to travel. To the African Union, to Geneva, to Johannesburg. And travelling fuels accusations. They say on these trips I go with this one and with that one. It is a cycle that aims to delegitimise our work. And I have been divorced twice!”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

In this instance, the WHRD noted the double impact of state restrictions that obstructed their organisation’s work in Zimbabwe and individual smears that delegitimised their personal reputation, which discouraged them from travelling abroad. This is particularly significant since the interviewee also acknowledged the importance of raising human rights issues outside Zimbabwe, particularly through regional and international human rights mechanisms, as vital to securing human rights progress. Yet they also noted that

they felt hesitant to travel abroad for fear of fuelling smear campaigns about their personal life. This particular finding is corroborated by investigations by INGOs. For example, CIVICUS (2019) documents that the most frequent restrictions faced by WHRDs are “smear campaigns” and “disownment and ostracism” alongside “threats against families and children” (ibid.: 6). INGOs also state that WHRDs have consistently faced multi-layered restrictions as a consequence of their work (Association for Women’s Rights in Development (AWID), 2014: 18-25; Just Associates and The Global Fund for Human Rights, 2018: 1-2; CIVICUS, 2019: 4).

The above quotation demonstrates that the WHRD had been forced to adapt to restrictions by avoiding travelling and especially avoiding doing so with male colleagues. While the activist did not further clarify her statement, it was clear that personal smears had an impact on her family life and her ability to maintain relationships. Consequently, the only way to avoid being shamed with fabricated allegations was to stop participating in contentious or politically sensitive meetings, which could only take place outside Zimbabwe. In short, from speaking with WHRDs, one of the issues that became clear was that adaptation often came at the expense of career advancement or the ability to raise issues of gender justice within the global human rights community.

In Bangladesh, WHRDs reported a different dimension. Some noted that they faced the distinct set of restrictions mentioned by female activists in Zimbabwe but additionally reported that their families can be directly affected by individual restrictions in reprisal for their activities. In one example, a female activist recounted a sequence of events that involved state and non-state actors. During the interview, the activist said:

“One of our committee members’ [a prominent WHRD] husband was abducted. You know the usual story. He was taken in the middle of the night because she was very vocal on human rights. They took him to get to her. And you can only imagine what happened to him while he was taken. At the end of the day, she had

to go to the Prime Minister's office because they denied they had taken him. It was a whole drama. They said they didn't know where he was, blamed others. You know, it was the typical trick played by the government. Another of our members' husband was taken and they now refuse to speak about what happened to him. But the impact is always the same: these women stop activities. They don't speak anymore because they know that their families will suffer. It is a particularly cruel strategy."

Interview with a human rights activist, Dhaka, Bangladesh. 17 July 2019.

During this interview, the participant noted that in Bangladesh WHRDs did have some space to discuss openly a narrow sub-section of human rights issues related to children's rights and some sexual and reproductive health rights. However, if they strayed outside these particular issues, they could face restrictions. During the interview the activist openly stated that the state was "reluctant to touch women activists" with individual restrictions but instead would find ways to coerce their activities by imposing proxy restrictions on their families, usually using non-state actors, to prevent advocacy.

I include the above excerpt from Bangladesh to suggest that the targets of restrictions on civil society can extend beyond NGOs or activists themselves and include their families. After examining the activities of groups such as the BCL, the RAB, and Zanu-PF militias in Chapter 5, the violations presented may also contain cases where an activist's families were targeted as a reprisal for their advocacy. Using the specific case of Bangladesh, I can find no further documentary evidence of the abductions mentioned by the WHRD during the interview, which indicates that the cases did not receive domestic coverage by media or human rights groups. There are likely to be many more cases where activists' families have been targeted through restrictions that remain undocumented in Bangladesh and Zimbabwe. This strategy was frequently mentioned by female activists in all three countries, which suggests it may be a preferred tactic by states against vocal WHRDs.

The evidence presented in this section would appear to indicate that certain sections of the human rights community are targeted with specific individual restrictions more than others. This implies that adaption costs for different types of activists can vary. In Zimbabwe, smears of promiscuity forced one activist away from being able to pass information to international allies and raise issues of gender justice. In Bangladesh, when WHRDs challenged the state, their families were purposefully targeted, forcing them to adapt by halting advocacy. In sum, the outcome for both WHRDs highlighted in this section was to adapt by shying away from raising contentious issues for fear of reprisal.

Selective Collective Action Between NGOs

As discussed throughout this chapter, collective action between domestic, regional, and international NGOs can offer a vital source of protection for activists and organisations against individual and organisational restrictions. Without the protection of these networks, activists often reported feeling exposed or less likely to continue challenging the state on a particular policy issue. In an interview, a Zimbabwean activist corroborated the themes discussed in the previous section but also spoke about collective action between civil society when faced with restrictions. In doing so, this activist cited that a lack of solidarity between civil society groups and WHRDs exacerbated the impact of restrictions. It must be noted that earlier in the interview, the activist had outlined a number of fabricated smears that had focused on her personal life, which were similar to those mentioned in the previous section. During this interview they said:

“It [personal smears about the private lives of a WHRD] breaks your spirit. Instead of becoming strong and even more willing to do the work that you do, you develop cold feet. Because it comes at a very personal level. It’s not about the organisation that you work for anymore, it’s about you. It’s about silencing and delegitimising you, as a person. That’s the way the government dishes out these smears. And, of course as a result people become timid in the work they do. And, it is disappointing that people do not support each other. There is a group that I am in, a WhatsApp group of civil society leaders, a mixed group. And there is not a lot of solidarity in civil society anymore for us [WHRDs]. People won’t stand with you. Maybe they feel, let me just be quiet or I will be next. Maybe they just do not understand how it affects us.”

Interview with a human rights defender Harare, Zimbabwe. 4 June 2019.

In this interview, it became clear that smears against individuals had clearly deterred female activists from conducting advocacy, which was exacerbated by the lack of support from other prominent activists or NGOs. Later in the interview, the individual stated that other activists may think these personal smears are “not such a big deal”, especially when other individual restrictions such as torture or enforced disappearances are being imposed on individuals. But throughout the conversation the activist cited that the impact of these restrictions on their family life meant that one of the costs of adaption was self-censorship. In the interviewee’s view, this meant that important issues of gender justice remained underrepresented in Zimbabwean human rights discourse. Similarly, in terms of impact on activism, the consequence of this approach meant that women were notably missing from leadership positions within Zimbabwean civil society.

The issue of a lack of solidarity and collective action between NGOs was also felt by LGBTIQ+ activists. In another interview with a Zimbabwean activist, the theme of fragmentation between civil society along thematic lines emerged as a key driver that helped endanger LGTBIQ+ groups experiencing restrictions from both the state and non-state actors. During the interview they said:

“A lot of our work [LGBTIQ+ activism] relies on solidarity, networks, and alliances. Without that solidarity, our work is next to impossible. If these connections are not strong, you will not be able to raise our issues [LGBTIQ+ issues] in different platforms to present your case. It turns out that some civil society have that access. By virtue of being in these platforms, with these peers we hope to work with them, we hope they will stand with us. But sometimes when you try to do this, they make excuses: let me ask my boss, my board, and you know they are looking for an excuse and the answer will be no...As you approach different organisations, you realise we have a long way to go with [LGBTIQ+] equality and that really impacts on our ability to work and protect ourselves. It is often easier to work with networks who will then push members into supporting you.”

Interview with a human rights defender, Harare, Zimbabwe. 2 June 2019.

Testimonial evidence from activists in Zimbabwe would therefore seem to suggest that some activists and NGOs are less able to access solidarity networks to protect themselves and their organisations from restrictions. This suggests that one logical extension of this research might be to examine how and why these groups take steps to attract the attention of other parts of civil society in order to continue their work. Evidence would appear to indicate that groups such as WHRDs and LGTBIQ+ defenders experience higher levels of restrictions from both states and non-state actors (Association for Women’s Rights in Development (AWID), 2014: 18-25; Just Associates and The Global Fund for Human Rights, 2018: 1-2; OutRight Action International, 2018: 53-54; CIVICUS, 2019: 4). Therefore a recommendation for future studies may be to adopt a specific focus on these groups and their adaptation strategies.

Conclusion

How do restrictions impact on the activities of NGOs? This is a complex question and establishing a clear path of causality is problematic because single restrictions are rarely used. As highlighted by the case evidence presented throughout this chapter, restrictions are “bundled” in waves (cf. Smidt et al., 2020) that contain both organisational restrictions and individual restrictions, and often imposed by both states and non-state actors. As a result, it is extremely challenging to isolate the impact of a single restriction accurately. What is clear from the evidence presented in this chapter is that individual restrictions take a very high toll on activists’ physical safety and mental health. However, it is also clear that both organisational and individual restrictions have a cumulative impact on NGO advocacy.

More specifically, the evidence presented and subsequent analysis would appear to suggest that it is the cumulative impact of restrictions that force NGOs to shift their approach. As one activist in Zimbabwe highlighted in the previous chapter, the

imposition of restrictions is not “straightforward or linear”, meaning that the pattern of NGO adaption to restriction ebbs and flows depending on the hostility of the political environment. As one prominent human rights activist in Zimbabwe said to me shortly before I left Harare:

“This action, that action. It doesn’t really matter. It is more the environment that all of these restrictions create. You need to look at the big picture. That is what sets the tone. It is tough to draw a straight line between these restrictions. It is unpredictable. And, if we’re honest that’s what makes it worse. Sometimes we can fight back and sometimes we can’t. It is the uncertainty which gets you after a while.”

Interview with a human rights defender, Harare, Zimbabwe. 4 June 2019.

This excerpt sums up the findings in this chapter well. When states collude with non-state actors to impose restrictions, the unpredictability of these restrictions is in itself a cause for stress and anxiety amongst NGOs and activists. The feeling that activists can be targeted at any moment clearly weighed heavily on the participants in this study. This is made worse by the fact that holding non-state actors to account for their restrictions is challenging. This means that persistent impunity for individual restrictions is a further source of concern. Once again this is made even worse by the fact that states may seek to deny non-state actor restrictions, by placing the burden on activists to provide evidence of non-state actor activities. This is more challenging where states themselves have also imposed restrictions. Or worse, the state may simply choose to ignore activists altogether and deny the evidence presented to them. As a result, state collusion with non-state actors can cause specific and unique problems for activists.

Case evidence presented throughout this chapter would suggest that organisational restrictions can have varying costs of adaptation. If imposed in low numbers, NGOs are able to respond by lobbying against them, alerting international allies, or simply adapting and continuing their activities. In some cases, international collaboration in particular can prove a highly effective strategy. Yet in some cases, as in Zimbabwe, organisational

restrictions can be repeatedly imposed so that critical NGOs are forced to operate from foreign countries. Organisational restrictions are often selectively used to create an inhospitable environment for critical NGOs, but individual restrictions are experienced as far more drastic. Evidence presented in this chapter would indicate that individual restrictions impose higher costs on activists and have a lasting impact on their liberty and physical and mental well-being. As a consequence, repeated individual restrictions can force activists away from contentious activities by ostracising them from domestic and international networks for fear of further restriction. Similarly, evidence from both Bangladesh and Zimbabwe would propose that not only activists themselves can face individual restrictions; in certain circumstances it is the families of prominent activists who can be targeted. However, even individual restrictions do not always stop advocacy. As the cases of Jestina Mukoko and Nada Kiswanson highlight, some activists will continue undeterred even when the costs of their activities are high. Perhaps this can be attributed to an unexplained and unquantifiable variable of belief in a cause, or proof that some activists are just more stubborn than others. What is clear is that individual restrictions can send a chilling message to other activists, which in turn may decrease their propensity to engage in “naming and shaming” of states.

To align with the findings of previous chapters, I find that non-state actors, notably those in Bangladesh and Zimbabwe, impose individual restrictions with greater intensity and in doing so create a sense of fear within local activist communities. In comparison, in Israel, I find that Israeli activists experience fewer individual restrictions. This can be explained by the fact that the reputational costs for the Israeli state of imposing individual restrictions on Israeli citizens or failing to protect Israeli activists from individual restrictions is considerably higher than the costs of subjecting Palestinian activists to individual restrictions.

As a result, some Israeli activists feel pressured to take further risks to stand in solidarity with their Palestinian colleagues. In Palestine, I find that individuals affiliated with critical NGOs who provide documentary human rights evidence in international fora can and do experience individual restrictions from Israel. Interestingly, and as opposed to the experiences of Israeli activists, I find that the state of Israel has little hesitation about imposing individual restrictions on Palestinian activists that focus on them and their personal lives. One explanation for this might be that the state of Israel anticipates that individual restrictions are more palatable when levelled against Palestinian activists as opposed to Israelis.

It is plausible to conclude that this chapter has shown that in sum, individual restrictions do play an important role in decreasing advocacy and discouraging human rights activism. But crucially, they cannot be viewed in isolation from organisational restrictions. However, I do find clear evidence that individual restrictions are highly effective in creating fear among activists and that this plays a crucial role in reducing advocacy. As a result, my data and analysis provide strong support for proposition three.

I ended this chapter with a brief discussion of how varying restrictions can target different constituencies of the human rights movement in different ways. I did this to highlight that during fieldwork it became clear that some groups e.g., LGBTIQ+ activists and WHRDs, experience restrictions more acutely than other more human rights groups. An important finding from this study is that the costs of restrictions are often higher for women than for men. Similarly, at an organisational level, NGOs working to promote the rights of sexual minorities also face higher costs from restrictions than other, more

generally focused human rights NGOs. Future research should pay further closer attention to this variation.

Chapter 7
Conclusion

Introduction

This research set out to explore and understand whether states collude with non-state actors to impose restrictions on human rights NGOs. The motivation for this project was borne out of many years of practical experience working alongside activists and organisations across the world to document restrictions on NGO activity. As a part of this work, which primarily focused on restrictions imposed by states, the role of proxy agents working in concert with states remained a constant but unanswered question. Given the increasing international attention on state restrictions on civil society and state clampdowns on the space for civil society, surely collusion with non-state actors would present a cost-effective alternative? As both practitioners and policymakers rush to understand and analyse the raft of new restrictive laws imposed on civil society or extra-legal measures used against activists by states, what if there was a whole other world of restrictions imposed by non-state actors with links to the state? If this was true, what would this mean for human rights groups? This is a pressing issue for the global human rights movement. This question was perhaps even more urgent if taken in conjunction with the conventional wisdom that non-state actors are more free to orchestrate more egregious human rights violations than states (*see Mitchell, Carey and Butler, 2014: 819*).

As awareness of pressure faced by independently critical NGOs and activists grows, this project sought to expand the lens of analysis beyond a state and civil society confrontation. In doing so, it has argued that state restrictions are an important piece of the jigsaw but are far from the entirety of the puzzle. As evidenced throughout this dissertation, groups with strong links to the state can and do work on behalf of states, or

at least in collusion with states to restrict NGOs and repress activists. In the cases studied, the evidence presented in the preceding chapters aimed to broaden the debate on civil society to move to a more multidimensional understanding of state and civil society relations by including non-state actors.

An overarching conclusion from this study is that all three states do collude with non-state actors to restrict human rights NGOs. In Bangladesh, Israel and the Occupied Territories, and Zimbabwe, I find evidence that states mobilise additional and external forces (*see* Alvarez, 2006: 21) to restrict NGOs. It would appear that the central argument regarding collusion as a “force multiplier” (cf. Donahue and Zeckhauser, 2011: 4) to complement state actions holds true when applied to restriction of NGOs. Collusion with non-state actors also enables states to broaden their repertoire of restrictions by leveraging the strengths of their non-state agents (Bhagwati, 1984: 134; Carey, Colaresi and Mitchell, 2012: 4; Bhagwati, Panagariya and Srinivasan, 2004: 94). In doing so, they can draw the benefit of plausible deniability (Mitchell, 2004: 32, 2012: 34-38) and evade direct accountability for restrictions imposed by non-state actors. The results contained in this research strongly suggest that states prefer colluding with non-state actors to allow them to impose restrictions which would carry high reputational costs if a state imposed them.

The use of qualitative case studies helped to unpack the interaction between state restriction and non-state actor restriction. My case evidence shed light on the dynamic interplay between state restrictions and non-state actor restrictions, as well as NGO responses to both. My analysis confirmed my theory that NGO advocacy on human rights issues starts this causal chain, with states using both their own restrictions and collusion with non-state actors to try to silence criticism. Yet NGOs’ responses to these restrictions

illustrate the resilience of civil society. My analysis reveals a dynamic and shifting landscape of tactical innovation and concession by NGOs, confirming longstanding contributions from contentious politics research that confrontations are unpredictable and constantly evolving (Tilly, 1978: 80; McCarthy et al. 1996: 342; McAdam, Tarrow, and Tilly 2001: 29 *see also* Tilly, 2008: 72-73).

Lichbach's (1987: 268-271) important work highlighted that under certain conditions state repression can both encourage and discourage further dissent. This confusing finding suggests that state repression can in some circumstances reduce non-violent opposition by increasing the costs, but if a threshold is reached, state repression can equally provoke violent responses by opposition (*see* Lichbach, 1987: 294). My study would appear to support this finding by highlighting that state repression of NGOs can prove effective to a point, but NGOs are also able to adapt. Through adaption, NGOs and activists can even increase their activities if state repression persists.

To align with traditional approaches in the contentious politics literature (*see* McAdam, Tarrow and Tilly, 2001: 41), my systematic analysis highlights that there are clear choices for NGOs facing restrictions from both states and non-state actors. Firstly, my analysis showcases that contention is dynamic rather than static (*see* McAdam, Tarrow and Tilly, 2001: 42). My inclusion of non-state actors suggests that while it can be helpful to consider the origin of contention between states and NGOs, an exclusive focus on origins can obfuscate the unfolding dynamics of contention involving states, NGOs, and non-state actors. My analysis clearly reveals a dynamic confrontation that can escalate depending on the actions of NGOs and the willingness of the state to repress critics who criticise their policies both domestically and internationally. Through the presentation of case evidence, my analysis also proves that organisational resources, such as the

dedication of staff, international connections with INGOs, or a network of volunteers can influence how an NGO responds to restrictions from both state and non-state actors (cf. McCarthy and Zald, 1977).

Using this body of literature as a starting point, my study points to a clear set of potential outcomes. State disrespect for human rights can drive criticism by NGOs both domestically and internationally. This advocacy can then drive restrictions from states, or non-state actors that in turn raises the cost of human rights advocacy. Human rights activists then have a series of strategic choices to navigate between. Some continue their criticism unbowed, knowing that this may lead to further restrictions at the expense of organisational resources, or the safety of staff. If this is the case, these activists can use further “naming and shaming” of the state in a bid to protect themselves. Alternatively, an organisation may attempt to challenge the state’s actions domestically using legal means, but this may mean expending further resources to seek recourse. Consequently, this strategy may only be viable if the activist has the resources, such as the financial reserves, time, the connections to international media to protect themselves. In some cases, being openly targeted by the state can ensure domestic NGOs receive more funding for their work, as donor organisations and INGOs rally to preserve the organisation.

Others may openly or covertly pass information on human rights violations to more powerful INGOs, allowing them to raise issues on their behalf (cf. Keck and Sikkink, 1998: 12-13; Risse, Ropp and Sikkink, 1999: 259). In openly collaborating with international groups, through joint publications or statements, domestic NGOs attempt to strengthen their position and protect their reputation by continuing advocacy but with the protection of INGOs. For others, this approach may be too risky and covert collaboration may be the only option. Practically this means passing information through encrypted

channels to INGO staff on the proviso that domestic activists and NGOs remain anonymous. In adopting this approach, local NGOs distance themselves from advocacy carried out internationally using their information to protect themselves from further persecution.

For some organisations, posting staff in other countries or setting up a satellite office can help to bypass restrictions from both states and non-state actors. However, as highlighted in this study, even this strategy can lead to individual restrictions being imposed on activists who have relocated. This may in turn lead activists to self-censor themselves to preserve their mental health or out of fear of further aggression. Other less well-resourced groups may seek refuge in domestic, regional, or international networks or coalitions of likeminded NGOs for support and protection.

For those unable to leave the country or engage in collective action, some appear to shift subjects, or change tack completely. In doing so they attempt to quell the confrontation and deescalate the situation. In this strategy, NGOs risk their reputation by being seen to move away from politically sensitive issues and instead, purposefully choose to shift to issues considered safe to avoid further restriction. In some instances, some NGOs may even choose subjects that purposefully paint the state in a more positive light to try and abate future restrictions. Individuals who choose to or are forced to adopt this strategy are often left isolated. Organisations once known for being outspoken and openly critical of the government quietly become less confrontational, with prominent activists leaving the country or ceasing their activism all together.

My case evidence demonstrates that non-state actors do indeed impose individual restrictions such as individual smears, enforced disappearance, torture, and the murder of

activists at the behest of states. Importantly, my analysis of testimonial evidence also highlights that these individual restrictions imposed by non-state actors are more feared by activists than state restrictions. In turn, I find that this fear, coupled with the deterrent effect of individual restrictions, often discourages participation in human rights activity. As a result, perhaps the most important and underappreciated impact of non-state actor restrictions is the damage to the mental health of activists for fear of their own safety or that of their colleagues, communities, and families.

When including restrictions from non-state actors in any analysis of civil society space, it also becomes clear that activists change their behaviour and tactics in ways that are often undocumented to preserve their mental and physical well-being. This undoubtedly has a large impact on their ability to advocate successfully on human rights issues in their home countries. As such, my study makes an important contribution by questioning whether “naming and shaming” through transnational advocacy networks (cf. Risse, Ropp and Sikkink, 1999; Franklin, 2008: 205; Murdie and Davis, 2012: 13) may in fact be challenged, obstructed, or even prevented by state collusion with non-state actors to impose restrictions on NGOs.

In their recent contribution, Dancy and Sikkink (2017) noted that “No human rights scholar thinks that human rights activism, is the only, or even the most important factor leading to human rights change.” (Dancy and Sikkink, 2017: 39). While Dancy and Sikkink (2017: 40) go on to acknowledge that “...efforts to build strong domestic advocacy sectors...” in tandem with international “naming and shaming” can bring about change, they adopt a cautious view of NGOs advocacy. My analysis shows that while the activities of domestic human rights NGOs are not the only factor in securing human rights progress, my research has identified cases where NGOs have made a significant

contribution to improving human rights. As an extension of this finding, it can be said that if the space for independent human rights NGOs is stifled by restrictions, NGOs are less able to mobilise INGOs or partner states to secure human rights progress.

Dancy and Sikkink's (2017: 39) initial assertion would appear to contradict a number of cross-national quantitative studies that view the presence of NGOs, alongside their activities as pivotal factors in securing human rights progress (i.e., Franklin, 2008: 205; Murdie and Bhasin, 2011: 167; Stroup and Murdie, 2012: 428-429; Krain, 2012: 584; Murdie and Davis, 2012: 13; Murdie, 2014: 3-4).

These large-*n* studies are however challenged by my analysis. For example, Amanda Murdie's work uses complex quantitative methods to arrive at the conclusion that political scientists and the policy community alike should be optimistic about the work of human rights NGOs in promoting human rights progress (*see* Murdie and Bhasin, 2011: 167; Murdie and Davis, 2012: 13). Yet despite this assertion, in Murdie and Bhasin (2011: 167) and Murdie and Davis' (2012: 13) large-*n* approach, the environment for human rights NGOs is barely mentioned. For example, Murdie and Bhasin (2011: 167) view higher levels of "commitment" by international NGOs, through prominent local members or even setting up a permanent office, as key variables to support domestic protest. My detailed case analysis shows that while this may be true, these domestic NGOs can pay a heavy price for opposing the government. Yet restrictions faced local members or factors such as the feasibility of setting up an office are not accounted for in Murdie and Bhasin's (2011: 167) work. If local members or local representatives face restrictions from both state and non-state actors, the utility of these findings should be called into question. This is especially true as Murdie and Bhasin (2011: 179) find that remote "naming and shaming" is the least effective approach by international NGOs to support local protest.

Yet what if restrictions from state and non-state actors leave domestic groups isolated due to the use of individual restrictions?

My study adds to the literature by highlighting in detail the high toll that restrictions can impose on activists, and how in some cases this can limit the space available for their advocacy. This means that while the presence of domestic human rights groups may be an important variable in such large-*n* approaches, Murdie and Davis' (2012: 13) work fails to account for the plurality of experiences of activists, which in turn may impact upon their ability to secure human rights progress. In more recent work, Murdie (2014: 318) highlights that the quality of governance may influence cooperation between NGOs. In this argument, poorer quality governance may lead to corruption making cooperation between NGOs risky. Yet restrictions on NGO activity are not mentioned. My study clearly highlights that NGOs facing restrictions from both state and non-state actors can also face isolation both domestically and internationally. This too can be attributed to the risk of organisational persecution or concerns over the physical safety of activists. Consequently, my research contributes to knowledge by questioning whether current approaches, and especially large-*n* studies, adequately capture the nuanced experiences of activists facing restrictions from both state and non-state actors.

Results from my study illustrate that even attempts to quantify restrictions on civil society by CIVICUS (2018), International Center for Non-Profit Law (ICNL) (2018), or Bakke, Mitchell and Smidt (2020) do not pay specific attention to restrictions from non-state actors nor the links between state and non-state actor restrictions. My study sheds light on the gaps in knowledge about the experiences of human rights activists and NGOs in three divergent settings, while highlighting the obstacles that can be placed before these actors by states and non-state actors. As my cases are different along key parameters, it

should be expected that they are not outliers but instead represent a grim reality for activists and organisations in many parts of the world. A key contribution from this research is that future cross-national efforts cannot view the lived experiences of activists as constant. My study also clearly illustrates that future studies cannot simply consider the state as the exclusive perpetrator of restrictions on civil society. More work needs to be done to appreciate the variety of restrictions levelled at human rights groups while acknowledging the range of actors that can impose them.

States, Non-State Actors and the Imposition of Restrictions on NGOs

In her important contribution, Brechenmacher (2017) noted that state-affiliated non-state actors could play a disruptive role among human rights NGOs and this was increasingly being exploited by states. The data presented in this thesis examine this initial assertion and build on it by offering an analysis of the diversity of actors who work on behalf of states to not only disrupt, but also smear, intimidate, torture, maim, and sometimes murder prominent activists. In this section, I outline the key results from my empirical analysis.

1. Do States Collude with Non-State Actors to Restrict NGOs?

In Chapter 2, I theorised that states would target NGOs that criticise their human rights record by using both state restrictions and additional restrictions from non-state actors that they were complicit in enabling through collusion. My results support this claim.

In all three cases, my evidence overwhelmingly suggests that activists had indeed faced additional and undocumented restrictions from non-state actors with clear links to the state. In another central finding emerging from this study, my analysis unearths evidence that the states of Bangladesh, Israel and the Occupied Territories, and Zimbabwe, regardless of their variation in regime type or type of state restrictions used, use collusion

to supplement their own restrictions. I find no evidence in any of the cases to suggest that the state had taken steps to constrain the activities of non-state actors documented to restrict NGOs, which means I discounted the alternative explanation that non-state actors exploit state weakness for private gain.

Throughout this study, I find evidence that Bangladesh, Israel and the Occupied Territories, and Zimbabwe actively coordinate and collude with non-state actors to impose restrictions that are complementary to their own. Through the presentation of activist testimonies, I uncover that activists universally viewed the restrictive actions of non-state actors to be linked to the state. Often, activists drew a crucial link between restrictions imposed by non-state actors and their own criticism of the state. When asked about the reason for these restrictions, activists frequently cited that restrictions from non-state actors were a) linked to their advocacy and b) closely related to state restrictions.

I then turned my attention to the non-state actors identified by activists. In all cases and with all agents that were identified through activist testimonies, I used Roessler's (2005: 209) typology of support to corroborate activist experiences of non-state actor restrictions. I find strong evidence to suggest clear links between the activities of non-state actors and states with all non-state actors highlighted through activist testimonies. In a finding that unites all cases, I found evidence of both "direct" and "indirect" incentives (Donahue and Zeckhauser, 2011: 218-219), that were offered by states to non-state agents. This would suggest that non-state actors are not passive but rather are autonomous agents that need to be incentivised by the state to impose restrictions. Crucially, I find that the "indirect" incentive (Donahue and Zeckhauser, 2011: 219) of impunity provides clear evidence of state involvement in the activities of these groups.

2. Which Types of Restrictions Do States Allow Non-State Actors to Impose?

In Chapter 5, I built on my findings from Chapter 4 by examining the repertoires of restrictions by the identified non-state actors. In doing so, I examined the nature and frequency of non-state actor restrictions in all three cases. In Chapter 2, I theorised that states would collude with non-state actors to impose individual restrictions because groups such as militias cannot easily impose organisational restrictions, such as legal restrictions or bans on foreign funding. I also argued that to avoid reputational costs, states would draw the benefit of deniability through collusion, by preferring to be complicit in allowing non-state actors to perpetrate individual restrictions such as torture. While my results support my theory, I also found important variation between cases regarding the types of restriction imposed by non-state actors. I theorised this variation in Chapter 2, by arguing that highly democratic states, in this case Israel, may be cautious about allowing non-state actors to impose individual restrictions for fear of being seen as failing to uphold civil society space and therefore tarnishing their international reputation. Conversely, states with a poor reputation for upholding civil and political rights, notably Zimbabwe, may be less concerned about their international reputation and more free to collude with non-state actors to impose individual restrictions while taking less care to hide evidence of collusion. My results support these claims.

This study sought to document the types of restrictions that non-state actors used. In Bangladesh and Zimbabwe, I find strong evidence to conclude that non-state actors with links to the state perpetrate individual restrictions such as surveillance of individuals, torture, enforced disappearance, and extrajudicial killing. However, in Israel and Palestine, I found evidence to suggest that the state of Israel prefers to allow non-state actors to impose organisational restrictions, with the NGO Monitor occasionally also imposing individual restrictions on prominent and vocal activists. A key and central

finding from this study is that states allow non-state actors to impose restrictions that they are reluctant to be seen to impose themselves.

Despite this variation, my results also uncover similarities. For example, my results suggest that the imposition of non-state actor restrictions increase at times when NGO activity poses an enhanced threat to state reputation or power. In Bangladesh and Zimbabwe, the activities of non-state actors increased dramatically around elections or when unexpected protests broke out. In Israel and the Occupied Territories, the activities of the NGO Monitor clearly correlate with Israeli military operations or Israel's UPRs examinations at the Human Rights Council. Empirical evidence from this study, therefore, provides strong evidence that collusion provides states with additional methods to curtail the activities of NGOs when states need to suppress criticism of their policies.

I also find evidence of adaption by non-state agents to ensure state deniability for their actions (Mitchell, 2004: 32, 2012: 34-38). In Bangladesh, in response to "naming and shaming" by NGOs, state agents refined their tactics to ensure deniability for imposing the worst types of individual restrictions. My analysis finds that in Bangladesh, where the state is seemingly concerned about its international reputation, agents have adapted to take extra care to hide their identity when imposing serious individual restrictions such as enforced disappearance, torture, or the murder of activists.

However, this finding does not hold in Zimbabwe. Instead, in Zimbabwe, my evidence highlights that the activities of non-state actors are more intensive than those of the state and non-state actors do not take any steps to conceal their identities. This is perhaps because Zimbabwe's reputation for upholding civil and political rights may already be lower than that of Bangladesh. Instead, in Zimbabwe my results show that state and non-

state actors are documented to work together openly to abduct and torture activists and non-state actors openly operate as a surveillance arm of the state. In contrast to the other cases, my evidence strongly suggests that the Zimbabwean state uses collusion to achieve efficiency gains by accessing rural locations that the state cannot reach easily.

In Israel and the Occupied Territories, I find evidence that the state of Israel still draws the benefit of plausible deniability and evades direct accountability for non-state actor restrictions, by deliberately distancing itself from the NGO Monitor's activities when the organisation imposes individual restrictions. This is despite the close links between the state and non-state actor and clear evidence of coordinated information sharing between the two, which includes state diplomats facilitating meetings for the NGO Monitor (Policy Working Group, 2018: 6-7), Israeli officials confirming that they share information and coordinate activities with the NGO Monitor (Burns, 2017), and the state permitting the organisation to raise funds from anonymous sources (Ha'aretz, 2012). My analysis suggests that as a highly democratic state, while Israel seeks to gain from the NGO Monitor's work, it is also sensitive to the audience costs of being complicit in the organisation's activities. This is particularly true when the NGO Monitor smears activists by name. As a result, although the state will use the NGO Monitor's work behind closed doors to lobby for the restriction of prominent NGOs, it is also cautious about publicly citing the organisation's work. Consequently, the state keeps a clear distance between its own reputation as a democratic state that upholds civil society space and the NGO Monitor's work smearing prominent Israeli and Palestinian NGOs and activists.

The willingness of states to investigate and prosecute perpetrators depends largely on domestic and international awareness of an issue. If information regarding individual restrictions imposed by non-state actors leaks to the public, my case data highlight that

states will not hesitate to blame their agents. A key finding from my study is that states do indeed work with non-state actors to restrict civil society, but that collusion also provides a useful scapegoat if evidence of these violations permeates into the public domain.

3. How do Restrictions Impact on the Activities of NGOs?

In my final empirical chapter, I shifted focus to understand how restrictions influence NGO activity. Drawing from Chapter 5 and my finding that states prefer to collude with non-state actors to impose individual restrictions as opposed to organisational restrictions, I examined the impact of restrictions on NGOs and activists. In this final empirical chapter, I find strong evidence to support the claim that individual restrictions take a far higher toll on activists' well-being and their ability to participate meaningfully in human rights advocacy. I also find that state collusion with non-state actors can create specific problems for targeted activists, owing primarily to the fear created by the unpredictability of non-state actor restrictions and the impunity with which they are imposed. Given that non-state actors have been shown to impose individual restrictions on activists, my data and analysis suggests an additional deterrent effect on advocacy. This is brought about through the unpredictability of restrictions, the individual nature of restrictions, and the protection of non-state actors from prosecution by the state that comes with collusion.

My analysis uncovered that when faced with organisational restrictions and especially restrictions on funding, NGO activity does decline and this can have a major impact on NGO operation. Crucially, I find that as financial resources decrease, NGO activities to document human rights violations can decline as organisations struggle to complete projects or pay staff. Interestingly and as an important contribution to research in this area, I find that organisational restrictions are often the first type of restrictions that are

imposed upon critical NGOs. These restrictions served to create an inhospitable environment for NGOs, rather than trying to completely eradicate their activities.

My second contribution, by examining this type of restriction, was to highlight how organisational restrictions can influence the day-to-day operations of an NGO, causing disruption and distraction from its mandated activities. I used the example of Israel to assess how draft legislation was used by the state to restrict critical NGOs by causing them to expend staff time and organisational resources. In Bangladesh, NGOs were forced to hide their offices or operate as an illegal organisation, due to the state's failure to renew their NGO licence. Fighting the revocation of their NGO licences through legal channels was cited as an expensive and time-consuming process with little guarantee of success. Some NGOs took the step of embedding international staff in their offices for protection against organisational raids or invested effort in forging links with the diplomatic community to enhance their organisation's reputation. In Zimbabwe, I found that organisational restrictions were so severe that key NGOs were forced to operate from South Africa or the UK. While these adaptation strategies are drastic, it is important to note that NGOs in both Bangladesh and Zimbabwe managed to continue their work and document human rights violations.

Not all organisational restrictions are the same and some are more effective than others. The example of ASK, the Bangladeshi human rights NGO where co-optation of staff caused the organisation to switch the focus of its human rights advocacy to less contentious issues, indicates that organisational co-optation is one organisational restriction that can be effective at reducing critical NGO activity. It is, therefore, suggested as a contribution to future research in this area that greater attention be paid to the sub-categories of restrictions within organisational and individual restrictions.

I then shifted to assessing the impact of individual restrictions. Strikingly, my interview data clearly illuminate the fear felt by activists experiencing individual restrictions. Evidence from all three cases suggests that individual restrictions are effective at discouraging participation in human rights activism and, therefore, reducing NGO activity. My data show very clearly the human impact of restrictions. Seeing colleagues, friends, or family members subjected to individual restrictions, or anticipating that they might be, creates a sense of fear that forces networks of human rights activists to disintegrate as individuals fear for their safety. As a result, I find that organisations are forced to expend further resources to protect staff, taking measures such as offering counselling to ensure mental well-being, or using security guards, or drawing on connections with international media to highlight the threats faced by their staff.

For individuals, I find that adaption often means isolation. Drawing on data from the field, I unpack the fear element of individual restrictions to describe the chilling effect individual restrictions can have. My results support the claim that individual restrictions take a very high toll on activists. Individual restrictions can foster an environment of self-censorship and fear that ultimately means that continuing advocacy is extremely difficult.

While my results show that activists fear individual restrictions, the bravery of activists should not be underestimated. As highlighted using the cases of Nada Kiswanson of Al-Haq and Jestina Mukoko of the ZPP, some activists are simply more willing to take risks than others. Therefore, another contribution to future research in this area would be to delve more deeply into the motivations of these activists. Perhaps the most puzzling question of all is, what exactly fuels these activists to continue their work, despite the risks?

However, perhaps my biggest contribution in this final empirical chapter is to make the point that it is extremely difficult to disentangle organisational and individual restrictions. This is because restrictions are frequently bundled and imposed simultaneously (Smidt et al., 2020: 2). Through my application of process tracing, my evidence suggests that the cumulative impact of restrictions ultimately forces NGOs and activists to make strategic choices regarding their work, in order to protect resources, or continue advocacy on human rights issues, or to protect staff and their families. These strategic choices are extremely complex and often undocumented. As such, while individual restrictions are more feared, my results suggest that both organisational and individual restrictions can be effective in influencing NGO activity.

Limitations

The biggest challenge faced in this study was investigating the central claim of collusion and the potential claims of direct delegation. It should be acknowledged that a high evidentiary threshold is required to prove delegation of restrictions conclusively. In adopting Staniland's (2021: 4) typology of "armed orders" I have sought to expand the findings of this dissertation from an argument around delegation to a more nuanced framework of state complicity and collusion in non-state actor restrictions. Throughout the empirical chapters I went to considerable lengths to provide evidence that collusion had indeed taken place. To investigate this issue, I surveyed agent identities, looked at links between agents and the state using Roessler's (2005: 209) typology of support, analysed the timing of non-state actor restrictions and state restrictions, and drew heavily on activist testimonies to understand why they felt they had been targeted.

My study provides strong evidence that states do indeed work with non-state actors to restrict human rights NGOs. Although I was unable to uncover evidence of specific

orders from states for a non-state actor to impose a particular restriction on an NGO or target an activist, which would provide evidence for the higher threshold claim of delegation, my analysis clearly suggests close coordination, collusion, and state complicity in non-state actor restrictions. My data reveal that states work in “limited cooperation” (Staniland, 2021: 4) with non-state actors. This means that my research demonstrates that states maintain “...restricted sharing of information and resources...” (Staniland, 2021: 4) with non-state actors. This important finding aligns with my theory that collusion with non-state actors may allow a state to draw the benefit of plausible deniability (Mitchell, 2004: 32, 2012: 34-38), or evade direct accountability for non-state actor restrictions.

It is important to recognise that the threshold of delegation requires a high evidentiary threshold. While my data would clearly suggest that coordination and collusion do indeed take place between states and non-state actors in the cases studied, the data presented in this dissertation does not reach the threshold of conclusively proving delegation of restrictions. If a state wished to draw the benefit of deniability (Mitchell, 2004: 32, 2012: 34-38), it is highly likely that it would be challenging to uncover evidence of clear orders, or a specified contract. I attribute this to the assumption that if this were the case, burying links between the state and non-state actor would be a central strategy to ensure plausible deniability or to evade direct accountability for restrictions imposed on activists.

Yet it must be conceded that uncertainty remains. As illustrated by the rich literature on delegation, principals cannot always control their agents. When applied to this study, there is a degree of uncertainty regarding the level of instruction given by states to non-state actors. While this is certainly true, over the course of my analysis I examined the resource links between state and non-state actor, the timing of state and non-state actor

restrictions, and activists' perceptions of non-state actor restrictions, and explored the incentives for states to collude with non-state actors. Although activists may describe non-state actor restrictions as "linked to the state", which in theoretical terms would mean they were directly delegated, it is extremely challenging to prove this. If collusion between state and non-state actor has occurred as theorised throughout this study, then precisely identifying the level of instruction remains unknown. This is, therefore, why my study adopted a looser framework of cooperation, coordination, and collusion rather than attempting to prove delegation of restrictions.

In closing this study, it must also be acknowledged that non-state actors are autonomous agents and can choose to restrict civil society independently of states. While my evidence linking non-state actor restrictions and state restrictions suggests that this is not the case, this is another explanation that cannot be entirely ruled out. While some non-state actor restrictions may be imposed as a result of collusion, it logically flows that not all such restrictions will directly flow from collusion. The motivations for non-state actors to restrict NGOs is an area for examination for future research.

Perhaps one limitation to the evidence and analysis presented in this thesis is the lack of engagement with the identified non-state actors themselves. To conclusively understand the proposed causal processes discussed throughout this thesis, it must be accepted that failure to interview the agents seems an obvious gap. However, here is also a question of how useful any such data would have been. If I did, for example, contact members of the BCL, would they openly admit to working on behalf of the state to restrict NGOs? While this is unlikely, engaging these agents in my research may have shed more light on their motivations. A large and unexplained factor that underpins many of the findings presented is why individuals participate in these restrictive activities. While my study

provides a useful start by identifying incentives such as financial gain, status, or protection from prosecution, it is likely these motivations are far more complex than the “direct” and “indirect” incentives (cf. Donahue and Zeckhauser, 2011: 218-219) presented in this study. Future research in this policy area should interrogate agent incentives more closely.

Another of the key challenges faced in this study was documenting the micro-steps taken by NGOs facing restrictions. Given that NGO adaptation is dynamic and dependent on a variety of factors, primarily the resources available to an NGO, understanding diversity in responses is extremely complex. Often these steps are undocumented and knowledge of them only exists within the memory of staff who were working at the NGO at the time. It also must be recognised that staff turnover at NGOs tends to be extremely high, which made finding participants who had been active at the same organisation for ten years a further problem encountered when in the field. This is a considerable gap in the findings presented in this study, which may have been mitigated through a different research design. For example, if I had embedded myself at each of the identified NGOs for a longer period, I may have been able to reflect more deeply on organisational culture with a view to finding evidence to help explain why some NGOs appear more resilient than others. However, this would have come at the expense of time and money. To utilise such a research design and engage as many participants as possible in three separate cases would have taken several years. While unfeasible in this instance, these limitations do ultimately have important consequences for the empirical and theoretical contributions made in this study.

Finally, while my study makes important strides in understanding how restrictions impact on different constituencies of human rights activists, there is scope for significant

exploration in this research area. Using the example of WHRDs and LGBTIQ+ groups, I concluded my final empirical chapter by outlining how the types of restrictions levelled at these groups and subsequent costs of adaptation were higher for these groups. While this on its own is an important finding, it must be conceded that a different research design may have been able to offer greater clarity on this issue. For example, a decision to split human rights groups into sub-categories with different thematic focuses from the start may have helped shed greater light on this issue. It is therefore a clear recommendation emerging from this study to place emphasis on the diversity of human rights NGOs and focus more clearly on differences and similarities of their experiences of restrictions.

Implications for Further Research

My research has helped to add nuance to the debate on civil society space. In doing so, it has uncovered several important avenues for further research in this policy area. Future studies looking at restrictions on civil society would be well advised to pay careful attention to the impact of non-state actor actions and the interplay between state and non-state actor restrictions. A logical next step from this study would be to expand the number of cases to draw further conclusions over the frequency and prevalence of collusion between state and non-state actors. More case evidence from other contexts, with a particular focus on the types of agents used by states, could expand the theoretical conclusions drawn by this study.

Yet questions remain over the impact of these restrictions on NGOs. As one example of a possible impact, Brechenmacher (2017) highlighted the issue of collective action between NGOs being impeded by restrictions from non-state actors. My research also confirmed this dynamic. A future study might constructively use a collective action approach, rather than literature rooted in the principal agent approach, as the central theoretical lens of analysis. It would be interesting to understand the difference between

state restrictions and non-state actor restrictions in preventing collective action between NGOs on human rights issues. If the conclusions presented in this study are correct, a clear prediction would be that non-state actor restrictions are more effective at disrupting NGO networks than state restrictions. Emphasis could also be placed on understanding how and why some NGO networks working in particular policy areas are disrupted, when others are seemingly able to continue working together.

Given that international connections have been viewed as vital in securing human rights progress (cf. Brysk, 1993; Keck and Sikkink, 1998; Risse, Ropp and Sikkink, 1999), future analysis could focus on the impact of non-state actors on international “naming and shaming”. Using international advocacy as a metric of the effectiveness of non-state actor restrictions could offer broader conclusions over the importance of this phenomenon.

Finally, another variable noted throughout this study is that of NGO resources. In their important contribution to research on civil society space, Dupuy, Ron and Prakash (2015: 444) built on conventional wisdom that resources influence resilience to restrictions (cf. McCarthy and Zald, 1977). Throughout my study, I draw on examples where, despite the odds, NGOs and activists continue their work. Yet the pressing policy question is, why? Using the lens of resources, a clear next step to investigating this dynamic would be to interrogate the resource attributes of each of these NGOs. As a result, rather than focusing on restrictions, a future study may use NGO resources as the central point of analysis to explore resilience to restrictions, with a view to strengthening human rights NGOs across the world.

Conclusion

In this thesis I have shown that states collude with non-state actors to impose restrictions on human rights NGOs to reduce “naming and shaming”. Using careful variation in my

case selection, I have shown that regardless of regime type and the nature of state restrictions, in Bangladesh, Israel and the Occupied Territories, and Zimbabwe I find strong evidence that states can and do collude with non-state actors to impose restrictions on human rights NGOs.

However, importantly I find that regime type influences the type of restriction imposed by both states and by non-state actors. In Bangladesh, I find that the state prefers colluding with non-state actors to impose restrictions such as surveillance, enforced disappearance, torture, and the murder of activists. Yet the state's agents, such as the RAB, take considerable care to hide their identities and protect the state's reputation. In contrast to Bangladesh, in Zimbabwe, I find that the state also colludes with non-state actors to carry out surveillance operations on activists, enforced disappearance, and torture but is less concerned about reputation to the extent that the state also imposes these restrictions and openly works with non-state actors to repress activists. Rather than for deniability, Zimbabwe uses collusion to achieve a geographic advantage in areas it cannot reach easily. Finally, as a highly democratic state, I find strong evidence to suggest that Israel is extremely cautious of both directly imposing and colluding with non-state actors to impose individual restrictions. Indeed, the state goes to considerable effort to distance itself from the NGO Monitor, especially when the organisation imposes individual restrictions. I explain this by arguing that as a highly democratic state, Israel is constrained against imposing individual restrictions against Israelis for fear of audience costs. However, with Palestinian activists or activists working to promote the Palestinian cause, the state is more comfortable with individual restrictions, especially if individual restrictions help stifle criticism of Israel's military actions in Palestine.

Drawing on testimonial evidence I have demonstrated that non-state actors are more free to impose more severe individual restrictions on NGOs, which appear to have a more drastic impact on NGO advocacy than organisational restrictions imposed by states. Throughout the course of the preceding chapters, I have used my case evidence to highlight that the identities of state agents or links between state agents and the state are often concealed to ensure deniability. Further, non-state agents are nearly always protected from prosecution by the state, which enables the state to draw benefits from collusion. In consideration of all the above, my study has provided an important contribution by finding that states can draw benefits from collusion with non-state actors to impose restrictions on human rights NGOs and activists.

My study has shown that relations between states and human rights NGOs are often fraught. Restrictions by states on NGO activity are emblematic of this strained relationship in the battle to avoid the reputational costs of “naming and shaming”. Yet this established dynamic is complicated by the deployment of non-state agents to disrupt and hamper the work of critical human rights NGOs and endanger their affiliated activists. Future work should pay greater attention to this dynamic with a view to understanding how both domestic and international human rights NGOs can better respond to these threats. The lasting impacts of collusion between states and non-state actors when restricting human rights NGOs pose pertinent questions about the established status of established human rights norms. It is perhaps possible to conclude that state collusion may present an effective countermeasure to “naming and shaming” by NGOs. Consequently, my study offers an initial contribution in uncovering this dynamic but in closing, leaves many more questions unanswered. Given the critical importance of human rights NGOs, delegation of restrictions on these organisations may be the next

frontier on which domestic and international networks are challenged to find adequate responses.

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Appendix 1: Interview Questions

1. Have there been any restrictions on your organisation's work over the past ten years?
2. Who imposed these restrictions?
3. How, in your view have these restrictions influenced your ability to fulfil your mandate?
4. How would you describe groups, outside of the state which your organisation has come into conflict with?
5. Are there conditions under which restrictions from non-state actors (for example groups like, religious extremists, transnational corporations or government sponsored NGOs (GONGOs)) have increased or decreased?
 - Did actions by these groups follow restrictions from the state? Or visa versa?
6. How would you describe non-state actor tactics and strategies against your organisation? Have these changed over the past 10 years?
7. Do these actions differ from restrictions imposed on your organisations by states? How?
8. How would you describe these NSAs' relationship with the state/or government?
 - Can you provide any more details?
9. What in your view, are the consequences of non-state restrictions on your organisation?
 - For your members and staff?
 - For your organisation's financial stability and ability to raise funds?
 - For collaborative activities with other NGOs/INGOs?
10. Which type(s) of non-state actor restriction had the biggest effect on your organisation's ability to conduct advocacy? Why?
11. Did you contact the authorities for assistance? Or did you report these events?
 - Can you provide more details?
12. How did actions by NSAs influence public support for your group?
13. What strategies did your organisation implement to respond to actions by these groups? Why did you take these actions?
14. How important were your organisational resources in shaping your advocacy decisions? When you think about people? Networks? Money?
15. Are there any additional sources or documentation that would help us understand any of the issues discussed today?

Appendix 2: Codebook for Contents of NGO Monitor Press Statements

Variables

Organisational Smears in NGO Monitor Press Statements

Calls for Reduction in Funding

The NGO Monitor releases a press statement explicitly calling upon a critical NGO's donors to stop funding them. In doing so, the NGO Monitor seeks to deprive prominent human rights NGOs of funding.

Yes = 1

“It is difficult to understand how the IRDC provided political advocacy groups such as Mada with taxpayer funds in the first place. If there is a valid reason for government support for such NGOs, this should be made apparent through full disclosure and transparency of decision making. Unfortunately, the IRDC press statement on the legal settlement fails to shed any light on this process and declares that ‘IDRC and Mada al-Carmel will make no further statements regarding the nature of this settlement.’ We urge the IRDC and other government agencies to provide full disclosure on this important public policy issue.” (NGO Monitor, 2010e).

No = 0

Biased Reporting (ideological against Israel)

The press statement accuses another organisation of biased reporting on human rights issues. Often these accusations use ideological opposition to the creation of the state of Israel as a reason for human rights criticism.

1 = Yes

“We again see foreign European funding to NGOs contribute to the demonization of Israel in the international arena, instead of addressing real human rights abuses.” Steinberg adds. “In this text, these NGOs place their political agenda ahead of goals to protect women. The submission fails to address the repressive Hamas regime in Gaza, which conducts female genital mutilation, forbids women to walk on the beach alone or smoke in public, and forces female lawyers to wear a hijab in court.” (NGO Monitor, 2011c)

“Amnesty International accusations are reckless, blatantly biased, and reflect the lack of a credible research fact-finding methodology,” said Prof. Gerald Steinberg, president of NGO Monitor. “Amnesty lacks the expertise and credibility to analyze or assign blame for deaths in the context of violent confrontations in the West Bank. As in the past, the allegations in this report repeat unverifiable Palestinian ‘testimony.’” (NGO Monitor, 2014b).

0 = No

False Information (factual inaccuracies)

The press statement alleges that a human rights NGO has released a press statement on Israeli human rights violations which contains unverified information. As a result, the press statement seeks to discredit NGO reporting on human rights issues.

1 = Yes

“NGO Monitor noted the contents and timing of a B’Tselem report released today, which claims to analyze “the mechanisms used to gain Israeli control of land in the West Bank for building the settlements.” B’Tselem, which receives extensive European governmental funding, maintains a lobbying office in Washington, and the release of this highly publicized report coincides with Prime Minister Netanyahu’s meeting with President Obama.” (NGO Monitor, 2010b).

“Amnesty continues to level the false claim that Israel had “failed to conduct independent investigations into alleged war crimes by Israeli forces during Operation ‘Cast Lead’.” Israel has conducted hundreds of investigations into the events relating to the 2008-09 war. Judge Mary McGowan Davis, empanelled by the Human Rights Council to lead the follow-up committee to the Goldstone Report, found that “Israel has dedicated significant resources to investigate over 400 allegations of operational misconduct in Gaza.” Judge Goldstone, himself, has noted “our main recommendation was for each party to investigate, transparently and in good faith, the incidents referred to in our report. McGowan Davis has found that Israel has done this to a significant degree.” (NGO Monitor, 2012).

0 = no

BDS

The press statement seeks to smear an organisation for reported affiliation with the BDS movement. In doing so, the NGO Monitor seeks to de-legitimise criticism of Israel’s human rights record through an organisation or activist’s alleged affiliation with BDS.

Yes = 1

“In another indication that non-governmental organizations (NGOs) need guidelines, including regarding their funding sources, B’Tselem has accepted a contribution from Philadelphia-based Bubbes and Zaydes for Peace (BZP). NGO Monitor notes that despite its disarming name, BZP endorses the boycott, divestment, and sanctions (BDS) movement against Israel and often engages in demonizing rhetoric – both of which B’Tselem claims to oppose.” (NGO Monitor, 2010a).

No = 0

Individual Smears in NGO Monitor Press Statements

Personal Smears

The NGO Monitor's press statement contains allegations with smear individual activists by name. In doing so, the NGO Monitor's work seeks to delegitimise a particular activist's criticism of Israel's human rights record.

“As documented in NGO Monitor's detailed report on HRW, Marc Garlasco, HRW's “senior military expert” in the “Emergencies Division”, has written numerous reports condemning Israel which combine unreliable Palestinian claims and pseudo-technical analyses...Now, Garlasco has also been exposed as an avid collector of Nazi memorabilia and fetishist. Omri Ceren (Mere Rhetoric) writes that he is “obsessed with the color and pageantry of Nazism, has published a detailed 430 page book on Nazi war paraphernalia, and participates in forums for Nazi souvenir collectors.” (NGO Monitor, 2009c).

No = 0

Resignation:

The press statement openly calls for the resignation of a critical NGO activist using personal smears seeking to discredit their professional opinion on human rights concerns. In doing so, the press statement seeks to reduce NGO advocacy by altering the staffing of a critical human rights organisation.

1 = Yes

“Executive Director of NGO Monitor, called today for the immediate resignation of the heads of powerful human rights organizations, including Amnesty International, Human Rights Watch, and B'tselem (based in Israel). He highlighted their direct moral responsibility for the deaths of both Palestinian and Israeli civilians, noting in particular their silence on the central issue of human shields used by Hamas in Gaza.” (NGO Monitor, 2009e).

“Following Human Rights Watch's (HRW) neglect of brutal human rights violations in Libya and false claims and cover-ups about prospects for reforms there, NGO Monitor today called for the immediate resignation of Sarah Leah Whitson, HRW's director of its Middle East and North Africa (MENA) division. HRW's MENA division failed to devote the necessary resources to speaking out against human rights violations by oppressive Middle East regimes, including Saudi Arabia, Hamas, Lebanon, and most notably, Libya. Recent statements by Whitson regarding Seif Islam, a son of Moammar Qaddafi, demonstrate that she consistently whitewashed the reality in Libya and further embarrassed her organization.” (NGO Monitor, 2011a).

0 = No

Terrorist Activity

The NGO Monitor directly accuses a human rights activist of supporting terrorist activity in the Occupied Territories.

Yes = 1

“Other examples can be seen in the recent actions of FIDH and its Palestinian affiliate Al Haq. In January 2013, Al Haq published its “Feasting on the Occupation” report, which described “the issue of labelling settlement produce, which Al-Haq considers as an interim measure in the process of adopting a ban [on trade in goods originating from Israeli settlements].” Al Haq’s Director Shawan Jabarin, who has been linked by Israeli and Jordanian authorities to the PFLP terror group, repeated this demand at a September meeting of the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People held in Brussels.” (NGO Monitor, 2015b).

“NGO Monitor found that non-governmental organizations (NGOs) including Addameer, Al-Haq, Alternative Information Center (AIC), Defense for Children International – Palestine (DCI-P), Health Work Committee (HWC), Stop the Wall, Palestinian Center for Human Rights (PCHR), and the Union of Agricultural Work Committees (UAWC) are either directly affiliated with the PFLP or have a substantial presence of employees and officials connected to the terrorist group.” (NGO Monitor, 2016a).

No = 0

No Restriction

No Accusation Against Another NGO

The press statement does not contain any reference to another NGO.

Yes = 1

No = 0