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China’s tactics in resisting the acceptance of civil and political human rights: how has China’s appeasement response towards the UN international human rights system challenged the universality of human rights norms

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China's Tactics in Resisting the Acceptance of Civil and Political Human Rights: How has China's Appeasement Response towards the UN International Human Rights System Challenged the Universality of Human Rights Norms

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DECLARATION

I hereby declare that the thesis submitted for assessment is my own unaided work, except where I have explicitly given reference to the thoughts of other authors. I understand that the University of the Witwatersrand may take disciplinary action against me if there is a belief that this is not my own work and/or that I have failed to acknowledge the source of the words in this thesis.

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ABSTRACT

Mainland China's actions with respect to civil and political human rights have stirred pressure by the international community for China to approve and conform to the mentioned human rights norms by ratifying the ICCPR. However, Beijing's response has been tactical not only to appease and quiet the pressure; it has also challenged the power of the socialisation and universality of human rights norms and standards. The introduction of the five-stage spiral model of human rights helps in revealing China's preemptive behaviour and position in this regard, particularly in the third stage of tactical concession. China's strategy of the use of appeasement as a human rights foreign policy tactic is to avoid the practice of civil and political human rights within the country, and also has been fueled by its status and power in global platforms such as the UN. China's sovereignty has easily allowed the country to demean universal norms which threaten the country's communist values. Moreover, China's stubbornness to fully comply to human rights norms has further raised concerns with the efficiency of international humanitarian law in safeguarding human dignity. As China has not ratified the ICCPR, it leads to the questioning of the power of humanitarian law in socialising human rights norms to all UN member states. Nonetheless, Beijing's influence in the expansion, or lack thereof, of human rights norms has challenged the universalism of the rights mentioned.

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LIST OF ACRONYMS AND ABBREVIATIONS

ACFTU	All-China Federation of Trade Unions
BRICS	Brazil, Russia, India, China and South Africa
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CERD	International Convention on the Elimination of All Forms of Racial Discrimination
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CCP	Chinese Communist Party
CRC	Convention on the Rights of the Child
EU	European Union
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
MNF	Most Favoured Nation
NGO	Non-Governmental Organisation
NPC	National People's Congress
PRC	People's Republic of China
ROC	Republic of China
SC	Security Council
SOE	State-Owned Enterprises
UN	United Nations
UNCHR	United Nations Commission on Human Rights
UNCRC	United Nations Convention on the Rights of the Child

UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
UNHRC	United Nations Human Rights Council
UN UDHR	United Nations Universal Declaration of Human Rights
USA	United States of America

Chapter One:
Introduction of the development of the universality of human rights norms: Analysis of the UN Charter, the UN Universal Declaration of Human Rights and the solidification and socialisation of human rights norms

1.1 Introduction

The establishment of human rights may have risen from the need to protect humans from political, civil, economic, social, cultural and religious violations that may threaten their dignity. Although human rights can be understood simply, its human fundamentals have always had different connotations from place to place. This means that the practices which guarantee human rights are not defined in universal ways. Human rights, defined as ethical rights deserving to all human beings regardless of the human being's nationality, race, gender, culture, religious belief, and sexuality, are bestowed as the basis for a standard of living among human beings [CITATION Don07 \l 7177]. Legally, they guarantee the protection of "individuals and groups against actions by governments which interfere with fundamental freedoms and human dignity" [CITATION Off01 \l 7177]. These ethics, in the form of rights, are therefore pivotal for the protection of the human worth. Ci [CITATION CiJ05 \n \t \l 7177] elaborates on this by asserting that human rights are not just merely ethical or moral fundamentals for the protection of human life, but also serve as basic measurements of the worth of human life.

The importance of human rights has over the decades led to their development with legal instruments playing a key role in the advancement of their universality through international human rights laws. The advancement of this universality has been successful to such an extent that the discussion of human rights by dominant parties is evident in almost all political, civil, economic or social domains internationally [CITATION Fle01 \l 7177]. However, since these rights are separated into categories, there is often an imbalance in their implementation. This may be seen in how some parts of the world view human rights solely as civil and political rights such as the rights to life, universal and equal suffrage as well as equality before the law [CITATION Off76 \l 7177]. In other places however, economic and social rights such as the rights to health and shelter are accorded higher value [CITATION Off761 \l 7177]. Regardless

of the differing views and attitudes towards various types of human rights, it is important to stress that these fundamentals should be viewed as far beyond mere charitable fundamentals or the means to fulfil basic human needs. Rather, they are legal obligations that require fulfilment by states and the rest of the international community in order for citizens to enjoy them [CITATION Placeholder2 \t \l 7177]. This is significant as human rights can often be mistaken for the need to help people out of goodwill. They have the legal power to command responsibility from the relevant bodies and states for the sake of human dignity. This legal responsibility is what enables the socialisation of international human rights norms and strengthens their universality.

The involvement of international humanitarian law is a crucial element in the development of the universality of international human rights norms. According to O'Neill and Lyth [CITATION Placeholder3 \n \t \l 7177], international humanitarian law can be defined as a law comprising of moralities and laws which restrict violent action. The Office of the High Commissioner for Human Rights [CITATION Off01 \n \t \l 7177] defines this type of law as an international law which guarantees respect for the fundamentals and values of human dignity in instances of global armed conflicts, and to some degree, during internal armed conflicts. International human rights law was formed through the establishment of a body of international human rights instruments and treaties. These instruments are inclusive of "legally binding treaties, covenants, and conventions (hard law) as well as commitments expressed in declarations, resolutions, guiding principles, codes of conduct, etc. (soft law)" [*ibid*.]. This is where the International Bill of Human Rights comes into play by establishing the type of rights assured through international humanitarian law. In analysing the supremacy as well as the growth of the universal acceptance of standards of human rights, international humanitarian law may be a vital player in ensuring that respect, recognition and action towards these standards are met. However, it is also important to investigate to what extent of a role this law plays in solidifying the universality of human rights standards.

In this regard, one may assert that the issue of human rights cannot be entirely separated from the theme of politics and its resultant acts. Even though human rights may be invoked in diverse economic and social situations (such as the right to shelter and the right to health and welfare), the political dimensions of these rights

often stand out. This also highlights the dominance of civil and political human rights as well.

1.2 The UN Charter

The Second World War was accompanied by the frantic need for the internationalisation of human rights. This effort came about after the failure of the establishment of a human rights system after World War I. Therefore, World War II can be credited for hastening the need to globalise the human rights system. The introduction of human rights thus came in a form whereby countries would be under a “telescope” watching against their human rights violations. The Holocaust (1933-1945) which occurred during World War II was a mass human rights violation that the rest of the world witnessed but could not intervene in due to the lack of a universal human rights system that would have held Nazi Germany accountable for its gruesome actions [CITATION Placeholder4 \t \l 7177]. This period led to the consciousness that no organisation or government may be granted the freedom to carry out human rights violations acts such as slavery and human trafficking. Thus, the pressure to establish a stable system for the implementation of norms which respect and protect human dignity became universal. This is how the United Nations (UN) Charter became the essential bedrock for the universality of human rights law.

The signing of the UN Charter on 26 June 1945 concluded the San Francisco Conference with 46 UN member states present. The conference stands out as one of the most important meetings in the history of the universality of human rights [CITATION Uni45 \t \l 7177]. The coming together of states to sign the Charter was a result of the work of four commissions. However, the journey to the successful signing of the UN Charter did not occur without problems and contestations, one of which was the clashes between regional and global priorities. States who were also members of regional groups had a tough task of amending their regional priorities and agreements to align with the objectives and plans of the United Nations (*ibid*.). Although there is indeed still a challenge in this regard, the need for universality eliminates the existence of regional concerns regarding human rights, and while this has not been fully realised, organisations such as the UN, Amnesty International, and Human Rights Watch have become relevant in helping to develop respectable universal human rights norms.

One of the key purposes of the Charter stated in *Article 1(3)* which is “encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion” [CITATION Uni451 \l 7177], has become the first doctrine of global human rights norms. However, there is a problem in the absence of details and the classification of human rights. What the Charter does is only to present human rights in a holistic manner, which dilutes the obligations of member states to merely promote the development and recognition of the human rights by either joint or separate motive [CITATION San49 \l 7177].

It can be argued further that in as much as the stated basic purpose of the Charter was to offer foundation for the international human rights system, the Charter itself lacks consistency and does not offer a clearly defined guide for the implementation of human rights norms, which should serve as a blueprint and mandate for all states. It was assumed in the beginning that the Charter provide a thoroughly definition of human rights norms that were to be understood by member states. Even its commitment to the prevention of war, maintenance of peace, human rights and the protection of human dignity do not appear as the main crux of the Charter. They only appear to be second to the goal of international peace amongst member states. Moreover, the establishment of the universality of human rights norms through the purposes and principles of the UN Charter would not have progressed further if the Charter remained as the sole foundation for the internationalisation of human rights norms. It miscarries by its lack of sufficient specific definition and declaration of human rights and their standards. The UN Universal Declaration of Human Rights (UDHR) had to be made as it is inclusive of a wide range of rights, which in turn has helped in enabling the promotion of clearly defined universal norms for the various human rights.

1.3 The United Nations Universal Declaration of Human Rights

To point out universal norms with regard to human rights is significant because the power of the universality of the norms lies in the decisions of states to translate human rights laws into practice. This means that human rights have to be clearly defined in order for them to be applied by the ratifying member state. Three years after the proclamation of the UN Charter, the adoption of the UN Universal Declaration of Human Right became a major boost for the advancement of the

universality of human rights standards through the Human Rights Commission. Firstly, the UDHR is the first to define various types of human rights such as civil, political, social, economic and cultural human rights explicitly. Secondly, it facilitated the launch of the International Bill of Human Rights, which holds universal human rights instruments [CITATION Placeholder3 \t \l 7177]. Although the UDHR may not be a binding human rights instrument, it nevertheless has power in its ability to assert the obligation of member states to abide by human rights norms. The power of the commitment it requires from states is that of the morality of states to make use of their power to advance and implement standards which protect the lives of their citizens.

Eleanor Roosevelt, who was the chair of the subcommittee responsible for formulating the declaration, became a major actor in ensuring that it does not reflect Western aims only, but are universally inclusive. Essentially, human rights norms could be advanced successfully only at a universal level, where the entire global society is included [CITATION Bla08 \l 7177]. The UN describes it as the foundation of international human rights law as it encourages the establishment of legally binding treaties for human rights. It defines standards of human rights in the most basic yet clear manner and is becoming one of the greatest achievements of the UN yet [CITATION UNU48 \l 7177].

The declaration is crucial in our understanding of the initial need for the development of universal human rights norms. In a *Foreign Affairs* article, Eleanor Roosevelt highlighted the significance of human rights standards between states noting that "many of us thought that lack of standards for human rights the world over was one of the greatest causes of friction among the nations, and that recognition of human rights might become one of the cornerstones on which peace could eventually be based" [CITATION Roo48 \l 7177]. Therefore, only through establishing well-defined human rights standards can human dignity be protected and peace achieved among states.

Where the UN Charter failed to achieve because of its lack of clearly stated human rights standards, the declaration succeeded because of its focus on clearly defined norms and putting human rights first. Thus, with its inclusion of civil, political, economic, social and cultural human rights, it led to the establishment of two

important treaties within the International Bill of Human Rights, namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). This study focuses on the former agreement in order to investigate the challenges faced in China in this regard.

It is important to highlight China's participation in the first inception of the UN human rights system. Whilst it was still the Republic of China (ROC), it became a signatory of both the UN Charter and the UDHR. However, due to the Chinese Civil War and communist rule, China lacked the effective representation it deserved in the UN [CITATION Ken99 \l 7177]. Therefore, it is fair to note that China did not fulfil the stated principles of the Charter until its rebirth as the People's Republic of China (PRC) in 1971. Her inactivity in the implementation of universal human rights norms as ROC may possibly be an explanation for the PRC's on-going human rights challenges especially with regard to civil and political rights. One may argue that in as much as China has always been physically present in the UN human rights system, it has merely refused to implement these norms. The civil and political rights stipulated under the International Bill of Human Rights have met constant disregard from the Chinese communist regime.

1.4 The Solidification of Civil and Political Human Rights Norms

The introduction of civil and political rights became possible through the establishment of the UDHR in which these types of rights were guaranteed. However, the ratification and application of these rights became possible through the establishment of the ICCPR which was signed on 16 December 1966 and came into force on 23 March 1979. This was followed by the First and Second Optional Protocols of the agreement. The civil and political rights stated in the treaty, also referred to as negative rights, merely require the judicial approval of the ruling government in a state for its implementation [CITATION Çam17 \l 7177]. Both civil and political rights may not require resources for implementation; however if not implemented, they have the power to strip civilians of their dignity, such as their right to life or to freedom of expression through speech. It is therefore crucial to begin analysis from the most basic yet important rights. A civil universal norm such as the

obligation to protect and preserve human life should be the most important because it provides the opportunity for the benefits of additional rights.

Moreover, civil and political rights may both not require resources, but they vary in practice and policy. Civil rights in practice, may be viewed as to what range they are being violated. An example is *Article 7* of the ICCPR which states that: “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation” [CITATION Int76 \l 7177]. Policy outcomes for the protection and solidification of civil rights norms can be reflected by investments in the judiciary which will act to protect them from the state [CITATION Lan04 \l 7177]. On the other hand, political rights under the treaty can be explored in terms of the extent to which civilians are allowed to practise rights such as the right to vote as stipulated in *Article 25 (b)* [CITATION Int76 \l 7177]. The solidification of political right norms by State Parties is reflected in policies such as a number of voters and civil organisations that practise these rights through their own free will (*ibid.*).

In addition, *Article 1* of the ICCPR states that “All peoples have the right of self-determination. By virtue of this right, they freely determine their political status and freely pursue their economic, social and cultural development” (*ibid.*). This right for civilians to self-rule through their freedom of choice is critical and may be one of the most important features of human rights norms. Across the board, self-determination as a human right element serves as a norm. To date, 172 states have ratified the mentioned treaty of which China is not part [CITATION Uni19 \l 7177]. Article 10 of the same treaty stipulates that people who are robbed of their freedom shall be treated with dignity. This is in line with the human right norm of self-determination or self-will whereby people have a choice with regards to their economic, social and cultural lifestyle. Denying the civil right of self-will may deny the complete economic, social and cultural freedom, thus robbing civilians of their deserved dignity.

Furthermore, the ICCPR was established to solidify civil and political human rights and their norms through the responsibility of the ratifying state. The Human Rights Committee, under the Covenant, has the role of receiving human rights reports submitted by state parties on their efforts and procedures taken to meet the requirements of the treaty [CITATION Pat09 \l 7177]. This committee is significant in

guarding the commitment of State Parties in fulfilling their vow to promote the universality of human rights standards. It is through such efforts that the strengthening of these standards is made possible against violations of some rights. The reporting of measures taken to ensure implementation of these rights may be one way of promoting them. This however appears insufficient judging by several violations even in some of the State Party nations. Moreover, work still needs to be done under the UN system to promote the acceptance and ratification of civil and political human rights norms. This is highlighted by the fact that China, one of the signatories of the ICCPR, has not yet ratified the treaty despite countless assurances that it will do so. The UN human rights system, which includes the United Nations Human Rights Council (UNHRC) as an instrument which oversees country-by-country implementation of UN human rights treaties, may need to expanded its role. The Global Citizenship Commission promotes the Office of the High Commissioner for Human Rights as an organ which strengthens country institutions and their civil societies. However, it lacks a regional role in areas such as North-East Asia and South Asia, which may prove to be problematic when it has to carry out individual country operations [CITATION Placeholder5 \l 7177].

If these already existing UN organs have failed to persuade states to reach full acceptance of their treaties and norms, it may be necessary for a new organ to be set up to work solely on this task. Perhaps then will the socialisation and entrenchment of universal human rights norms be possible. Successful ratification of these norms can easily downplay the disregard shown by a country like China for example. China, being a permanent member of the Security Council (SC) has to be challenged to adopt all the human rights values of the UN fully.

1.5 The Failure of UN Agents in the Socialisation of Human Rights Norms

The UN agents of human rights can be thought of as the most important players in the socialisation and ratification of all human rights norms. However, the very same players may have failed to put forward a strict stance for the universal respect, implementation and entrenchment of human. This can be seen through the failure and eventual dissolution of the UN Commission on Human Rights (UNCHR), which was replaced with the UNHRC. The mandate of the defunct UNCHR had contradicted human rights violation actions. In spite of this problem, it can be

credited with playing an important role in the establishment of the UDHR and the preparation of some valuable treaties thereafter. Its focus, which it largely failed, was to encourage respect for human rights universally and most importantly to respond to human rights violations across the globe [CITATION Als06 \l 7177]. The failure of the mandate put a strain and challenge for the development of the universality and socialisation of human rights norms, resulting in a divide among nations. If a UN agent fails to take action against human rights violations anywhere in the globe, then it may defeat the establishment and promotion of human rights norms which should be accomplished universally by every country.

The weaknesses of the UNCHR were exposed when China's successfully combated resolutions against is human rights violations. In this regard, China used its economic power which is still one of its main foreign policy tactics. Chatham House reports that China often uses a "rewards and punishment" approach when faced with threats against its violations of human rights. In 1997, Denmark proposed to support a 1997 resolution against China and China responded with economic threats against Denmark. This also reveals how China's foreign policy agenda is designed in a way which allows the "carrot and stick" approach to be used when needed [CITATION Sce121 \t \l 7177].

Since the Commission could not contest against human rights violations, even in member states, the council had to be established to advance the task of promoting universal respect for human rights norms and fighting against their violations (*ibid*.). After the establishment of the UNHRC, China became one of the first states to secure a seat. However, unlike under the Commission, China's position under the Council allows the country to avoid challenges to its human rights violations by other states. As violations of human rights orchestrated by the government rise in China, other states continue to receive a cold shoulder from China when the violations are raised as a global concern [CITATION Sce121 \t \l 7177]. It may therefore be argued that, besides criticism from individual states over violations of freedom of speech and the right to peaceful assembly, China seems to have a power advantage of scrutiny under the UN. For as long as China is in a position that allows it to get away with such violations, the ultimate goal of implementing these norms is seriously undermined. Furthermore, the sincerity of UN agents themselves have also been questioned. Chapter 3 of the dissertation will expand on China's sovereignty under

the UN and explain how it has always overcome opposition of its violation of civil human rights in particular.

1.6 Conclusion

The promotion of the universalisation of human rights has, over the decades, proved to be difficult due to conflicting views on certain fundamental rights. In as much as all the human rights stipulated in UN treaties such as the ICCPR and the ICESCR are of high importance, equal acceptance and implementation by all states have proved to be impossible. China, as a case study for this research, has been unapologetic in its stance which favours economic and social rights for its citizens over their civil and political rights. As a member state of the UN and one of the five permanent members of the Security Council, China has tested the status quo of some of the values and principles of the most important organisation concerning universal human rights. One surely cannot deny the progress that the organisation has made in ensuring that member states comply with universal protection of human dignity. However, China is one of the most powerful states in the organisation and has therefore utilised its power advantage by disregarding the need to implement civil and political human rights for its citizens due to its communist regime.

The protection of human dignity may have been the drive for the institutionalisation of fundamental human rights globally. International law has played a central role in the legalisation of these rights. However, socialisation and the need for states to implement human rights norms still remain a challenge. The failure of full compliance by states has further questioned the phenomena of the power of international human rights law. Focusing on China, one of the most powerful and active players in the UN, has largely contributed to the question the power of international human rights laws and of the UN itself. Furthermore, China's reluctance to ratifiy the ICCPR highlights the difficulties associated with socialising the advancement of all human rights norms. Instead, the pressure for China to ratify so it can be bound to implement the civil and political human rights has been met with China's strategy of appeasement to resist pressure from the international human rights system and to continue its preservation of its communist values.

The next chapter will try to analyse existing literature on the topic of human rights, human rights norms, civil and political rights as well as China's attitudes and actions

towards human rights. Most importantly, the chapter will seek to fill the literature gap on civil and political rights attitudes by the Chinese government. This is very important as it may in turn force the international human rights system to review its approach to the universalisation of all human rights norms.

Chapter Two:
Literature Review

2.1 Literature Review

The concept of international human rights opens a discussion concerning the distinctiveness and diversity of human rights. In the article, *Human Rights*, [CITATION Fal04 \l 7177] emphasises the diversity of the concept of human rights by drawing attention to its continental and religious dimensions in order to move away from the notion that human rights are simply political. He first asserts that not every state aims to implement the same type of human rights, a view which can be seen to be in contrast to the general acceptance of universal human rights through instruments such as the UN UDHR. In fact, the universality of human rights, as supported as it may have been, has also witnessed resistance. This is due to the belief that human rights are mostly a Western invention which has been enforced on non-Western cultures for them to be universal and widespread. However, most non-Western cultures which have refused to accept or implement these universal rights have used their denial of so-called Western human rights as ammunition against criticism for their violation of human dignity by their governments [CITATION Fal04 \l 7177]. This view from Falk may also justify China's actions towards civil and political rights through its unwillingness to ratify the ICCPR so it cannot be bound by it. The opposition to full acceptance of civil and political human rights by the Chinese communist government has negative consequences on its citizens.

Falk further highlights how the universality of human rights can often clash with regional values. Certain regional values are rooted in tradition, as seen in Asian, Islamic and Christian cultures, which may each have distinct valued human rights. Moreover, there also exist indigenous groups who have their distinct valued human rights (*ibid.*). The UN Declaration on the Rights of Indigenous Peoples (UNDRIP), adopted under the UN General Assembly (UNGA) is a framework that includes human rights for indigenous people [CITATION Uni07 \t \l 7177]. Falk shows that human rights are far beyond mere civil and political liberty. There are economic, social and cultural features within human rights which are equally important. This is why the two international covenants, the ICCPR and the ICESCR, were separated [CITATION

Fal04 \l 7177]. However, this separation leads to the questioning of the unity of universal human rights. Could it have been easier to achieve universality if all the rights were under one agreement? This, in turn, may have put countries like China in a position to submit to all human rights and not be selective on which rights serve their interests the most.

Linda Hajjar Leib, a human rights scholar, argues that the UN UDHR was aimed at crafting a natural unity of all human rights, both the negative and positive human rights, where they are all interrelated to each other. In fact, the two most prominent covenants, the ICCPR and the ICESCR, were initially intended to be a single, rather than two treaties. The UN General Assembly had passed a resolution puts both types of rights under a single document in order to recognise the interconnection between the two. However, in 1952 a separate resolution called for the UN Commission on Human Rights to separate the two rights to differentiate between them and to offer UN member states a choice on which one to observe [CITATION Placeholder6 \t \l 7177]. Leib's research reveals how difficult it was for the UN to unify civil, political and economic, social and cultural rights. This made it easier for UN Member states such as China to yield to treaties that align with their individual national interests. China has since refrained from ratifying the ICCPR after signing it in 1998, proving again that the universality of all human rights remains a challenge.

Leib further reiterates the unity of negative and positive human rights as they are both integrated into other international human rights treaties such as the UN Convention on the Rights of the Child (UNCRC), the UN Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (*ibid.*). Ironically, these are the human rights treaties which China is a party to, and which incorporate the same civil rights that China refuses to sign up to under the ICCPR. This leads to the question of whether China's ability to play the international human rights system has been made possible through this division of the negative and positive international human rights. China's disregard of negative human rights may have been possibly been challenged if both negative and positive human were under one covenant.

Leib also offers a detailed exploration of the globalisation and universality of human rights. Due to violations of the world wars, the institutionalisation of international rights came into existence. This was to prevent any state being exempt from investigation and prosecution for possible severe human rights violations. This institutionalisation under the universalisation of human rights was to facilitate the socialisation of international human rights norms which were meant to act as a measure of how each country respects and implements the same norms to protect the dignity of its citizens (*ibid*.). Unfortunately, this is hindered by differing cultural norms and ideologies across the world. Leib reiterates what Falk [CITATION Fal04 \n \t \l 7177] emphasised in his *Human Rights* article by stating that the main challenge to the universalisation of human rights lies in the differences in values across regions and countries. This stems from the belief that international human rights norms are Westernised and thus clash with certain cultural values. However, Leib demonstrates that human rights scholars have often been challenged this belief by highlighting that the drafting of the UNDHR was inclusive of a homogenous collection of experts representing different cultural, religious and indigenous groups [CITATION Placeholder6 \t \l 7177].

China's extreme cases of violating civil and political human rights has constantly been exposed internally through the work of some Chinese human rights lawyers and activists who are themselves victims of these violations. Indeed, lawyers and human rights activists are often the major victims of violations of the Chinese government because they risk their lives by challenging and exposing violations by the government. China's civil human rights violations have been exposed a lot in detailed yearly reports by equally powerful states such as the USA as well as by internationally well-respected human rights organisations like Human Rights Watch and Amnesty International. The United States' Department of State Bureau of Democracy, Human Rights and Labour's latest Country Report on Human Rights Practices on China [CITATION Uni17 \l 7177] provides details of such violations in China. The on-going violations of civil and political human rights occurrences in China have revealed the country's attitude towards these type of human rights.

The Chinese Communist Party (CCP) exercises supreme control over the state with Xi Jinping holding the most important positions, namely President of the state, General Secretary of the party as well as Chairman of the Central Military

Commission (*ibid*.: 1). The party has also played a major role in the most reported rights abuses in both civil and political domains. *Article 6 (1)* of the ICCPR states that "Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life" [CITATION Int76 \l 7177]. Arbitrary deprivations of life by the Chinese government has been evident. One particular case is that of the late 2010 Nobel Peace Prize laureate and political activist Liu Xiaobo, who died of liver cancer under police custody. He was diagnosed with the illness while in custody but was denied access to early treatment that would have prevented his death [CITATION Uni17 \l 7177]. The Chinese government was therefore blamed for his death on the basis of *Article 6 (1)*.

The Chinese constitution clearly guarantees citizens freedoms such as freedom of speech, freedom of press, freedom of assembly and freedom of association, to name the important ones. *Article 35* of the constitution states that "Citizens of the People's Republic of China have the freedom to speak, publish, assemble, associate, march and demonstrate" [CITATION Peo82 \l 7177]. Some of these rights stated in the country's constitution align with *Articles 19 (1), 21 and 22(1)* of the ICCPR which guarantee the right to freedom of speech through opinion and expression, the right to peaceful assembly as well as the right to freedom of association [CITATION Int76 \l 7177]. Inspite of these rights laid out in the constitution, government authorities have often violently restricted citizens who have acted upon them, particularly when they expose the CCP's interests. The restriction of these civil freedoms is through the control of social media and broadcast platforms by authorities who instead use propaganda to impose the ideas of the ruling government. To highlight the government's disregard of freedom of expression, the government authorities detained Peng Heping, a poet whose work was dedicated to the late Nobel Peace laureate Liu Xiaobo. His arrest revealed how freedom of expression that challenges the ruling government's actions often leads to punishment [CITATION Uni17 \l 7177].

Freedom of movement, both within one's home country and outside, as stated in *Article 12 (1)*, has been a constantly violated right in China. Furthermore, the Chinese law forbids citizens freedom of association and the right to be part of trade unions of their choice. In fact, trade unions outside of the jurisdiction of the ruling authority are illegal and cannot be formed freely. The only legally recognised trade union is the All-China Federation of Trade Unions (ACFTU) which is under the CCP

[CITATION Uni17 \l 7177]. The US Department of State reports that the Chinese government consents to foreign travel as well as legal emigration for most of its citizens. However, current and retired government employees, some from the military are often restricted from foreign travel. Others include human rights lawyers, business persons, authors, artists and various activists, including their families. The threat to "national security" is often the reason behind such restrictions (*ibid*.).

Political rights are seriously limited for Chinese citizens, a situation which is in contrast to *Article 2* of the constitution which stipulates that "All powers in the People's Republic of China belong to the people" and that citizens can exercise this power through the National People's Congress (NPC), the country's legislature [CITATION Peo82 \l 7177]. However, the CCP still has a strong hold over the NPC and is behind much of its decisions. Therefore, citizens have not been able to elect representatives of their choice and CCP has constantly harassed placed potential independent candidates who wanted to run for political office under house arrest [CITATION Uni17 \l 7177].

Another report which exposes China's violations of civil and political human rights is the Amnesty International Report 2017/18 on The State of the World's Human Rights. The report highlights the government's actions that impede the advancement of human rights. It states that the Chinese government uses its progression of national interest plan as a façade to infringe on certain human rights, mostly civil and political ones. This is seen through the National Intelligence Law which came into force in June 2017. The laws under this are under a national security legal architecture including Anti-espionage Law, Criminal Law Amendment (9), National Security Law, Anti-terrorism Law and Cyber Security Law all of which pose a threat to human rights. Vague national security statements are often used to justify the actions of the government. However, the actual motive could be more against human rights than for national security as these laws were against the rights of protection against arbitrary detention and fail to offer protection for citizens' rights such as privacy and freedom of expression, to name a few [CITATION Amn18 \l 7177].

The Chinese government often imposes internet restrictions by blocking thousands of websites, Facebook, Twitter, and Instagram included. In 2017, the country's leading communication app, WeChat, introduced terms which would gather a wide

range of personal information from its users and make them available for the government to access easily. This is an example of how the right to privacy can be violated by the state. Moreover, the country's State Council released reviewed Regulations on Religious Affairs which came into effect on 1 February 2018 which increased the state's power to control and monitor religious practices. This law is also based on the premise of protecting national interest through national security by limiting "infiltration and extremism" but actually infringes on the right to freedom of religion and belief (*ibid.*). The repression of religious activities and regulations which infringe on this right undermines what the constitution states in Article 36 that "No state organ, social group or individual may compel citizens to believe in religion or not to believe in religion…the state protects normal religious activities" [CITATION Peo82 \l 7177]. The report proves that the state has failed to protect normal religious activities that do not even threaten national security, particularly for Tibetan buddhists and Uighur Muslims [CITATION Amn18 \l 7177].

Reports on civil human rights abuses on autonomous groups such as the Tibetans and Uighurs reveal that there is no improvement in the recognition of these rights for the groups. Tibetans continue to face restrictions to freedom of religion and belief, opinion and expression as well as peaceful assembly and association. In the Xinjiang Uighur Autonomous Region, under the pretext of national security, people have been detained and forced to study Chinese law. In March 2017, a De-extremification Regulation was passed against actions considered as extreme such as the challenging and questioning of national policies, the publishing or reading of extreme content as well as having a beard that appears "abnormal" according to the authorities. As vague as these actions may be, they have been used to deny citizens of their civil rights in the region (*ibid.*).

The Human Rights Watch World Report 2018 details rights violations against human rights defenders by the Chinese government. It also highlights violations of political rights. In the autonomous region of Hong Kong, political parties opposing the CCP have been facing harassment from authorities in their campaign for democracy. Furthermore, in 2017, the Hong Kong National Party was removed from the companies registry for supporting independence from China. The Report highlights instances where authorities have ensured that the political rights of pro-democracy advocates in Hong Kong are frustrated. Pro-democracy campaigners were arrested

for protesting against a decision of a Hong Kong court to remove pro-independence policymakers. This was then followed by another instance in August 2017 when three leading student pro-democracy advocates where sentenced for a crime of "unlawful assembly" even when peacefully protesting during the 2014 Hong Kong protests, popularly known as the Umbrella Revolution. The protests were against a decision of the Standing Committee of the NPC on reforming Hong Kong's electoral system which would limit political rights in Hong Kong. The same month saw 13 pro-democracy peaceful protesters sentenced to 8 to 13 months imprisonment for "unlawful assembly" against the government [CITATION Hum181 \l 7177].

China's disregard of civil and political rights extends to women and girls' rights with the country being ranked 100 out of 144 countries in this regard. This is due also to the obvious absence of female representation in top government posts in the country. Moreover, females in the country often face discrimination in the workplace, domestic violence and harassment (*ibid*.). The report also highlights the sensitivity of sexual orientation and gender distinctiveness in China. In 1997, the government legalised homosexuality, however, there are still not any laws enforced to ensure the protection of homosexuals from discrimination and same-sex marriage is still not legally recognised by the state (*ibid*.).

These reveal how further from democracy the Chinese government is. It is also important to note that China has blatantly violated human rights stated in the country's Constitution, which then further questions the country's stance on human rights. If it fails to fully respect and put into action the human rights it promises in its own constitution then it leaves less hope for the ratification of the ICCPR, or for the country to be bound by it.

In her *China and the International Covenant on Civil and Political Rights: Prospects and Challenges* article, Lee [CITATION Lee072 \n \t \l 7177] provides a very detailed discussion of China's roundabouts concerning the pressure of the ratification of the ICCPR and how the mounting pressure for China further calls a need for a major legal reform, with concerns to fair trial and death penalty domestic subjects. The history of the PRC began with the dire need for a new ruling system for the development of the new China. Moa Zedong under the Communist Party of China initiated socialist campaigns in the 1950s to the 1960s, one which was the Cultural

Revolution. However, this revolution resulted in China being secluded from the rest of the world, the degrading of the rule of law and the legal system. Following the death of Zedong, Deng Xiaoping took over and made economic reform the key to the country's development and as a means of opening the country up to the international market. From the outset, human rights were not a priority for the government but its participation in the international market forced China to become part of international human rights treaties. Nevertheless, the domestic judicial system remained unchanged. And even when the system was reformed, it did not reflect the principles of the International Bill of Rights. When the NPC amended the Chinese constitution in 2004, that was as far as it could go in reforming its legal system for the sake of human rights, the same human rights that China has failed to apply to date [CITATION Lee071 \t \l 7177].

Lee highlights how China's history of signing and ratifying human rights treaties is based not on China's national interest, but for the country to be viewed in some way as a cooperative member of the international human rights community. In 1980, it ratified the CEDAW, then it became one of the first countries to sign the CERD before ratifying it in 1981. In 1988, it ratified the CAT followed by the CRC in 1992 and the ICESCR in 1998 (*ibid.*).

2.1.1 Literature Gap

Since its involvement in the international human rights system from the time it became the PRC, China seemed willing to yield to the standards of the rest of the world. However, what was to follow would prove that the signing of vital international human rights treaties and the ratification of some did not necessarily result in progress in the implementation of universality of human rights. There is still very little investigation on how China's reluctiance to ratify international human rights conventions has affected the universalisation of human rights norms. The next chapter will then seek to fill this gap as it explores how China's powerful position at the UN Security Council and refusal to ratify these conventions has stalled the universalisation of human rights norms. The study adopts the five-stage spiral model of human rights developed under the *Power of Human Rights* to demonstrate how China's resistance of civil and political rights negatively affects the socialisation of their norms.

Chapter Three:
China's Sovereignty within the Universality of Human Rights Norms

3.1 Introduction

The United Nations through its members can be highly credited for participation in the advancement of all universal human rights norms which have been developed under its international human rights system. With China being one of the five Permanent Members in the UN Security Council (UNSC), one would assume full participation from China that would make the burden of immersing universal human rights norms by various cultures across the globe less complex. Instead, China's status in the Council may have allowed it to easily manipulate a system which is vital for the protection of human dignity across the universe. China's behaviour towards the international human rights system has exposed the challenge of the country's unwillingness to accept universal human rights norms. The country's tactic to the universal human rights, civil and political rights, in particular, is important to examine in order to understand how it internalises these norms.

3.2 China's Behaviour under the UN Human Rights System

In the late 1970s, China put a stance by redefining state identity on its own terms, set apart from the Western and the rest of the world's version of state identity. Subsequently, this also resulted in a very carefully slowed-down approach by China towards fulfilling international human rights norms. It did not however totally discard international human rights but swayed away from the human rights influence that stems from foreign culture into Chinese culture. This was reiterated in a 1982 *Beijing Review* article which stated that "The bourgeoisie and certain unscrupulous people attack the socialist system by taking advantage of human rights. Imperialists and the Western bourgeoisie have never ceased to use human rights to attack and slander China, neither have they reduced their efforts to engage in ideological infiltration of China" [CITATION Bao82 \l 7177]. From this, it is quite clear that China's has been overprotective of its sovereignty from foreign influence, Western influence the most. However, China's attitude towards opening itself up to international human rights norms saw a slight change in the mid-1980s with China stepping up its interest to participate in the international human rights system, which followed after China

joined the UN in 1979 [CITATION Din091 \t \l 7177]. Although China did eventually accept the universal human rights norms, there still remains a huge gap between acceptance and submitting to certain norms. It is no surprise that Beijing's core importance lies in economic strength and social stability, which justifies the move of the ratification of the ICESCR over its counterpart treaty which still awaits ratification, the ICCPR.

The growing participation in the human rights system from China came with a surprising twist of Beijing entering the universal human rights norm train with its own version of human rights norms. In fact, China entering itself into the train was largely due to the need for the state to protect itself from international criticism which followed after the 1989 Tiananmen Square Massacre. Since entering into the human rights system under the UN, China has managed to position itself in a way that would let it get away from future scrutiny but rather allow it to have sovereign control under the international organisation [CITATION Pic18 \l 7177]. During plans for its establishment, China originally refrained from the Human Rights Council, opting for the preceding Human Rights Commission, which was easy for China to influence. After accepting the defeat from stopping the formation of the new Council, through its diplomats, it negotiated for the removal of country-specific investigations through resolutions and scrutiny for specific human rights violations, which also failed [CITATION Inb14 \t \l 7177]. Nonetheless, China has still circumvented a resolution that is specific to its human rights violations. Since the appointment of Jinping as President, China has successfully grown its sovereignty and influence under the UN through the extension of its role in the Council. In June 2017, the country tabled its first resolution under the Council on "The contribution of development to the enjoyment of all human rights" [CITATION UNG17 \l 7177]. This was followed by another resolution in March 2018 on "Promoting mutually beneficial cooperation in the field of human rights" [CITATION UNG18 \l 7177]. These resolutions represent China's sovereignty and are masked as a need for cooperation on the contribution of human rights, rather than the dire need for an investigation on every country's actions on the implementation of human rights. These resolutions are an example of how China has manoeuvred within the UN, being able to influence other UN member states to vote in their favour. In fact, China's openness in succumbing to foreign pressure seems to be decreasing further and further, rather than succumbing to comply with global

norms. The government's ability to confidently face its critics by defending itself has overshadowed its increasing disregard to comply. It still continues to commit to human rights in the UN platform, yet adversely challenges the global growth of the norms [CITATION Kin13 \l 7177]. It is also not emerging news that the PRC has a very harsh stance on human rights defenders both inside and outside of China. Once identified in China, the government ensures that the defenders face restrictions on their freedom of movement and travel and at times face detention. Western-based NGOs and individuals have faced threats and intimidation from Chinese government representatives who felt the state was being criticised for its wrongful actions [CITATION Pic18 \l 7177]. What should be also exposed about China's ability to hide its failure to comply is that the country has governance challenges which can be clearly seen in the urban-rural gap and economic growth that only lands in one part of the country (eastern) and does not benefit the majority. The country's authoritarian type of rule, therefore, offers vast differences in what is writes and commits to on paper and what it practices.

Since the entering of Xi Jinping into the Presidency in 2012, China's amplified involvement on human rights under the UN has mirrored a rather strategic approach intended at reforming global governance to that of Chinese standards. The Xi administration introduced the Belt and Road Initiative project to expand China's impact from Asia to Europe. According to some observers, this project by China is aimed to reshape international relations to operate in China's favour, however, it is enveloped as a type of investment which benefits the rest of the globe [CITATION Pic18 \l 7177]. Moreover, China has excelled at blocking further questioning and criticism for its human rights violation by advancing its ability to bring about global economic advancement. Being the second-largest economy in the international arena has allowed it to utilise its soft power not only to prevent its deserved scrutiny but to also weaken the global human rights order. Xi Jinping has taken advantage of the Trump's administration's decision to pull out its commitment from the Paris Climate Agreement and the Trans-Pacific Partnership trade agreement by strategically outlining its long-term plan of willingly taking the driver's seat on global concerns that need immediate addressing, such as climate change and trade, under the respective mentioned agreements. Taking the lead will then allow China's actions of aids within the United Nations expand, thus promoting its model within the UN. In its resolutions

passed under the Human Rights Council and the General Assembly, it often promotes advantageous cooperation for all parties involved with no tangible evidence for the advancement and promotion of human rights (*ibid*.). Such efforts by China may seem to be out of goodwill but they also play a deceiving role of downgrading the institutionalisation and advancement of global human rights norms in the name of economic development.

In May 2013, a document detailing secrets of the Chinese Communist Party was leaked. The document, labelled *Communiqué on the Current State of the Ideological Sphere*, exposed seven major threats to the legitimacy and strength of the ruling party, which the ruling party has been working to avoid by all means. These threats include universal values, the freedom of the press, civil society, civil rights, past mistakes executed by the Communist Party, elite cronyism as well as a self-governing judiciary [CITATION Tse17 \l 7177]. Universal values as a threat to the Chinese Communist Party pose as a threat to universal norms, in human rights in particular. When China committed to the UN Charter and the UNDHR, it committed to the universality of human rights, without being selective on which human rights would best suit its values. However, this became a contradiction after the adoption of the Bangkok Declaration by the Asian Human Rights Conference. The result of this Declaration became highly selective by stressing sovereignty and non-interference for Asia's implementation of human rights, thus promoting economic, social and cultural rights over civil and political ones. Therefore, this Declaration penned human rights which aligned with "Asian values". However, this so-called "Asian values" undermined universal values and norms. The advocates of these unique values often depict universal values as values by the West imposed to influence and control the Third World. In fact, advocates for human rights with Asian values have characterised universal values and norms as values based on egocentrism (*ibid*.). China has set an obvious preference for socio-economic human rights. In the order of human rights, social and economic rights are advantaged over civil and political ones. In the country's first White Paper on Human Rights, labelled "*Human Rights in China*", it is stated that "the right to subsistence is the most important of all human rights, without which the other rights are out of the question" [CITATION Chi91 \l 7177]. The White Paper, which was released following the Tiananmen Protests which were for civil and political rights, reiterates subsistence as the prominent human right over

other rights. Subsistence speaks rights which take care of basic social needs such as food, healthcare, and shelter. The Chinese government believes that these rights should be of first priority as if it were not so, it would put label other rights as low value. Moreover, China's unique human rights value is fought for in this white paper as the subsistence is emphasised as a guarantee of basic needs for civilians and subtly threatens that social uprisings in the country can take away from the government's provisions for survival. Therefore, the paper fought for its values by indirectly also justifying the massacre that occurred from the protests [CITATION Kin16 \l 7177]. This emphasis of subsistence having privilege over other rights is still reiterated in the country's succeeding white papers on human rights. China's fight for it to dominate on its own terms within the universality of human rights norms may never cease to end as it continues to challenge the full advancement of universal human rights norms, inclusive of civil and political human rights norms which China seems to oppose.

China had one of the driver's seats in the drafting of the Universal Declaration of Human Rights and argued for the immersion of Confucianism within the promotion of global human rights. Confucianism as a form of communitarianism is a system of ethics which emphasises morality from one's conscious. Moreover, it emphasises that states can be harmonious to one another, but they do not have to agree with one another. This argument is in contrast to the Western ideology of rationality and reasoning [CITATION Tse17 \l 7177]. In China's relation and cooperation with the rest of the world, universal human rights norms practiced by the rest of the international community can be recognised by China, but China does not necessarily have to be on par by practising the very same norms. This belief also challenges how authority is viewed in the global arena. No authority is the ultimate authority but should be viewed subjectively. In this case, China's non-intervention approach has also allowed it to move away from fully complying with all human rights norms, civil and political ones in particular. Moreover, rule of law, which makes the state submissive to law, is known as *fazhi* in Chinese, and translates as "rule by law". Therefore, instead of the law having supremacy over the state and its rulers in government, the law can be easily modified by the majority within the ruling party and is not above government authority [CITATION Kin13 \l 7177].

Contrary to China's own defence in improving on accommodating civil and political human rights norms into the country's domestic interest, respect for the rights of citizens in China have seen a drop since Xi Jinping's rule in power. In fact, the office has excelled at hindering the exposure from civil and political rights violations. During a Human Rights Council session in March 2015, the Chinese office issued a joint statement which addressed women's rights and offered a sponsorship to an event focused on addressing violence on females. While so, the government was taking no concern about offering help to women based organisations in China but hindered their work [CITATION Bro15 \l 7177]. As previously mentioned from a Report by the Human Rights Watch, freedom of expression and religion still remain critical subjects.

This bridge between acceptance and submission, or commitment and compliance as stated by Xinyuan Dai [CITATION Dai13 \n \t \l 7177], questions the effectiveness of international human rights law as well as institutions which accommodate it. The most pivotal question, however, lies in which tools are capable of pushing China towards compliance with regards to international civil and political norms, if there are any? This question may help us also investigate possible features which may be hindering China to comply, beyond its sovereignty. To expand on the understanding of commitment and compliance of human rights norms, a commitment by a member state can be the acceptance of the human rights through either the signing or the ratification of a treaty or international human rights agreement. On the other hand, compliance of human rights norms by the states requires a consistent responsibility of performing the human rights agreement as stated in the treaties. More so, compliance can be measured by the extent which a country can go in ensuring the implementing of the human rights agreement, in turn advancing the international human rights norms [CITATION Dai13 \l 7177]. This understanding of commitment raises an attention-grabbing point with China's level of commitment for civil and political human rights norms. China merely signed the ICCPR, which in itself reveals a partial acceptance that lacks completion by being ratified. The definition of commitment to human rights norms in another analysis is explained as a pledge through the ratification of at least one or two of the most important human rights treaties [CITATION Cla13 \l 7177].

3.3 China's Position in the Spiral Model of Human Rights

The five-stage spiral model of human rights developed in the Power of Human Rights: International Norms and Domestic Change can best explain how far China has yielded in accepting civil and political human rights norms and how the socialisation of these norms has thus been affected. Socialisation can be understood as the process of the international need for global norms to be implemented by individual states into their domestic practices [CITATION Ris991 \t \l 7177].

The hypothesis of this research asserts that pressure from the international human rights system and the international community for China to fulfil civil and political human rights has challenged the power of the universality and socialisation of human rights norms. To prove this hypothesis, key elements within the international human rights system can help elaborate this perspective and thus lead towards the premise of why the PRC eventually signed the ICCPR, regardless of the Covenant being in contrast with its communist values, and also giving the impression that it may eventually ratify. Firstly, universal human rights norms are often stated clearly by the international human rights system, however, they lack the assertiveness to be forcefully or legally binding on states, for as long as states have not independently legally approved on them. In the case of China, the enforcement of the application of human rights, negative human rights, in particular, is not paramount to state autonomy. The recognition of all global human rights norms has been rising, whereas state independence lessening [CITATION For12 \l 7177]. However, China has challenged this status quo which initiated the pressure for it to recognise and approve global human rights norms. Interestingly, China in most circumstances has yielded to the pressure in a strategic manner which eventually served its self-interest and not lessened its state power over human rights norms [CITATION Inb121 \t \l 7177].

The spiral model of human rights change is an imperative force in the explanation process that aims to socialise non-compliant states towards implementing human rights norms. In this study, one aims to investigate how far China has gone in complying with negative human rights, using the spiral model as a guide. Firstly, *repression* is the first phase of the model whereby the human rights norm-violation state passes laws which makes it impossible for global norms to be enjoyed by the

citizens. In this phase, pro-human rights organisations and advocates in the state play a big role in exposing the human rights violations by the state to the rest of the global community. Once the exposing of the violations succeeds, the second phase comes into play, which is the *denial* phase. In this second phase, the norm-violating state is forced to then respond in the global arena regarding its human rights norm-violating actions. At this stage, the initial response by the state is normally denying its obvious violation acts by all means. Moreover, the state will attempt to justify its norm-violation actions by interrogating the validity of the universal norms which it refuses to accept. State sovereignty superseding human rights will often be a justification for refusing to accept universal norms [CITATION Ris13 \t \l 7177]. The third phase of the model, known as *tactical concessions*, is a risky one and can either end up yielding successful or stagnant results. This phase also reveals the power of the domestic human rights advocates and the vulnerability of the norm-violating state. The state authorities begin passing laws that respect and recognise the former violated human rights within domestic practices. However, in some cases, the norm-violating state will merely use tactical concessions to quiet the criticism and backlash it has received from the international community for its human rights violation actions. Hence the risk applies in a sense that the change in policies and laws could pass as non-genuine without the knowledge of the international human rights spectators. The fourth phase is the *prescriptive status* phase where the state shifts from tactical concession to having the human rights norms bind the state through measures such as ratifying international treaties. The norm-violating state now has to execute legislative changes and may forcibly lead to a regime change. The fifth and final phase in the spiral model is *rule-consistent behaviour*. This is the safest phase whereby the government of the state has complied by fully embedding the former violated norms as permanent state practices. International pressure to conform has now succeeded over the stubborn domestic regime (*ibid.*).

To understand the extent to which China has gone within the spiral model of human rights change, the application of the model in China's behaviour and attitude towards civil and political rights through the ICCPR can help us understand the process of the socialisation of global human rights norms:

3.3.1 Repression

The People's Republic of China's Criminal Procedure Law, as well as the Criminal Law, are domestic laws which can assist in justifying the evidence in this stage. There exist inconsistencies within Chinese law which make it difficult for China's regime to easily accept civil and political human rights by ratifying the ICCPR. It is necessary to highlight that there is no domestic law that is in total agreement with all the rights stated in the ICCPR, this then reveals the seriousness of the ratification of the ICCPR [CITATION Lee072 \t \l 7177]. However, the European Union (EU) – China Seminar on Human Rights held in London in 2005 was a great source of revealing the inconsistencies of Chinese law refusing to accommodate civil and political human rights norms into state practices. Article 14 of the ICCPR is a good indication of how in contrast Chinese domestic law is to international norms. The Article, on fair trial, states that all people must be treated equally before the courts, innocence until proven guilty and the various rights of the charged persons [CITATION Uni661 \t \l 7177]. Moreover, paragraph 16 of the Basic Principles on the Role of Lawyers echoes that professional lawyers of the accused must be given the guarantee by their domestic governments to perform their legal duties without being intimidated, hindered, harassed or interfered [CITATION Uni90 \l 7177]. However, provisions within both the Criminal Procedure Law and Criminal Law do not reflect fair trial as stated under Article 14 of the ICCPR. Under the Criminal Procedure Law, the accused may appoint a lawyer at his or her own discretion but only post the investigation stage, which may limit the lawyer's role in defending the accused [CITATION Lee072 \t \l 7177].

According to an Amnesty International report on China's legal, constitutional and institutional developments, the country enacted the National Intelligence Law in June 2017. This was inclusive to the national security laws such as the anti-espionage Law, the Criminal Law Amendment, the National Security Law, the Anti-terrorism Law and Cyber Security Law, all which pose as a danger for the advancement and defence of human rights [CITATION Amn181 \l 7177]. Hence, these laws hinder on the integration of possible civil and political rights which could be enjoyed by Chinese civilians. The current legislation, as well as its constant violations, negate a large number of rights stated in the ICCPR, such as the rights to vote in fair periodic

elections and the right to a fair trial. Government opponents and human rights advocates continue being victims of the violations of these rights.

Furthermore, in the midst of this, domestic human rights advocates in this stage uncover the gruesome actions of civil and political human rights violations by the government in an effort to force the government to succumb to international human rights norms. In February 2013, over a 100 Chinese human rights advocates, journalists and scholars signed a petition influencing the NPC to ratify the ICCPR, which has since signed in 1998. The signed petition was then followed by a letter signed by Shanghai citizens urging the ruling government to ratify the treaty. The government reacted to these peaceful activists by detaining some of the initiators of the peaceful acts [CITATION Hum13 \l 7177]. Nonetheless, these peaceful activism actions to push the government to ratify play a significant role in challenging the status quo of the ruling party's values or lack of civil and political human rights in China. Moreover, the ill-treatment of tenacious human rights defenders in China has been globally highlighted enough for the rest of the international community to be made aware of the government's state on these types of rights. The infamous story of the late Nobel Peace Prize laureate Liu Xiaobo, who died in the hands of the government authorities after being refused international travel for treatment of his liver cancer, will remain as a reminder of the stubbornness of the Chinese government by refusing the execution of the rule of law and free elections, which Xiaobo advocated for.

3.3.2 Denial

The second stage divulges the value which China places on its authority as an authoritarian state. China has proven through its actions of refusing to be part of the socialisation train for the advancement of civil and political human rights norms through its implementation. The ruling government has mastered its skill of reproaching the international pressure and criticism it receives after domestic human rights defenders have tirelessly worked to summon support from the international community. In fact, at this stage, one can assert that the Chinese government does not deny its human rights actions; it does, however, defend them as non-illegal. There has been a growing pattern by the government to justify its subjective policies with respect to human rights. In fact, its weakness towards international criticism

decreases with time, thus further negating compliance towards international human rights norms [CITATION Kin13 \l 7177]. Furthermore, to reiterate the previously mentioned “Asian values” and how they stand for economic, social and cultural rights over civil and political ones, China has stood on the foundation of this to justify its non-intervention towards international human rights norms. Through this justification, China has slandered universal values and norms and accused the Western world of interference [CITATION Tse17 \l 7177]. Moreover, the subject of non-interference is a familiar one to China. The state frequently brings out non-interference as a mode of defence against the backlash it often receives for its human rights violations. However, this non-interference does not always appear consistent for China’s sake as it also constantly criticises and interferes on human rights accounts of Western states, particularly within the Security Council. This criticism of other states’ human rights violations does, however, become a good self-defence mechanism for China [CITATION Sce12 \t \l 7177]. Moreover, to deny the validity of accepting human rights norms, the Chinese government pulls out its sovereignty card and attempts to redefine human rights in its own terms [CITATION Kin13 \l 7177]. However, further tactics by the Chinese government may have been the main reason why the country has been a major force in the stalling of the advancement of human rights, as explained below by the third phase.

3.3.3 Tactical Concession

The application of the third phase is the most pivotal in explaining China’s position with regards to its stubbornness in accepting civil and political human rights norms. It also reveals how far China has surrendered to the socialisation of universal human rights norms through its use of calculated yielding.

Between 1966 and 1976, China’s judicial system was at its weakest, which thus affected the law system. However, 1979 saw a change in the country’s Justice Ministry as it was restructured together with the People’s Court and Procuratorate system. However, the same Ministry lacked the integration and reflection of the universal norms stated under the UDHR, the ICESCR and the ICCPR. Then 25 years later, the Chinese Constitution saw an amendment for the respect and protection of human rights. This respect and protection of human rights standard through China’s Constitution was drawn by the country to instil a sense of human

rights eminence in its legal system. However, what is written in the Chinese Constitution does not reflect the country's attitude and actions towards civil and political rights [CITATION Lee072 \t \l 7177]. This is China believing that instilling a "form" of human rights through its Constitution is enough to show recognition and respect to universal civil and political human rights. This tactical concession by China revealed the partial integration of compliance towards this type of rights from the onset.

3.3.3.1 China's White Papers on Human Rights

Moreover, one cannot discuss China's strategic concession without mentioning the country's journey on its human rights based white papers. The country's first white paper plays a significant role in how China managed to quiet the harsh criticism it received under international scrutiny following the Tiananmen Square student-led protests which resulted in the Chinese government's violent repressive response. The violence which emanated from the Chinese government led to further and more serious international exposure of the country's non-compliant behaviour towards civil and political human rights, the rights and demands which were being protested for such as civil rights of freedom of press and freedom of speech and further democratic reforms which would allow citizens to enjoy their political rights. The massacre globally left a permanent negative human rights status for China, which then forced the PRC's State Council to release the country's first white paper on human rights, to ease out the increasing global criticism. However, the white paper still revealed the country's unwillingness to fully comply with universal civil and political human rights. In fact, the first white paper on human rights was released to act more like a foreign policy tool than for it to be a universal human rights promising and advancement document [CITATION Kin16 \l 7177]. Earlier to the release of the white paper, the Chinese Academy of Social Sciences hosted a convention on human rights; the convention is one of few which influenced the Chinese position on the white paper. It is also important to note that the Academy is not an independent institution but is linked to the State Council and the ruling party. Therefore, the formation of this first white paper on human rights was a work of state experts together with propaganda bureaucrats. This formation was needed for China as the violent repression by the state in the Tiananmen Massacre internationally excluded the country through sanctions. Since China values socio-economic rights as it values

the implementation of economic transformation, it needs foreign investments to make that possible. The country's economic growth is a vital factor to sustain its economic position and regime; hence, overcoming the international scrutiny was a task China fought to achieve to get back on its feet in terms of foreign investments (*ibid*.). To ease the scrutiny and criticism it faced, the Chinese government's tactic under the white paper was to release false quantitative information on the country's improvement on human rights from the establishment of the PRC. Furthermore, misleading information on the rights China offers, such as freedom of opinion, was stated as a means to quiet the increasing criticism and backlash the country was facing at that time (*ibid.*). Unfortunately, China's mastered tactics still continue to date as the country has not shifted its views and values on through the inclusiveness of civil and political human rights and entirely complying with universal human rights norms for the sake of socialisation.

The releasing of additional white papers on human rights continues to be China's strategic concession against global backlash it receives for it to comply with global civil and political human rights norms. In fact, in order to avoid having a role in the socialisation of civil and political human rights norms, the country has instead consistently been announcing its perceived improvement on general human rights as well as its own view of human rights. In his analysis on China's pattern on human rights, Alan Wachman offers a few highlights which normally appear on the country's white papers. These include China highlighting itself as a developing state that still needs to improve human rights in a manner that reflect Chinese culture, it is stressing on the right to subsistence being first and above civil and political rights, the emphasis that the rights of the majority (social and economic rights) should not be weakened by the wants of the minority (civil and political rights) and it also emphasises its respect for universal human rights, inclusive of civil and political human rights, but it believes that these rights should not be enforced on states by others [CITATION Wac01 \l 7177]. Interestingly, China has issued 19 white papers on human rights thus far and on the release of the country's latest white paper titled "*Progress in Human Rights over the 40 Years of Reform and Opening Up in China*", it claims to have integrated the universal principles of human rights within the country. However, the white paper still contradicts this rhetoric by emphasising the development of socialism, in a Chinese manner [CITATION Xin18 \l 7177]. This reveals

how China plays around the practice of universal human rights norms. It underlines its respect and commitment to universal values on all human rights, yet practices on its own terms, per Chinese culture.

Moreover, post the Tiananmen Massacre, China's tactical concession actions began to open up on the question of appeasement as the country's tactical tool to ease the reaction and pressure it receives to amend its position on universal civil and political rights norms. As the US began to deliberate on which country it should prioritise for its Most Favoured Nation (MNF) for trade, the PRC became determined to amend its image in the international arena so it can gain top priority status for trade. Consequently, it suddenly set free 881 protesters linked to the Tiananmen Protests; it released some well-known political prisoners and lightened the sentences of some. In addition to that, Beijing selected delegations to be sent to the international arena to speak on human rights, so as to appear passionate on its commitment to alter its position on universal human rights norms, particularly civil and political ones. Two popular instances linked to well-known political prisoners reveal just how international pressure can easily lead the pressured country to eventually take undesirable actions for it to get what it wants. China's 1993 decision to release Wei Jingsheng, a long-time political prisoner, was influenced by the International Olympic Committees deliberation preparations on which state would be chosen to host the then-upcoming 2000 Olympics. The releasing of Wang Dan, a student and civil protester, was influenced by the country's application to the General Agreement on Tariffs and Trade. These actions did not, however, grant the PRC the desires it desperately sought and some of the released were imprisoned yet again [CITATION Wac01 \l 7177]. Such actions by China often complicate how international relations acts can be judged. When human rights advocates have fought to push the country's administration to change from non-compliance to compliance, how do they then distinguish if the response by the government is reaction for change or reaction to pacify the pressure for the time being? The latter, which has been mastered by the Chinese administration over the years can also justify the country's stagnant position in phase 3 of the spiral model, which is how far China has been willing to go in response to the pressure for it comply to universal civil and political rights.

The signing of the ICCPR on 5 October 1998 can also be seen as one of the greatest act of tactical concession by China with regards to civil and political human

rights. However, in its disregard of civil and political human rights which according to the country do not add value to their economic growth, China will still put in effort within the international human rights system. This is seen through it being party to six out of nine of the fundamental universal human rights treaties it has ratified. It also often condemns other countries on their violent human rights actions [CITATION Placeholder1 \l 7177]. This strategy of its involvement in the international human rights system helps justify the appeasement actions it takes to hide its violation of rights that do not align with Chinese characteristics.

Through these tactics, China has been very careful by avoiding to fall into the trap of finding itself bound by complying with universal civil and political human rights norms. Hence, forcefully moving China to the next phases, prescriptive status, and rule-consistent behaviour, has proved to be difficult for both Chinese and international human rights advocates. Furthermore, it has proven the success of China in applying appeasement as a tactical tool to appear compliable, yet deceptive to the international human rights system.

3.4 China's use of Appeasement as a Human Rights Foreign Policy Tactic

The application of the policy of appeasement within international relations has proven to be more complex than it seems. China's sovereignty within the universality of human rights norms and the power it so proudly possesses has decreased the country's global vulnerability to both inward and outward pressure. In fact, its maneuvering ability has played a significant role in ensuring that its resistance against moving from commitment to complying with civil and political human rights norms outweighs the external pressure to comply by taking an action such as ratifying the ICCPR.

The understanding of appeasement can be traced back to the historical context of the then foreign policy of the British administrations, under Prime Ministers Ramsay MacDonald, Stanley Baldwin and Neville Chamberlain, who together with British allies adopted the policy to pacify Nazi Germany leader, Adolf Hitler, against the formation of war [CITATION Mol17 \l 7177]. In today's diplomatic affairs, appeasement is still often utilised as a political or general compromise to an intimidating state for the sake of evading conflict or even war. Morgenthau described appeasement as "a corrupted policy of compromise, made erroneously by mistaking a policy of

imperialism for a policy of the status quo" [CITATION Mor85 \l 7177]. In applying Beijing's case to Morgenthau's perspective of appeasement, could universal organisations such as the UN, which help in advancing all kinds of human rights across the globe for the protection of human dignity, be a case of imperialism by working tirelessly together with human rights advocates to pressure Beijing to comply with all universal norms? Firstly, the understanding of imperialism lies on a policy of authority which forcefully enforces its influence or practice over a foreign state. The UN and its treaty bodies offer an uncompelled decision to UN treaty signatory states to either be bound or not to be bound by a relevant treaty. China has chosen to stand as a signatory of the ICCPR without having ratified it, which may have weakened the narrative of the UN as a global organisation forcefully extending its core universal human rights values on China and its Chinese characteristics on the country's domestic human rights practices. Therefore, whether appeasement is a tainted policy taken as a policy of the status quo still leaves room for debate.

Nonetheless, it cannot be disputed that China has not chosen to disregard the pressures from its critics for it to fully comply with universal civil and political human rights norms. In fact, China's manner of pacifying its human rights critics has seen the state engage with the same critics and allowed Beijing to step into a position that could possibly enable it to control the universal human rights system to further ease the observing and criticism of the country's domestic civil and political human rights violations. At least, post the infamous Tiananmen Massacre, China has pacified the criticism by accepting the international system on human rights as well as the universal commitment and compliance of the conventions, only if it serves its interest, and has done so carefully [CITATION Kin13 \l 7177]. During the 1991 convention on human rights, held by the Chinese Academy of Social Sciences, the core discussions by the present state delegates were on establishing ways on how to appease the global criticism and pressure which followed post the Tiananmen Massacre. Additionally, a pivotal element of China's foreign policy post-1989 was to brief the country's diplomats through a comprehensive guide on how to combat international pressure and disapproval against China's violation of civil and political human rights [CITATION Kin16 \l 7177]. Moreover, Beijing's usual participation in human rights-related foreign dialogue is a symptom of subtle cooperativeness from the state

since its strength within the international human rights system lies in forging dialogue and collaboration [CITATION Din091 \t \l 7177].

Between 1990 and 2005, 12 resolutions from the UNCHR which criticised China's history on its violation on human rights were overpowered by China's usual strategy of offering economic enticements to other desperate developing states in the globe such as Mali, Senegal, Cameroon, Gabon and Egypt to name a few. The same countries reciprocated in 1996 by voting together with and in favour of China to the "no action" motion in the UNCHR [CITATION Hum97 \l 7177]. Contrary to the belief that Beijing would begin to be willing to yield to the civil advocates and citizen's demand for the acceptance and practice of civil and political human rights by the state, Beijing's strategy was to appease so to bring the pressure at a halt, not to yield to the demands in full. Hence, fast-forward to 1998, the signing of the ICCPR by China was an act of appeasement for further criticism and pressure. The signing still remains as a symbol of false hope for possible ratification under the eyes of the global civil society.

China's tactic of appeasing has proven the sovereignty of the state under the international human rights system. It has worked to escalate its engagements in the UN to safeguard the country from further international examination for its human rights issues. Under the UN, it has positioned itself in a way that will enable the member state to alter the UN's administration by lowering the organisation's practice of examining countries separately. This has also been in defence to the country's practice of human rights with Chinese characteristics [CITATION Pic18 \l 7177].

Beijing's strategy of criticism towards its human rights opponents has aided in pacifying the pressure for it to surrender through the practice and implementation of civil and political rights in its domestic practices. Against its biggest human rights opponent, the USA, China has dating back from the 60s criticised the US for its racial discrimination towards black American civilians. In 1963, former Chinese leader, Mao Zedong, released a statement which added for the support of black Americans who yearned for their deserved human rights for freedom and equality in America [CITATION Nat941 \l 7177]. When the US recently called out China's human rights violating record, China retaliated by confronting the US on its record of domestic gun violence, racial discrimination as well as lack of media freedom

[CITATION Kuo19 \l 7177]. This pointing of fingers to the opponent tactic creates a notion that human rights violations cannot be exposed nor condemned by a state that has a record of its own domestic human rights violations. It may pacify the pressure for China to conform to civil and political rights; however, it heightens further disagreements between states when there should be cooperation in advancing the practice of human rights norms.

In his article of *The Study of Appeasement in International Relations*, Dimuccio reports that variant observers view the policy of appeasement to possess a risk of resulting in further resistance to authority and control. The targeted state may be aggravated post appeasing and then orchestrate a strategy of non-compliance [CITATION Placeholder7 \t \l 7177]. In the case of China, the orchestrating of strategies that prevent it to comply has been successful, for China's sake at least. The country may still face criticism; however, it reproaches the criticism with increasing confidence and can justify its actions.

3.5 Conclusion

For an extended time, the global human rights system, under the UN, has been viewed and discussed in a one-way manner, which has made it difficult to expose the complexities within one of the most important global systems. The inclusiveness of power politics has proven that even state identity can at times overpower global norms which outwardly may seem to be paramount over national norms. According to one's observation, China's position within the global system has been one of seeking to fit into the Western-influenced world, however, fitting in according to Chinese terms Beijing certainly does not want to isolate itself from the rest of the world, it yearns everlasting and strategic partnership for its economic advancement. Hence, human rights participation in the international arena is the most pivotal ingredient for this advancement. Though the participation cannot be denied, it is skewed and has revealed an obvious gap between committing and complying. The ICCPR being the primary human rights Covenant for this case study has since been a commitment tool by China, one which is far from being utilised as a compliance tool instead.

Moreover, the 1989 Tiananmen Massacre was one event which shook global human rights advocates and simultaneously led China to actions of fixing the damage by

means of hiding the “shame”. The release of the first White Paper on human rights was a successful tactical action and it paved way for following White Papers which all discount the need for civil and political rights but are a foreign policy tool to ease global scrutiny. China’s ability to ease the scrutiny by shifting the attention away from its human rights violation acts questions not only the power of the international human rights system but also the universality of human rights norms. These norms, inclusive of civil and political ones, require an amalgamation of global states to comply by the implementation to further their advancement. However, China’s power in the UN has either enabled the country to hide behind the non-intervention approach or use appeasement as a tactic which surprisingly, in turn, has amplified the country’s sovereignty and stalled the advancement of international civil and political human rights. The obstruction of the advancement of the rights and their norms has been a challenging aspect, but it has also opened the discussion for which is more pivotal between global and domestic cultural norms. The subsequent chapter will focus on the challenge of the universality of human rights norms and seek to investigate why it would be so important for the global human rights system for China to fully comply to civil and political norms as much as it complies to social and economic human rights norms.

Chapter 4
The Challenge for the Universality of Human Rights Norms

4.1 Introduction

An economic power that is globally influential is likely to have an effect on the process of the international need for states to implement global norms, as the state is under a microscope. This is not far-fetched from China's lack of civil and political human rights implementation and the resulting and dreadful effect it has placed on the universality of human rights. This lack of implementation of these types of human rights has slowed down the socialisation process, a process which enables universality of human right norms. The procedure of socialisation is pivotal in this regard as it helps one understand how the same norms are then progressed to universal norms which are enforced by various cultures across the globe.

4.2 Socialisation and Universality of Human Rights Norms

On the other hand, before the debate on the universality of human rights norms, universality or universalism alone has been not only challenged but has also remained a challenging occurrence itself. This is where relativism also comes into play as it is questioned whether it can coexist with universalism. Where norms and values are mentioned, universalism asserts for extensively common norms and values and not for preferred ones. However, in as much as it accepts and vies for the reality of widely shared norms and values, it ignores the reality and possibility of how subjective and differing norms and values can then be included within its universality [CITATION van00 \l 7177]. In hindsight, this disregard to relativism may possibly point back to the challenge that is faced by the advancement of universalism. The taking into consideration of what may be subjective, no matter how diverse and differing it may appear from what is widely accepted, is a crucial element for the expansion of

universalism. In our case of human rights in China, particularly where civil and political human rights are viewed as less than their equivalent social, economic and cultural rights, the growth of universally accepted and widely implemented civil and political is challenged and put on a hiatus by cultural relative beliefs on human rights. Nonetheless, since this chapter intends to investigate further the complications faced by the universality of human rights norms, it may also help to answer how China has succeeded in its consistency of resisting the acceptance of the civil and political human rights into its state practice.

4.2.1 The socialisation of International Human Rights Norms

Firstly, to get a thorough understanding of how human rights are matured to universal human rights norms, socialisation, which is understood as the progression of formed yet ethical notions into applied norms which in turn affect behaviours, identities, and interests within a society, plays an essential role [CITATION Ris98 \t \l 7177]. In her research of China's record on human rights, Ann Kent defines socialisation of human rights norms as the internationalisation of treaty and regime norms, which follows the compliance of human rights and is followed by the effectiveness of the same norms through consistent implementation of the treaty and regime regulations [CITATION Ken99 \l 7177]. Therefore, socialisation of human rights can also bridge the gap between the compliance to human rights norms and the efficiency the norms have on a universal spectrum. It is this socialisation which ensures that commitment to human rights is translated to the compliance of the rights. In as much as China has accomplished its compliance towards human rights through treaties such as the CAT, a treaty which ensures the protection of citizens from torture and other forms of vicious treatment, this has been routine compliance. Complete compliance which requires action is not reflected on the ground as civil human rights such as the right to life is still disregarded by the inhumane punishment of its infamous life sentencing. Hence, socialisation from a China human rights perspective has witnessed a slow process (*ibid*.).

"Covenants, without the sword, are but words!" [CITATION Hob98 \l 7177]. These were the words of Thomas Hobbes, which underlined the importance of the need for pressure towards the implementation of norms. International human rights treaties are often each accompanied by treaty-observing bodies with a mandate of

monitoring and encouraging State Parties complying actions with respect to the treaty requirements. This is done through an open reporting and complaints process. For the reporting requirement, the State Parties are required to submit a report on the status of their human rights in the state. The status of human rights within the state must ideally reveal an improvement in the implementation of the human rights norms. Nonetheless, the pressure for the implementation of the international norms into individual state practices is not a task that lies solely on treaty-observing bodies. Non-treaty-observing mechanisms such as Special Rapporteurs and Independent Experts in groups or as individuals have played a crucial role in pinpointing human rights ills within a state, with a mandate of eliminating those ills. The Special Rapporteur on Afghanistan is a well-known individual state-based mechanism [CITATION Lei111 \t \l 7177]. Another mechanism which has had an influence on the socialisation of human rights is that of global NGOs such as the Human Rights Watch and Amnesty International. Accompanied by their inclusion of public opinion to grab the attention of domestic governments, these NGOs play a productive role with a larger aim of enforcing change through the influence of their consistent country reporting. Consequently, the presence of such mechanisms is pivotal for the advancement of global human rights norms within individual state practices (*ibid.*). In fact, one can assert that human rights norms advocacy through the work of NGOs, whether domestic or global, is the heart of the pressure for states to prioritise and apply human rights norms into their state practices. Essentially, the reports also value voicing out the sentiments of citizens affected by the disregard of certain human rights by their ruling governments. Hence, the exposure of a lack of action can assist in raising awareness on the importance of the need for human rights implementation.

To understand the technical aspect of universal norms being influenced into individual state practices, a study by Risse and Sikkink offers a process of norms socialisation with various approaches which can either occur individually or concurrently. However, in most cases, the approaches occur in the latter form. The first approach of the socialisation process of international norms is related to the *instrumental adaptation and strategic bargaining* to both local and international pressures for the ruling government to cease its violation and disregard of human rights norms. In response to the pressures, the ruling government will apply strategy

tools through tactical concessions. These actions will include, among other things, the signing of international agreements to raise hope on it improving or regaining its place in the international arena to avoid further sanctions. Normally, the norm-violating state will then proceed to adopt the global norms and adapt to them, regardless of whether they align with their cultural interest or not. This adaptation to the norms due to local and global pressures is the foundation of the socialisation process [CITATION Ris98 \t \l 7177]. As previously discussed under the five-stage spiral model, the tactical concession stage is as far as China has gone in its response action towards the pressure it has received on global civil and political human rights norms. The actions of the releasing of prisoners post the Tiananmen Massacre, its first white paper on human rights and the signing of the ICCPR were actions which later on proved that the Beijing administration was far off from yielding to the pressures by institutionalising the civil and political human rights norms.

The approach of *argumentative discourses* is the second approach of the socialisation process and proves to be the most challenging. Within the process, this is where argumentation and communication occurs, which then challenge and question the cogency of the global human rights norms. Moreover, the norm-violating state will also justify the norm-violating actions as actions against terrorism in some cases. However, as this occurs, the more criticism and shaming of the ruling government arise, it forces the same government to respond and dialogue takes place. Moral consciousness-raising takes centre stage when the norm-violating government is shamed. Moreover, in most cases, they are also labelled as a pariah state and isolated from the rest of the global community, which often leads the government to reconsider their norm-violating action if the state is not a repressive one. This persuasion stage then succeeds once the ruling government is convinced of the need for behaviour change (*ibid.*). As China is a repressive state with its strict stance against civil and political human rights norms, isolating China as a pariah state would have proved to be difficult for the international community, considering its global economic position.

Nonetheless, with the various approaches, the socialisation process often begins when initially; the former norm-violating state adapts its actions to align with global norms for merely instrumental aims. However, their tactical concession actions often lead them to eventually alter their view on the formerly violated norms. Where

argumentation takes place, the more dialogue takes place and the process of persistent persuasion intervenes; it then gradually moves the state to eventually agree with the legitimacy of international human rights norms. The socialisation process reaches its pinnacle once the former norm-violating state applies the internalisation of the norms within the state behaviour, interest, and its identity through national institutions. Once the norms are institutionalised, they take precedence over the ruling leader's personal moral beliefs, in turn not interfering with the application of the international human rights within the domestic sphere (*ibid.*).

However, on the technical aspect, how come universal human rights norms have still failed to influence state behaviour in some cases? In order to advance the universality of the human rights norms by influencing state norms and behaviours, socialisation has in most cases played a driver's role in achieving the global objective. Yet, China's position within the socialisation of human rights has resulted in partial compliance through its tactical concession actions aimed at solely appeasing the harsh criticism, and not at shifting away from the ruling government's manner of implementing human rights which may take away from the country's communist values. To explore this occurrence, cultural relativism may help in at least answering why universal human rights norms have in some instances still failed to influence state behaviour.

4.3 Cultural Relativism and Human Rights

When highlighting relativism within human rights, it is pivotal to specify to what exactly are the human rights relative. The most prevalent and understood relativism in the topic of human rights points to cultural relativism. Cultural relativism may appear to be a sensitive subject due to its focus on globally diverse cultures that differ in beliefs and practices, among other things. Nonetheless, cultural relativism is rooted in fixed principles which influence cultural relativity with customary and accepted force. These cultural principles were enacted most commonly to act as an advocate against Western-inspired and entrenched values and principles that would often be used as a standard for accepted doctrines [CITATION Don07 \l 7177]. Since human rights are commonly viewed as ideals for all mankind, it would not be surprising to assume universal acceptance by all cultures; however, not all cultures and ideologies have contentedly accepted the universality of all human rights. In fact,

the most common justification against the legitimacy of certain universal human rights has often centred on the origin of human rights being Western and in turn introduced on non-Western cultures through instruments such as the UDHR, for the sake of their universality [CITATION Lei111 \t \l 7177]. This reiterates what Falk [CITATION Fal04 \l 7177] emphasised regarding the alleged Western origin of human rights. Nevertheless, in modern international relations, cultural relativism is pointed to a manner in which cultural traditions within the religious, political and legal practices, to name a few, regulate or govern the presence and possibility of civil and political human rights for citizens of a society. It proclaims that values materialise in specific cultural, social, economic as well as political settings [CITATION Dah10 \l 7177]. However, the danger about cultural relativism can be revealed in the human rights based assertion by the American Anthropological Association which asserts that "man is only free when he lives as his society defines freedom" [CITATION Ame47 \l 7177]. This, unfortunately, points to absolutism within the culture whereby the culture gives definition to what is right, in its own terms. On the contrary, Donnelly offers a justification for a few problems he has noted with absolute cultural relativism. To name two relevant ones, he firstly states that it decreases what is culturally stipulated as "right" to "traditional" and what is stipulated as "obligatory" as "habitual". In our case of China, the ruling government rules according to communist values, which a large number of the country's citizens and human rights advocates refuse to delight in simply because they are entrenched within the Chinese culture and value system. The refusal to accept what is considered "right" by the ruling government lessens this absolutism. Another problem that Donnelly argues against cultural relativism is how the theory ignores the power of the impact of other states, markets and the influence of human rights ideas [CITATION Don07 \l 7177]. However, this latter problem may contradict China's counteractions which ignore the impact of other powerful states which respect and implement all human rights as well as its resistance towards any influence outside of its values. This has revealed how China's lack of action for civil and political human rights have in turn added to the stagnation of the socialisation of human rights as a whole, as previously mentioned.

In modern international relations, cultural relativism is demoralised by authoritarian leaders to justify their oppressive actions and policies towards the citizens of the authoritarian state, regardless of whether the policies are linked to philosophical or

cultural reasoning. Moreover, the inconsistency with cultural relativism can be pointed to how participation is vital for determining which cultural norms and values are relevant and prioritised, however, at the same time it hinders freedom of opinion and speech which may be against the limitations of the prioritised norms and values in the society [CITATION Dah10 \l 7177]. This position of a lack of freedom of opinion or speech is definitely not too far-fetched from Beijing as the ruling government has continued to hinder or punish any threatening anti-communist opinion and advocacy for civil and political human rights.

The Communist Party of China acts as a central authority that believes that it represents the interests of the Chinese citizens. On the other hand, when examining Asian values, they prioritise community needs over individual ones. The recurring problem has been the question of who falls under the community bracket. In addressing this, Dahler highlights that in political dialogues community values are often drawn as state values, then regime values. Hence, the community, without being thoroughly defined, easily equates to the state or regime, which in turn can have authoritarian power over the entire nation. This power can then easily disregard the opinions or needs of the individual citizens, particularly if they challenge the ruling power's interests for the state (*ibid*.). From this, it is apparent how cultural relativism, particularly where it encompasses human rights, can easily be utilised as a tool for justifying the discount of certain human rights, simply because they may threaten the state's regime or existing power. It appears, therefore, that the existence of cultural relativism within the global human rights system may not be merely challenging universalism per se, but be protecting the existence of regimes that prioritise state power over individual human rights opinions and needs which may be threatening to the longevity of the regime.

4.4 China's actions against civil and political human rights and their impact on the universality of civil and political human rights norms

The relationship between Beijing's lack of fully complying with civil and political human rights and the universality of human rights is one that can be analysed and traced from the PRC's foundational and entrance into the international human rights regime. Post the establishment of the PRC, China embarked on a formation of a new system of government and rule of law, which by the late 1950s concluded in the

madness of the “Cultural Revolution” and separating China from a part of the global population. Fast forward to 1978, prioritisation of international human right treaties was far from being part of the Beijing government’s agenda. The growth of the economy and trade relations, with the West, in particular, was the main and only important factor at the time. In fact, the Chinese judicial system, post its reformation under the People’s Court and Procuratorate System, did not replicate the universal laws under the International Bill of Rights, which were introduced into the global community at the equivalent period. However, a slight change in the Chinese judiciary was witnessed when the Chinese Constitution was amended in the year 2004 and its constitutional ethics were shifted to reflect global human rights ethics. Even so, there still remained a void on the establishment and implementation of civil and political rights in China [CITATION Lee073 \t \l 7177]. China’s self-assurance under its state sovereignty has always and still remains the driver of its engagement in the universal human rights regime. Beijing has subtly but tirelessly fought the external pressure to conform to civil and political norms by tactical concessions and cleverly using its global economic and political power to ease further pressure. China has established a domestic political setting that has worked to order the validity of global universal human rights norms, which in turn has congested the process of China’s socialisation into universal human rights norms [CITATION Inb121 \t \l 7177]. Since China’s actions under the international human rights regime have alluded to the idea that human rights, in general, hinder or obstruct state authority, Beijing’s approach under the regime has been one of tip-toeing around observing the universal norms [CITATION Din092 \t \l 7177].

It cannot be ignored how China’s eventual participation in the UN human rights regime, predominantly under the Human Rights Commission allowed it to launch a highly manipulative role, one that labelled China as a significant player in the same regime. China was always strict on its standpoint of not interfering in the domestic affairs of a self-determining state; however, this saw a change by China allowing the stance to be changed in order for it to gain and maintain the status of being considered as a compliant member in the global community [CITATION Lee073 \t \l 7177]. More so, this status has enabled China to have control over its own pace of movement under the regime, avoiding further pressure to fully conform to universal standards of civil and political human rights. After China signed and ratified the

international human rights treaties; specifically the CERD, CEDAW, CAT and CRC, it released a Human Rights White Paper which stipulated objections for each treaty signed which it either felt threatened its state authority or demeaned its non-interference principle. For the CERD, it highlighted uncertainties in Article 22, Article 29 (i) of the CEDAW, Article 20 of the CAT as well as Article 30 (i) of the CAT, which highlight that a clash between two parties can be referred to the International Court of Justice. This, in China's terms, obstructs its non-interference principle. Under Article 6 of the CRC, which stipulates the right of the child to life, China's objections pointed to its Constitution's Article 25 on family planning for the sake of economic and social progress (*ibid*.). All the objections China highlighted from these treaties not only challenge and hinder on the respect for the advancement to human rights norms but point to a potential challenge that could take place if China were to eventually ratify the ICCPR. Full compliance towards universal human rights norms is a pivotal ingredient for member states of the universal human rights regime to put in. However, the standards under state sovereignty in the Chinese case have visibly taken a paramount position even with China being a significant member of the international human rights community.

Nevertheless, to understand why China prioritises economics over politics, development is at the forefront of the country's priorities to ensure that the standard of a basic standard of living in the country is easily met, which for China is also for the protection and dignity of basic economic and social human rights. Hence, the ratification of the ICESCR came as no surprise and revealed that China upholds the rights under this Covenant in comparison to the rights under the ICCPR. Surprisingly, to justify the reason behind China's dissimilar actions and attitude on the primary Covenants, a Chinese representative at an Asia-Pacific focused seminar on Regional Cooperation for the Promotion and Protection of Human Rights in 2005 emphasised that poverty alone is a hindrance for the possibility of human rights in the same region. Hence, the prioritisation of the economic, social and cultural development should be the main focus, so as to advance human rights (*ibid*.). As to whether this can be proved to be a legitimate justification on the disregard of certain rights over the others remains a debate. As noted previously, civil and political rights fall under the negative human rights classification and unlike economic, social and cultural rights they do not demand resources for their implementation. In fact, the

discount of civil and political rights may impede citizens of their human dignity and human life in certain instances, robbing them the enjoyment of the respected rights in the state. Moreover, China's stance on poverty alleviation through economic development as its main priority also discloses lesser chances of the introduction of civil and political rights, considering the country's status as a developing state. Even after achieving development, China may not consider itself developed enough to eventually adopt and implement civil and political rights. Regardless of the status, the rights will still challenge its communist values; and in turn, challenge its state sovereignty.

To explain state actions, rationalist arguments have taken centre stage and it has been no difference with Beijing's actions and its human rights based decisions. In explaining the country's human rights foreign policy, it is no astonishment that national interest is precedence over any social norms. National interest eventually dictates the country's foreign policy with regards to human rights. In fact, the responses of tactical concessions due to global pressure have been mere responses which have resulted in slight change yet have still have left a void in the advancement of universal norms, in light of civil and political human rights [CITATION Din092 \t \l 7177]. Furthermore, Anne Kent also highlights with regards to China's human rights foreign policy, that dating back to China's involvement in the drafting of the UN Charter and the UDHR, Beijing's attitude was against universalism but vied more for cultural norms over universal ones [CITATION Ken99 \l 7177]. China's opposition of universal norms from the foundation of its participation in the universal human rights regime reveals a much-needed uprooting of this anti-universalism that may still exist, resulting in the impeding of complete observation of civil and political norms into the Chinese domestic human rights system.

As a member of the UN Security Council, China's position under the universal human rights regime has raised it up to a position of influence or at least attempting to influence the policies of the regime. As part of its compliance with certain human rights, the country is a party to a couple of human rights treaties and participates in treaty bodies. As a result of its participation, it has used its constant ability to manipulate the treaty review system and hindered the much-needed contribution of civil society groups [CITATION Hum17 \l 7177]. Pondering on China's displeasure of the involvement of the civil society in the regime, from the Human Rights Council, Beijing

has made efforts to not allow civil societies to be parties in the treaty body reviews through their activists. These efforts are inclusive of obstructing information stemming from the civil organisations, information which may help advance and improve on the universality of various human rights. It has therefore endeavoured to make the participation of the civil society in treaty body reviews almost impossible. The state has even gone as far as pleading with the UN Secretariat to disallow certain civil society representatives that may be a threat to China's position under the UN human rights regime. It is also not surprising to note that some of the representatives belong to Tibetan and Xinjiang civil groups, which have been suffering from discrimination by the Chinese government [CITATION Hum17 \l 7177].

China has also placed limits and made it difficult to adhere to the mandate of the UN special procedures. Special procedures consist of expert-based rapporteurs as well as working groups which are mandated to work on specific human rights matters across all boards. China has clogged the work of the OHCHR and its special procedures and rejected the entrance of some. Special procedures tasked with reporting on civil and political human rights-related issues have received the most backlash or rejection from the Chinese state. For those allowed in the country, Chinese government officials have interrupted with the movement of the rapporteurs, limiting their contact with existing NGOs and advocates in the country, in addition to keeping checks on them during the course of their visits. One UN rapporteur reported on China's behaviour in 2016 and stated that "China keeps bullying us, saying, 'Don't do that,' 'Don't do this,' or 'We urge you not to do this'" (*ibid*.). These actions by China not only demean the work of the OHCHR, but it also slows down the necessary processes of transforming dire human rights situations in China that do not reflect universal human rights norms. Below are the types of human rights-related procedures which were requested for invitations by China, together with the years in which they were requested, yet still remain outstanding.

Procedure Name	Time of Request (s)
Special Rapporteur on the situation of Human Rights Defenders	Requested 2005, Reminder 2008, Reminder 2015
Special Rapporteur on the rights to freedom of peaceful assembly and of	Requested 2011, Reminder 2013

association	
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Requested 2015
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	Requested 2014
Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Requested 2015, Reminder requested for 2017
Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation	Requested 2010
Special Rapporteur on Minority Issues	Requested for 2009, Reminder 2011, Requested 2015
Special Rapporteur on the Independence of Judges and Lawyers	Requested 2011, Reminder 2013, Reminder 2014, Reminder 2015
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	Requested for 2008, Requested 2014, Reminder 2015
Working Group on Enforced or Involuntary Disappearances	Requested 2013, Reminder 2013, Reminder 2014
Special Rapporteur on the Right to Privacy	Requested for 2017
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	Requested 2006, Invited but postponed 2015
Special Rapporteur on extrajudicial, summary or arbitrary executions	Requested 2005, Reminder 2008
Special Rapporteur on the adverse effects of toxic and dangerous products and human rights	Requested 2015
Special Rapporteur on the promotion and protection of human rights while	Requested 2017

countering terrorism	

Source: [CITATION Hum17 \l 7177]

From the above table, the most requested procedures are related to civil and political human rights which the Chinese government has refused to ensure that they are complied with. For China to constantly avoid UN special procedures for entrance into the state is concerning, particularly in context to the most affected regions such as the Tibetan region, where mainland China has made clear its disinclination and refusal to implement any human rights.

Besides within the universal human rights system, China's inclusive position and influence it has in the globe, particularly from an economic perspective, creates a fear that in the long course of time developing nations may adopt Beijing's human rights system which favours and only practices economic, social and cultural rights over the civil and political ones. A system, generally labelled as the 'China model', could be what puts down the universal model of human rights and their norms. However, the Chinese government has disagreed with the notion that it has attempted to transfer its domestic norms to other developing nations although their actions on human rights may have played an impelling role through its subtle demonstrations against Western influenced universalism. Notably, the 'Chinese model' on the implementation of human rights is actually less about China being on the spotlight but seeks to promote that other developing states could individually also develop and implement a human rights system that fits their unique domestic needs, in other words, make universal norms fit into their domestic norms and not their domestic norms fitting into universal norms. A Chinese advocate for the 'Chinese model' echoed and in addition, stated that the objective of this is to prove that the Western-influenced universal human rights norms are not the ultimate [CITATION Sce121 \t \l 7177]. Xue Hanqin, a Chinese judge under the International Court of Justice reiterated this when he indicated that "China's position on cultural relativism is not intended to challenge Western values and its liberal rights models, but to argue that these values and models are not the only way to promote and protect human rights" [CITATION Han12 \l 7177]. China's claims that it does not transfer its domestic norms into other developing nations may be true in a direct sense; however, its international investment undertakings in developing states and allies have had a tremendous and dire effect on the civil human rights within those states.

Human rights considerations have had little place in the business dealings and activities operated by wealthy Chinese companies. Examples include of land expropriations that resulted in forced evictions in Cambodia and abuse of labour rights and disregard of trade unions in mines owned by the Chinese in the state of Zambia [CITATION Sce121 \t \l 7177]. Both these have taken away civil human rights from the civilians affected by the Chinese investments in the developing economies. What is also distressing is that the Chinese Ministry of Foreign Affairs has very little intervening power on the companies since some of the state-owned enterprises (SOE) are under the authority of the Ministry of Commerce or are independent operating companies which cannot be under state regulation (*ibid*.).

Whether China's activities and unique norm prioritisation on human rights have left a direct or indirect impact on the rest of the developing globe, the major concern is the potential divide that may eventually arise between what is labelled as Western-influenced universal human rights norms practiced by developed nations or Western allies and Chinese influenced universal human rights norms practiced by the developing nations or Chinese allies. This universalism, as widespread as it may appear, will still be divided in between two contrasting economic groups. Since both the Beijing government and its private owned enterprises do not promote the need for civil and political reform before investing in the Third World nations, it makes the need for civil and political advancement in those nations a far off promise, particularly where investments for economic gain look much more attractive and desirable than civil and political rights that protect and respect human dignity. Essentially, one holds the conviction that the leaders in receiving states such as Cambodia and Zambia, to name a few, have to adopt a stance take which will cease the inhumane activities stemming from the international partnerships that take away affected citizens' civil rights, all in the name of economic gain for the states.

4.5 China's Human Rights Council Resolution and Amendments to Weaken the Protection and Advancement of Civil and Political Human Rights

The continuous actions by China to block further scrutiny and avoid full acceptance and compliance with all human rights can be revealed by its recently proposed resolutions at the Human Rights Council, as well as the amendments it sought to bring to the table at the HRC for already passed resolutions. The first resolution

which China presented at the HRC, *Promoting development over human rights: China-sponsored resolution June 20, 2017,* passed by votes of 30-3-13 (Yes-Abstained-No) and aims at the influence of development as the key tool for the satisfaction of all human rights [CITATION Uni171 \l 7177]. In other words, Beijing calls for the partnership of states to advance development first, so human rights satisfaction can then become the result of this development. However, in retrospect, the resolution promotes that development is paramount to human dignity, which in turn becomes a problem when viewing states where development has not yet been achieved. The resolution points to a tilted impression that declares that human rights, inclusive of negative rights which depend solely on the discretion of the government and its judicial agreements, need economic development to be achieved. This also points to Beijing's bias interest in economic and social rights over civil and political rights. The second resolution which China presented at the HRC in order to weaken scrutiny and compliance was on *Promoting Mutually Beneficial Cooperation in the Field of Human Rights: China-sponsored resolution March 15, 2018*, and passed by votes of 28-1-17. This resolution sought to redirect human rights focus from being too country-specific to rather utilising softer measures such as peer review procedures that move away from international examination, allowing the reviewed state to be in control of the same review [CITATION Uni18 \l 7177]. One views this as an attempt by China to gather its co-dependent allies to be parties of the peer reviews, which fails the protection of human rights from being violated and further permits the toleration of global violation of human rights norms for the sake of "mutually beneficial cooperation".

Already existing human rights specific resolutions which saw amendment requests from China from the years 2016-2018 did not receive enough votes to see changes by the amendments. Two, in particular, were amendments on civil society related resolutions. On *Overseeing civil society: Amendment, June 2018*, China was requesting that civil society NGOs obtain and consume resources transparently, in other words, it wanted less access and freedom for the NGOs as they tend to zoom into China's human rights violation acts [CITATION Uni16 \l 7177]. The second amendment, on the *Decreasing state cooperation with civil society* resolution, revealed China's reservations on the existence of civil society groups and its aim on delegitimising the ability for states to forge their engagement with civilians. One of

the requirements of this resolution challenged states to develop a global customary based framework for the protection and representation of civilian freedoms. Hence, China was adamant in lowering such a standard to demean the importance of civil society as well as civil based rights (*ibid*.).

4.6 Conclusion

It certainly cannot be undermined how a globally powerful state can have a great influence on the expansion of the universality of human rights norms. Unfortunately, the opposite also remains true when the same state derails this important expansion of the norms. Hence, the socialisation of universally accepted human rights norms is heavily dependent on the willingness of states, through full compliance from states parties in the international human rights system. However, through the promotion of universalism, relativism has appeared to be the biggest threat to the phenomenon of universally accepted norms. It has been assumed without thinking that universal human rights norms can be accepted and implemented by all cultures. In fact, the certain non-Western cultures, Asian in particular, have quite often asserted against the “forceful” Western rooted norms which are thought to have been established for all global cultures, in the name of universalism. China’s lack of taking part in the further advancement of civil and political human rights norms, in order to protect its Asian or communist values and culture is an example of cultural relativism which has, to a great extent, played a massive role in the challenge of universal human rights norms being violated. It is pivotal for China to recognise its position in the international human rights system. Being one of the five members in the Security Council definitely allows China to also set its resisting approach against what does not align with the country’s ruling party’s principles. However, what one can address is the role that the UN Security Council and the European Union (EU) can play in aggravating China to fully comply with civil and political human rights norms and cease to violate them.

Chapter 5

Conclusion and Key Findings

5.1 Introduction

The purpose of this thesis was to offer an in-depth analysis of mainland China's tactics in not fully complying with humanitarian law by consenting to civil and political human rights. In understanding this, it was necessary to first lay out the structure of humanitarian law and its purpose in the universality of all human rights norms, and then figure out where exactly is China's position within this universality. China as a country study was very substantial for two reasons. Firstly, the study of the controversial lack of human rights norms compliance in Asian power has not received enough spotlight in global human rights literature. Secondly, Beijing's economic power has granted it an important position in the global pedestal, where it can easily manoeuvre its way out of global pressure to conform. Through this study, one was able to demonstrate how Beijing successfully stays ahead in tricking the rest of the world into believing that it has or will eventually fully and equally comply to all human rights norms, as a member of the UN global community.

5.2 Key Findings

The following concluding arguments/questions review the key findings of the thesis:

Is International humanitarian law an efficient key to safeguard human dignity?

Human dignity, which cannot be preserved without its protection and deserved respect, has been the core of human rights across all board. However, its protection and respect can only be possible through set law(s) or legal instruments which has human rights in several aspects of human life. International humanitarian law was established through binding and non-binding instruments such as treaties, covenants, conventions, declarations, resolutions. These instruments also make up the International Bill of Human Rights, compromising of the UDHR as well as the ICCPR to name a few. The International Bill of Human Rights has a role of advancing and solidifying all universal human rights norms, a role which is divided through the various instruments within the Bill. Therefore, to answer whether humanitarian law through this Bill has been a resourceful tool in ensuring human dignity is observed through the existing instruments, one would have to look at the

relevant instruments and the role and impact they've each had on the advancement and respect of human rights norms.

The thesis viewed how the establishment of the UN Charter paved the way for the universality of fundamental norms for human dignity, post-WW II. An instrument which would control and condemn human rights violation was needed, and the Charter was one which vowed to encourage "respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion". The simplicity of the Charter can be credited for laying out the importance of human rights. However, the flaw which surfaced with the Charter was its lack in offering detailed and classified human rights, accompanied by defined guides, which were necessary for effective execution purposes. Simply stated human rights norms were not enough by themselves to safeguard human dignity. In turn, the Charter alone would not have played an effective role in progressing the universality of the norms. However, the hole which the Charter could not fill, the UDHR filled through its ability to clearly define the human rights in their classifications of civil, political, social, economic and cultural rights. The Universal Declaration became a much-needed upgrade for humanitarian law and the socialisation of human rights. The UDHR holds the power to admonish to UN member states to respect universal human rights norms.

Nevertheless, the establishment of classified human rights covenants helped a lot more in the solidification of types of human rights. Through this thesis, one discussed how the establishment of the ICCPR, the vital instrument for this case study, paved a way for the acceptance and ratification of the rights stipulated in the Covenant. A right such as the human right to life should be given serious consideration and the ICCPR ensures member states comply and consent to the Covenant. However, to date, the Covenant still lacks ratification by China, a member of the UNSC. China has not ratified the Covenant and this questions humanitarian law and its power to socialise human rights norms to all UN member states. The disregard of civil and political human rights by China cannot be ignored if all human rights norms are meant to be universally implemented.

While each instrument within the International Bill of Human Rights had and has a unique and significant role to play in expanding human rights to become universal

norms, the effectiveness of humanitarian law both has and has not been effective in safeguarding human dignity. In crediting the success of the work of the law, it also cannot be ignored how the universalism of human rights norms is still being challenged to this day.

Has China's position in the UN given it leeway to demean civil and political human rights?

The crux of this thesis sought to answer the research question of how China's appeasement response towards the UN international human rights system has challenged the universality of human rights norms. As one of the five members of the Security Council and the only member in the same Council which has not ratified the ICCPR, China has an influence within the UN human rights system to make the burden of socialising human rights into norms practiced by various cultures in the globe. However, Beijing's power and status may have contributed to the state being ahead of the human rights system in terms of avoiding ratifying the Covenant, in turn slowing down the universality of civil and political human rights. This thesis introduced Risse and Sikkink's five-stage spiral model of human rights, a model which enables the international need for states to implement human right norms to be realised, also known as the socialisation of human rights norms. As China has been continuously pressured to yield towards civil and political human rights, it has simultaneously placed its state interest above the recognition of all norms of human rights. More so, when applying the spiral model, the third stage, the tactical concession stage, reveals Beijing's preemptive behaviour in this regard. An example would be the change of the country's Constitution after decades of it not reflecting the universal norms stipulated under the pivotal human rights instruments such as the UDHR, the ICESCR, and the ICCPR. However, instilling a form of all human rights through its Constitution still has not equated to the implementation of the civil and political ones. In addition, the releasing of subsequent white papers on human rights to quiet the criticism on the Tiananmen Square Massacre is another manner to appease the global criticism on its non-compliant behaviour.

Through China's use of appeasement as a human rights foreign policy tactic, Beijing's sovereignty has further reduced its vulnerability in the international space. In other words, it has become so accustomed to both global pressure and criticism

that it does not yield nor respond accordingly to any. This also cannot be separated to how Beijing has been allowed to engage with the critics of its human rights for other global issues, which in turn has further enabled the state to increase its ability to pacify the same critics. Its usual participation in global human rights-related dialogues, as well as its increased engagements within the UN, has become a manner in which it appears to "cooperate" with all universal norms. Therefore, it can be said that China's power position, as well as its important status within the UN, have easily given it leeway to demean universal civil and political human rights norms through its behaviour.

Has cultural relativism become a threat to the universality of human rights norms?

Chapter four of this thesis untapped a crucial discussion beyond China alone slowing down the process of the socialisation of human rights norms. The universality of norms of human rights, with its vision of widely accepted and shared norms and values across the globe, has been facing a challenge that may not be easily resolved. The flaw of universality alone is that it overlooks how subjective and diverse norms and values are in the universe. This is where relativism arises and fights for values and knowledge which are in relation to a unique culture or society. In addressing human rights, cultural relativism is prevalent as it has been the very challenge to the advancement and dispersion of universal human rights norms. In fact, in most cases, cultural relativism has not only ignored certain human rights violations but it also commends the human rights violations. The challenge has brought up a debatable question of whether universal human rights norms can be widely accepted and complied within a global community with diverse cultures, cultures which have refused to comply to "Western-inspired" norms. The universal human rights system asserts that each global member state ought to be accountable and responsible for individual citizens. However, more often, the Asian culture, in particular, moves away from the belief of individuality when applying human rights. Therefore, society is far more important than the needs and rights of the individual. This conflicting belief between cultural relativism and universalism in human rights is an example of what has created a huge gap of non-coexistence between the two. For as long as both cultural relativism and universality of human rights norms exist, the one will not submit to the other's doctrines.

In hindsight, one can conclude that both doctrines have been threats to each other's existence, as they have each fought for the dominance of their respective doctrines.

5.3 Recommendations for future studies

The research gave substantial evidence of Beijing's oppressive actions and avoidance on the full compliance to universal civil and political human rights norms. Moreover, governments have in the past raised concerns, under the Human Rights Council, of China's disregard to its international human rights commitment, exposing Beijing's obvious disrespect to human rights norms. However, a recommendation for future research could ideally be focused on proposals that could convince Beijing to move away from the stubborn diplomacy that isolates it from the rest of the global community concerning human rights. China's constant leverage of economic power to get away from not addressing and improving the implementation of its human rights may need to be revisited in order to challenge Beijing's approach in applying human rights norms. Key actors in this suggestion could stem from China's South-South Brazil, Russia, India, China, and South Africa (BRICS) partnership, the EU and UN member states who have a trade partnership with China. What approaches by the global community can effectively put a turn-around on Beijing's behaviour and attitude on civil and political human rights? This question can direct future research to find possible solutions to the discussed challenge.

Additionally, the rise of Beijing's oppression of religious and ethnic minorities outside of mainland China has awakened the global community and exposed Beijing's gruesome human rights violation towards minorities, in turn affecting its trade operations. The recent US-China trade war has been fueled by these violations by China. There exists ample literature on China's trade relation with other economic powers, more specifically with the USA. However, one would also suggest for a case study research that bridges the gap between China's economic trade relations and its human rights violations on the Xinjiang Uighur and Tibet Autonomous Regions. The two regions have suffered repressive measures by Beijing authorities, in turn being denied their freedom of expression, movement, speech, and assembly. Future studies could zoom in on how the developing stories of China's gruesome measures against the minority groups have consequently affected the country's economic trade relations with other powers, more especially the USA.

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