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China and the Remolding of International Human Rights Norms*

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国际规范的生命周期并非只是一个兴起、扩散和内化的过程。争论性逻辑和过程建构主义的关系性逻辑显示，国际规范的发展还存在起源、扩散和重塑的另一路径。中国通过规范对话、话语批判和自我塑造等机制，用以生存权和发展权为核心的人权理论体系丰富着国际人权规范重塑的实践，为非西方国家突破规范发展的单一路径提供了新思路和新视角。

关键词：规范重塑 人权 争论性逻辑 关系性逻辑

The life cycle of international norms is not actually a process of emergence, diffusion and internalization. As is shown by the logic of argumentation and the relational logic of process-oriented constructivism, the development of international norms may take another approach, one of origination, diffusion and remolding. Through dialogues on norms, discourse critique, self-remolding and other means, China has enriched the practice of remolding international human rights norms with a human rights theory centered on the right to survive and develop, thereby providing a new approach and new angle of vision that allows non-Western countries to break away from the monist approach of norm development.

Keywords: norm remolding, human rights, logic of argumentation, logic of relationships

Is the life cycle of international norms a process of emergence, diffusion and internalization?¹ Ever since Martha Finnemore put forward this proposition in 1998, the international relations world has conducted numerous micro-level studies of the different stages of norm development, producing a great number of research findings that have filled out and refined the proposition. Their examination of norm decline and localization has broadened the horizons of this research, yet questions have been seldom raised about the proposition itself.

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1 Martha Finnemore and Kathryn Sikkink, “International Norm Dynamics and Political Change,” pp. 887-917.

We believe that international norms do not develop solely through the stages of process of emergence, diffusion and internalization: they also have another developmental trajectory, i.e., the process of emergence, diffusion and remolding. Norms provide actors with appropriate behavioral standards, furnishing them with a kind of collective idea. International norms constrain but also construct the state's behavior, changing its awareness of national interests. The present paper does not intend to provide a comprehensive analysis of the complete process of international norms' emergence, diffusion and remolding; rather, it focuses on the link between diffusion and remolding. This link, which represents the key to differentiating this process from the existing logic of norm development, cannot be explained either by the rationalist logic of consequences or the constructivist logic of appropriateness. Our understanding of the link must transcend the socialized analytical approach in use at present. The present paper introduces into research on norm remolding both the logic of argument and process-oriented constructivism's logic of relationships. Using the example of China's practice with regard to international human rights norms, we explain China's role in the remolding of such norms with a view to balancing the current situation in which the academic world leaves non-Western norm remolding hanging. We seek a new understanding of the adjustments and debates between China and the international community that highlights Chinese experience in the remolding of international norms.

I. The Present Situation: Reflecting on International Norm Research

Following the constructivist turn in international relations theory, international norms entered the mainstream of international relations research and rapidly became a hot topic. The research done in the mid- to late 1990s demonstrates two approaches that interact with and flow into each other, yet are clearly distinct. The first approach makes use of the analytical framework and ideas of sociological institutionalism, stressing that a state's behavior is influenced by its social culture and that besides satisfying its internal functional requirements, it has to adhere to legitimate procedures and meet international norms and standards. In her *National Interests in International Society*, Martha Finnemore gives a penetrating analysis of the role played by the rules and norms of international society in defining and constructing the national interest and the role of international organizations in handing down and changing national preferences and identities.² Starting from the concept of socialization, Johnston's *Social States: China in International Institutions, 1980-2000*, discusses China's relationship with the international system, stressing the system's socializing role in changing China's behavior. He puts forward three socialization mechanisms: imitation, persuasion and social influence.³ The English school, which understands the world in terms of the concept of international society, believes that the essential elements of international society originated in the principle of liberty in

2 Martha Finnemore, *National Interests in International Society*.

3 Alastair Iain Johnston, *Social States: China in International Institutions, 1980-2000*.

Western Europe's democratic systems and were gradually internationalized along as the West expanded.⁴ Although to a certain extent research on international norms by the English school and sociological institutionalism is distinctively Anglo-American, their research approaches did analyze actors' behavior at the level of social structure. On the whole, their approach retains the structural orientation of mainstream theory, but suspends the state actor's reflexivity; the actor is seen as a structural "dummy" with a strong coloring of structure-centric ontology.

The second research approach focuses its analytic gaze on the actor, exploring the way norms are diffused. Jeffrey Checkel advocates "bringing agency back into research on international norms." He uses the concept of cultural matching to analyze the way states accept international norms from the viewpoint of the norm-sender and norm-receiver. He holds that norms spread faster if there is a consonance between system norms and the domestic norms developed through history.⁵ Amitav Acharya has put forward the concept of "localization," discussing how external ideas are framed and grafted on to local rituals in a process of cultural selection. He uses the example of norms of collective security and humanitarian intervention to demonstrate the localization of international norms at the regional level.⁶ Focusing on the roles played by international NGOs, non-state constructionists represented by Thomas Risse hold that the diffusion of international human rights norms and its effects are the achievement of a transnational network of human rights protagonists (with a non-state center). Domestic and transnational social movements and networks exert "top-down" or "bottom-up" pressure on governments, producing changes in human rights. It is through such mechanisms that international human rights norms bring about the socialization of the state, resulting in its acceptance of human rights norms,⁷ in a process described by Kathryn Sikkink as "the boomerang effect."⁸ Martha Finnemore's theory of the "life cycle" of the norm presents a complete series of links of the evolution and change of norms. She believes that norm development and evolution pass through the three stages of emergence, diffusion and internalization, with different mechanisms at each stage.⁹ Clearly, while the second approach does break through the limitations revealed in the neglect, in previous academic research, of the dynamic role of non-Western actors, we must recognize that in this framework, non-Western societies become objects to be ceaselessly incorporated into Western or international society. Internalization of advanced "good norms" through a socialization

4 Hedley Bull and Adam Watson, eds., *The Expansion of International Society*.

5 Jeffrey T. Checkel, "The Constructivist Turn in International Relations Theory," pp. 324-348; "Norms, Institutions and National Identity in Contemporary Europe," pp. 83-114.

6 Amitav Acharya, "How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism," pp. 239-275.

7 Thomas Risse, Stephen C. Ropp and Kathryn Sikkink, eds., *The Power of Human Rights, International Norms and Domestic Change*.

8 Ann M. Florini, ed., *The Third Force: The Rise of Transnational Civil Society*, p. 190.

9 Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," pp. 887-917.

process is the only option for the “backward.”¹⁰ Norm development equals inculcating norms into “backward” countries. Amitav Acharya’s idea of localization implicitly affirms the West’s guiding role in the diffusion of norms rather than questioning the obvious shortcomings of this role; he overlooks the part played by non-Western countries in the diffusion of norms.

While they differ somewhat, the two major approaches draw mainly on the idea of socialization for an understanding of the process of norm diffusion and internalization. Socialization represents a process whereby the socializer influences the socialized through a particular mechanism and particular behavioral norms in such a way as to make the latter accept the norms and rules of a certain group. State socialization refers to the process by which a state internalizes certain norms originating in the external international system.¹¹ In such socialization studies, international norms are tacitly regarded as the good norms from the West, norms whose diffusion and socialization will elevate both the standard of living and individual liberty in non-Western societies.¹² Clearly, the “Western bias” or “Euro centrism” in this analytical logic has a strong tendency to objectify non-Western countries; contrary to the actual realities of international norm development, it neglects the role of non-Western countries in the making of international norms. To break through “Western bias,” research on international norms must not only “bring back the state” and its dynamic role, it must also “bring back the non-Western state” to reveal the space of the theory and practice of norm remolding. Accordingly, research on international norms must never stop short at norms’ uni-directional expansion through emergence, diffusion and internalization; rather, it must expand its horizons and recognize that norm development is not a linear path. We need to consider and study the remolding of norms occurring through the meeting or clashing of norms, in a process of growth—diffusion—remolding.¹³

II. The Definition, Logic and Mechanisms of Norm Remolding

Norm remolding is an important phenomenon in norm development. It represents normative innovation, though this kind of innovation does not involve a new set of norms or the dying out and replacement of existing norms or disappearance of the original norms, nor yet their complete internalization by the acceptors; rather, it refers to the way the original norms, in the course of their diffusion, are endowed through practice with new content, by new actors, in a way that enriches and perfects them. The reason norms can be remolded is closely associated with the driving force of the actor’s¹⁴ behavioral logic. Existing international

10 Amitav Acharya, “How Ideas Spread: Whose Norms Matter? Norm Localization and Institutional Change in Asian Regionalism,” pp. 239-275.

11 Kai Alderson, “Making Sense of State Socialization,” pp. 415-433.

12 Didem Buhari-Gulmez, “Stanford School on Sociological Institutionalism: A Global Cultural Approach,” pp. 253-270.

13 Yuan Zhengqing, “Research on Norms Must Breakthrough the Uni-directional Linear Path,” p. 23.

14 “Actor” here refers mainly to the state.

relations research indicates that this logic takes four forms: the logic of consequences, the logic of appropriateness, the logic of argumentation and the logic of relationships (cf. Table 1). According to March and Olson, an actor's behavior is determined by two forms of logic: the logic of consequences and the logic of appropriateness.¹⁵ The former sees the interacting units in an international system as autonomous and self-interested, calculating means against ends in accordance with instrumental rationality and maximizing their self-interest and strategic effectiveness. The central concern of this logic is "How do I get what I want?" and individuals, states or organizations weigh up the consequences of prior preferences before they decide on a course of action, utilizing their powers and interests to realize fixed aims. The logic of appropriateness, on the other hand, stresses the role of rules and institutions; the actor's behavior is based on rules; he will follow rules associated with a particular identity in a given situation and act in accordance with established rules and customs that are well-known, expected and accepted. His central concern is "What kind of situation is this?" Under this logic, the actor will adhere to predetermined values and follow customary behavior.¹⁶

Thomas Risse uses Habermas' theory of communicative action to introduce the logic of argumentation into analysis of international relations. This focuses on what would be right to do in a given situation. The theory emphasizes that what the actor pursues is not maximization of effect, as determined by fixed interest preferences, but a challenge to existing discourse statements. In the public space, where the influence of power and hierarchy retreat, discourse participants are happy to be persuaded by better arguments to reach a consensus based on argumentative rationality. Good statements and arguments can change actors' world outlook and interest cognition.¹⁷

Introducing into international politics the Chinese concept of relationships, Qin Yaqing puts forward the relational theory of world politics, expounding actors' behavior in terms of the logic of relationships. Within the framework of relational logic, identity is relational identity: actors can only exist and possess an identity within relationships. Relationships determine identity; without relationships, there would be no actor, and without the relationship between self and other, the self would have no identity. In the interactive practice of relationships, identity and norms compete and clash, with one replacing or overriding the other. However, there are also cases when the two opposite poles coexist, merge and co-evolve.¹⁸

15 James G. March and Johan P. Olson, "The Institutional Dynamics of International Political Order," pp. 943-969; Martha Finnemore, *National Interests in International Society*, p. 21.

16 *Ibid.*

17 Thomas Risse, "'Let's Argue!': Communicative Action in World Politics," pp. 1-39.

18 Qin Yaqing, *Relations and Process: Cultural Construction of Chinese International Relations Theory*.

Table 1 Comparison of Four Types of Action Logic

Action logic	Actors' preferences	Mutual rationality	Interaction	Goal
Logic of consequences	Preference fixed	Instrumental rationality	Strategic interaction	Maximizing utility
Logic of appropriateness	Preference can change	Normative rationality	Normative guidance	Degree of socialization
Logic of argumentation	Preference can change	Argumentative rationality	Argumentation and persuasion	Reaching consensus
Logic of relationships	Preference can change	Relational rationality	Moderation and harmony	Mutual tolerance and co-existence

Among the four action logics discussed above, the logic of consequences does not consider the question of norms; norms are simply an accessory to instrumental rationality. The logic of appropriateness stresses the acceptance and internalization of existing norms and gives a good explanation of the process of their origination, diffusion and internalization, but does not concern itself with norm remolding. The logic of argumentation and the logic of relationships offer the possibility of analyzing norm development and norm remolding, providing a theoretical basis for interpreting the process by which norms move from diffusion to remolding. However, it should be noted that while the rationality of the logic of argumentation does ultimately focus on enabling argumentation to occur on a more equal footing, thus transcending established hypotheses of instrumental rationality and preferences as well as the uni-directional logic of socialization of sociological institutionalism, underlying this logic is the fact that not only can changes occur in the actor's interests, preferences and identity upon presentation of better arguments by the other side, but arguments and persuasion can also serve to pursue truth and reshape a rational consensus, thus changing both the identity and behavior of the other. In interpreting the changes human rights have undergone, Risse presupposes the existence of a criterion of "the good" for the logic of argumentation, with the argument simply serving to make this "good" discourse more readily acceptable. The consensus thus arrived at remains the European standard of human rights.¹⁹ Habermas' logic of argumentation also presupposes reaching an ultimate consensus, affirming the guiding role of one sole discourse. This implies that if norm development stopped at the logic of argumentation, its outcomes would remain unitary. Here the logic of relationship provides a valuable supplement due to its stress on the mutual transformation of conflicting norms, their complementarity and co-existence in diversity, and their symbiotic advancement.

Of course, certain conditions have to be met in international society for the existence of the logic of argumentation and the logic of relationships. The first of these is a relatively equal power relationship, i.e., the existence of a relationship of duality that may expressed as parity

19 Thomas Risse, "Let's Argue!": Communicative Action in World Politics," pp. 1-39.

or as a “weak connection” between powers dealing with a problem that needs to be solved. The second is the presence of relatively equal discourse opportunities, i.e., mechanisms allowing all parties to participate and express their position and views on an equal footing: these include unilateral declarations, bilateral dialogues, multilateral forums, etc. The third condition is a diversity of intellectual and cultural resources. These constitute the intellectual condition for participating in argument or for relational co-existence; participants whose minds are a *tabula rasa* can only serve as the targets and objects of socialization by the ideas of the other.

The increasingly multipolar, socialized and informatized nature of the international system has come to provide increasing space for the remolding of norms. Consideration of national interests, however, means that norm remolding has to be gradually achieved through the accumulation of consensus in interactions with the other. This process is necessarily made up of the three mechanisms below.

The first is norm dialogue. Norms are essentially shared ideas; they represent a set of rules and institutions set up through communication between actors. These rules and institutional arrangements can be realized through the use of power, through economic rewards and punishments, or through persuasion and learning. As a form of external coercion, the first two have no authority. This is especially true when entities from different cultural backgrounds engage in the construction of shared concepts. Conducting dialogues on an equal footing is an indispensable link in norm remolding. Such communication and dialogue can be multilateral or bilateral. It does not necessarily result in one side’s accepting the views and positions of the other; it may also result in coexistence, reciprocal learning and borrowing. Ultimately, it can foster mutual understanding among norm participants, reducing differences and broadening consensus.

The second is discourse critique. According to Foucault’s reading of knowledge, discourse, and power, we should admit “that power produces knowledge...; that power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations.”²⁰ It is “power-knowledge, the process and struggles that traverse it and of which it is made up, that determines the forms and possible domains of knowledge.”²¹ Therefore, “the particular ‘order of discourse’ of an era has a normative and regulating function in that it uses the mechanism of organizing reality to produce knowledge, strategy and practice.”²² When “discourse is power,” the power of discourse comes into being as a matter of course. Owing to the fact that industrial society originated in the West and thereafter spread throughout the world in the train of Western colonial expansion, it enjoys discourse hegemony in today’s international society, especially in the areas of the international

20 Michel Foucault, *Discipline and Punishment*, p. 29.

21 *Ibid.*, p. 30.

22 Judith Revel, *Dictionnaire Foucault*, p. 40.

norms of freedom, human rights, democracy, etc. Accordingly, if, faced with Western discourse hegemony, a potential object of socialization engaged in interactive argument over the norms of international society is reluctant to behave completely in accordance with established norms or to be constricted by Western discourse power—in such a case, criticizing the rationality, political nature and even hypocrisy of established normative discourse is an important method and mechanism for upholding autonomy and remolding norms.

The third mechanism is self-molding. The development of globalization and modernization has highlighted the universal nature of such values as democracy and human rights; they constitute the hidden premise of the “better arguments” and “broader consensus” contained in the logic of argumentation. However, simultaneously with the uniformity that has accompanied the deepening of globalization and modernization we have witnessed the widespread existence of multiplicity. In the course of the diffusion of international norms, the demands of universality exist alongside the logical demand for “self-molding” that arises out of encounters with other cultures. Self-molding refers to value-oriented self-cultivation, i.e., molding oneself in light of certain value norms so as to become a “virtuous person.”²³ This kind of self-molding essentially embodies the Chinese people’s wisdom of practice; it was the source of China’s traditional culture, which has renewed itself throughout its long history, retaining its inherent vitality. In the course of the diffusion of international norms, various countries have accepted the universality of human rights norms while enriching and substantiating the connotations of these norms on the basis of their own background knowledge and concrete realities. Not only does the process of normative self-molding not damage the authority of the existing norm consensus, it clearly illustrates a specific practical approach and value orientation for normative practice.

Following the equalization of international power relations and developing countries’ growing consciousness of their autonomous status, the logic of relationships, with its greater respect for the culture of the other, will have a greater role in the process of norm remolding. Of course, the three mechanisms listed above only mark out possible approaches to norm remolding; their presence does not imply that norm remolding will necessarily occur. Only when conditions for the application of the logic of argumentation and the logic of relationships have become mature will it be possible for these mechanisms to guide the norms toward remolding.

III. China’s Practice in the Remolding of International Human Rights Norms

China’s efforts to remold international human rights norms constitute a classic example of norm remolding theory. Chinese efforts to improve human rights have drawn world attention. On this point, Western international relations specialists hold varying views. The great majority of Western scholars insist that the contemporary human rights progress made by non-

23 Pan Derong, “Text Understanding, Self-understanding and Self-molding.”

Western nations and exemplified by China is the result of external pressure from the West; different theoretical schools differ only in their identification of the factors and mechanisms involved in these external dynamics. The realist school believes that all the changes in human rights taking place in China arise from Western pressure. Ann Kent's analysis of the influence exerted by the UN human rights mechanism upon Chinese human rights policies and of China's responses concludes that the Chinese acceptance of human rights norms was closely associated with UN supervision.²⁴ John Cooper claims that the main cause of changes in Chinese human rights policies is simply its concern for its international image following 1989.²⁵ Andrew Nathan goes so far as to attribute any changes in human rights in China to US pressure, saying that the series of White Papers on Human Rights put out by the Chinese government constitute a response to international concern.²⁶ Rosemary Foot holds that it was the global criticism of China's human rights record that pulled the country into international human rights mechanisms.²⁷ To a certain extent, such views have taken note of the interactions between China and international human rights institutions, but they fail to explain the fact of the continuing development and progress of Chinese human rights despite the reduction in Western pressure or China's rising national power.

There are, of course, scholars who have detected the domestic factors in the changing ideas and policies of Chinese human rights. They believe that the most important reason for the change in human rights norms was the change in the cognition of the Chinese government produced by its historical rethinking.²⁸ Such analysts have observed the role played by domestic political progress, but they continue to believe that the Chinese government passively accepted and copied the idea of human rights; they have not noted the changes in human rights norms themselves and thus to a certain extent underestimate China's influence on the development of world human rights norms and neglect its important role in their remolding.

Owing to their origin in the unique historical experience of the West, international norms of human rights have become tools assisting many Western countries to realize their strategic and economic interests. Consequently, many of them hold that Western-style human rights are the only human rights. In fact, however, nations differ in their cultural backgrounds and developmental stages, and so will necessarily differ in their understanding of human rights. A consensus on human rights shared by humanity as a whole can be reached only through open debate on the basis of equality. Thus discussion and dialogue among nations on the idea of human rights must be conducted on an equal footing; only then can a consensus on

24 Ann Kent, *China, the United Nations, and Human Rights: The Limit of Compliance*.

25 John Cooper and Lee Ta-Ling, *Coping with a Bad Global Image: Human Rights in the People's Republic of China, 1993-1994*.

26 Andrew Nathan, "China: Getting Human Rights Right," pp. 135-151.

27 Rosemary Foot, *Rights beyond Borders: Global Community and the Struggle over Human Rights in China*, p. 273.

28 Dingding Chen, "Explaining China's Changing Discourse on Human Rights, 1978-2004," pp. 155-182.

the international norms of human rights take shape and develop. Only through ceaseless discussion, argument and even criticism in an open setting can we purge the irrational and unjust elements in established norms. Clashes between different ideas of human rights are inevitable during such a process, but this does not mean that one kind of human rights will necessarily be replaced by another; on the contrary, norms develop and are remolded through the clash of ideas. With the rise in its international status, material achievements and psychological self-confidence over the 30-odd years of reform and opening up, China has become ever more qualified to participate on equal terms in international dialogue; moreover, the country's rich historical and intellectual resources constitute important conditions for norm remolding. China's five millennia of cultural heritage, a century of painful subjection to Western colonialism and oppression and, more importantly, the last sixty odd years of arduous exploration, torturous but filled with great achievements, mean that the country has unique views and positions on human rights. With the continuing improvement of norm remolding mechanisms, it is inevitable that China will convey its human rights ideas to the international community and provide resources that will enrich the content of international human rights. The knowledge and practice underlying human rights activities in China provide an important resource and a new approach to the remolding of human rights norms.²⁹

1. Human rights dialogues

Since the end of the 1990s, China has held frequent human rights dialogues with a rich content with more than 20 countries and regions, including the European Union, Germany, Australia and the USA. The Chinese-EU dialogue, launched in 1995, takes place half-yearly, so altogether 34 talks had been conducted by November 2015. Human rights talks had been conducted with the UK on 22 occasions by April 2015. Talks with the US were intermittent, but had been held 19 times by August 2015. Talks with Australia began in 1997, and had been held on 15 occasions by February 2014. With Germany, China had held human rights talks on 13 occasions by November 2015; by October 2015, it had held 9 human rights talks with the Netherlands; and by May 2016 it had held 9 talks with Switzerland.³⁰ These dialogues not only enabled China to express its position on human rights, but also transcended the one-way approach of human rights socialization to open up a historic process of dialogue with the West on equal terms, reaching greater mutual understanding with the international community on different ideas of human rights.

China and the US can be taken as representative of the world's large countries, but their historical and cultural traditions, degree of economic development and value orientations are very different. The two countries' dialogues and clashes carry the most weight out of all the human rights dialogues between China and the nations of the West. Despite the continued presence of quite serious differences in their positions, it is objectively true there has been a

29 Qin Yaqing, "The Logic of Activities: The Meaning of the 'Reorientation of Knowledge' in Western Theories on International Relations."

30 China Human Rights Network, <http://www.humanrights.cn/html/gjtl/3>.

growing consensus on human rights, a fact that should not be overlooked. This is especially true of the human rights dialogues that have taken place this century. In the first place, the contents of the dialogues are fairly stable: international cooperation on human rights issues, religious freedom, freedom of speech, racial discrimination, the rule of law, and so on. This indicates that China and the US have reached a consensus over the basic content of human rights. In the second place, the dialogues take place in a cordial atmosphere. As shown in Table 2, the main official terms employed to describe the atmosphere of the dialogues are “frank” (7 times); “constructive” (7 times); “open” (3 times); “in-depth” (twice); “practical” (once); “professional” (once); and “friendly” (once). Clearly, China and the US, after trading simplistic accusations with regard to human rights in the 1990s, have come to recognize the need for frank and open dialogue over their objective differences and to realize that in fact, constructive results can be obtained. Finally, in the China-US human rights dialogues, the two sides do not, as some might imagine, engage in “talking past each other.” The achievements of the dialogues include the following. First, recognition of the necessity of human rights dialogues as helping to promote understanding, reduce differences and broaden consensus; second, the American side has acknowledged the improvements China has made with regard to human rights; third, the US responded when the Chinese side raised the problems of racism and discrimination against Native Americans in the US; and fourth, both sides have agreed to continue the dialogue. The China-US human rights dialogue has thus become an indispensable forum for the development of the two countries’ consensus on human rights.

Table 2 China-US Bilateral Human Rights Dialogues (2001-2015)³¹

Round No.	Time	Place	Contents	Atmosphere	Consensus
12	Oct. 9-11, 2001	Washington		Frank, practical and constructive	Agreeing to continue the dialogue
13	Dec. 16-17, 2002	Beijing	Judicial reform, religious freedom, communication between the two sides on human rights, etc.	Friendly, frank and constructive	Improving mutual understanding, reducing difference, and broadening consensus
14	May 24-28, 2008	Beijing	Freedom of speech and religion, racial discrimination, cooperation on UN human rights, etc.	Frank, open and constructive	Increasing mutual understanding and helping reduce differences

31 The 16th human rights dialogue is not listed here owing to the fact that relatively little information on it was released to the public.

15	May 13-14, 2010	Washington	Cooperation on UN human rights, rule of law, freedom of speech, rights of workers, racial discrimination, etc.	Frank, open and constructive	The US made a positive evaluation of the progress made by China on human rights and was willing to strengthen communication with the Chinese side on human rights through further dialogue.
17	July 23-24, 2012	Washington	Cooperation on international human rights, rule of law, freedom of speech and media responsibility, racial discrimination, discrimination against Native Americans, etc.	Frank, open and constructive	Helped improve understanding and reduce misunderstanding; US recognized China's human right progress and US responded on issues of racial discrimination; both sides set out new type of great power relationship and agreed to continue the dialogue
18	July 31, 2013	Kunming	Protection of human rights and concern for state security, cooperation on international human rights, judicial issues and human rights, freedom of speech and protection of privacy, etc.	Frank, in-depth; comprehensive, constructive	Helped deepen mutual understanding; US side fully acknowledged China's progress in promoting economic and social development and eliminating poverty; China places high value on the coordinated development of two types of human rights
19	2015	Washington	Progress on human rights, legal issues and views of human rights; multilateral cooperation on human rights; rights and obligations of freedom of speech, religious freedom, anti-racial discrimination, anti-terrorism, combating violent extremism, etc.	Frank, in-depth, professional	Helped improve mutual understanding

Source of data: China Society for Human Rights Studies, <http://www.humanrights.cn/html/gjjl/3/2/>.

Furthermore, China also attaches great importance to active participation in multilateral

dialogues, especially those organized by the UN to formulate and discuss human rights norms. In these dialogues, China brings the understanding and consensus formed in the bilateral human rights dialogues into formulating and executing international human rights norms, with a view to obtaining the recognition of international society. In February 2009, China undertook and passed the Universal Periodic Review of the UN Human Rights Council for the first time; on November 12, 2013, when the 68th UN General Assembly elected the members of the Human Rights Council, China was elected with an overwhelming majority; and on March 20, 2014, the UN Human Rights Council in Geneva approved China's National Report under the second Universal Periodic Review of October 2013.³² It can be said that China's activities with regard to human rights in the multilateral context exemplified by the UN have given new content and value to international human rights norms.

2. *Discourse critique on human rights*

In discussions with the West, especially with the United States, China has not only debated human rights norms themselves, but has also launched a discourse critical of the Western human rights view, striving to mold international human rights norms on the basis of its own domestic conditions and seeking a developmental path for human rights suited to those conditions. This critique and remolding have revolved around two key points in the human rights debate.

(1) The main body of human rights and the priority to be given to their contents

Ever since the publication in the 1990s of the first white paper on human rights in China, the Chinese government has consistently stressed the primacy of the right to survive and develop. In a developing country with a huge population but scant per capita resources, the right to survive has historically been the most urgent requirement of the Chinese.³³ In the modern international system, a country that is not independent cannot guarantee the survival of its people. The process of China's struggle for national independence and liberation is at one with the process of the Chinese people's struggle for human rights. On this basis, China holds firmly that maintaining sustained rapid and stable development is a fundamental Chinese human right. Accordingly, China has made a major contribution in pushing for an international consensus on the right to development. For example, China played a positive role in the drafting and ultimate passing of the Declaration on the Right to Development; China has consistently co-sponsored resolutions on the right to development in the Human Rights Council; and China has consistently called for "international society to actively promote the cause of world human rights, with especial attention to the right to survive and develop for the mass of the people in developing countries."³⁴

At the 41st UN General Assembly in 1986, when the Declaration on the Right to

32 China Society for Human Rights Studies, "UN Human Rights Mechanisms and China."

33 From 1991 to 2015, China published a white paper on the development of human rights every year. This principle runs throughout every paper.

34 Xi Jinping, "Letter of Congratulation to the Human Rights Forum, Beijing."

Development was put to the vote, the US cast the only vote against though some other Western countries did abstain. In September 2014, when the resolution on the right to development was passed at the 27th session of the Human Rights Council, the US once again cast the only negative vote. Nevertheless, as can be seen from the course of UN voting on the issue since 1986, the long-term adherence to the primacy of collective human rights on the part of developing countries represented by China has broken through traditional human rights norms and won the approval of the great majority of countries. Especially in 1993, the World Conference on Human Rights adopted the Vienna Declaration and Program of Action and reaffirmed “the right to development, as established in the Declaration on the Right to Development, as a universal and inalienable right and an integral part of fundamental human rights.”³⁵ The adoption of this program of action marked the universal recognition by international society of the right to development as a basic human right. This was significant as it not only broadened the contents of previously existing Western human rights norms but also encouraged and expanded the dynamism of human rights norms.

(2) The relationship between human rights and sovereignty

The relationship between human rights and sovereignty has long been a bone of contention in China-US human rights disputes. On the basis of the lessons of its history, China holds that sovereignty is not only the greatest of all human rights, but also their fundamental guarantee. This view has gradually been accepted by developing countries and has become an international consensus.

“Human rights above sovereignty,” “human rights know no border” and other similar views are pushed vigorously by the US. The State Department’s annual Country Reports on Human Rights Practices use human rights as a pretext for finding fault with the internal affairs of other countries and staging humanitarian interventions or waging war in the name of human rights, as exemplified by Kosovo and the upheavals in West Asia and North Africa. In contrast, “China has always maintained that human rights are essentially matters within the domestic jurisdiction of a country. Respect for each country’s sovereignty and non-interference in internal affairs are universally recognized principles of international law; they are applicable to all fields of international relations and naturally apply to the field of human rights as well.”³⁶

China’s critique of American human rights diplomacy was never, of course, pure criticism; rather, China’s arguments are grounded in reason and fact, with a view to gaining greater consensus on norms and having each country progress its human rights domestically. In the first place, China’s emphasis on the primacy of sovereignty is based on international law. For example, Section 7 of Article 2 of the Charter of the United Nations stipulates that “Nothing contained in the present Charter shall authorize the United Nations to intervene in matters

35 United Nations Human Rights Office of the High Commissioner, “Article 10, Section I, Vienna Declaration and Program of Action.”

36 The State Council Information Office of the People’s Republic of China, *Human Rights in China*.

which are essentially within the domestic jurisdiction of any state....”³⁷ The Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and the Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States, all of which have been adopted by the United Nations, contain explicit provisions in this regard. In the second place, China’s emphasis on the primacy of sovereignty is rooted in the historical experience of the trampling of China’s human rights. China was the target of hundreds of aggressive wars, big and small, waged by the imperialist powers from 1840 to 1949, within calculable losses of life and property. Lastly, this emphasis also derives from the international reality of many developing countries’ poverty and instability and the yet greater instability stirred up by unscrupulous Western interference in their domestic affairs. In the 21st century, as the continuing chaos in Syria has shown, the series of armed interventions or regime change launched by the West, with the US at their head, in the name of human rights has provided not better protection for human rights but human rights violations on a grand scale.

China-US debates over the relationship between human rights and sovereignty have long reflected the differences between some Western developed countries and most of the developing world. In fact, ever since the founding of the UN, the question of whether human rights or sovereignty takes priority has been a major focus of debate, finally drawing to a close with a growing consensus on the views of the mass of developing countries of which China is representative. The Declaration on the Inadmissibility of Intervention and Interference in the Internal Affairs of States adopted on December 9, 1981, by the UN General Assembly was universally acknowledged by all countries including the US. The Resolution adopted by the 45th General Assembly reaffirmed “the right of States and their peoples freely to choose and develop their political, social, economic and cultural systems and to determine their laws and regulations.”³⁸ Article 36 to the Vienna Declaration and Program of Action adopted by the World Conference on Human Rights also reaffirmed “the important and constructive role played by national institutions for the promotion and protection of human rights, in particular in their advisory capacity to the competent authorities, their role in remedying human rights violations, in the dissemination of human rights information, and education in human rights.”³⁹ Thus it can be seen that sovereignty, as a basic norm in today’s international society, is recognized by the great majority of countries and by UN organizations, while the realization of human rights continues to rely mainly upon the effective safeguard provided by sovereignty. This remains the basic consensus on the relationship between sovereignty and

37 United Nations, “Section 7 of Article 2 of the *Charter of the United Nations*.”

38 United Nations General Assembly, “Right to Development,” A/RES/45/97.

39 United Nations Human Rights Office of the High Commissioner, “Article 36, Section I, Vienna Declaration and Program of Action.”

human rights today.

3. The “self-molding” of human rights

With regard to the “self-molding” of human rights, China has felt its way ahead by trial and error, ultimately finding its own set of mechanisms. In December 1991, the State Council Information Office issued the white paper *Human Rights in China*, the first official government document on human rights and the first white paper on the subject. It announced clearly that “It remains a long-term historical task for the Chinese people and government to continue to promote human rights and strive for the noble goal of full implementation of human rights as required by China’s socialism.”⁴⁰ In September 1997, for the first time in its history, the 15th National Congress of the CPC wrote into its report the concept of human rights, “ensuring that the people enjoy extensive rights and freedom endowed by law, and respecting and guaranteeing human rights”⁴¹ In November 2002, the 16th National Congress of the CPC again included in its report the words “Human rights are respected and guaranteed” as an important content of “upholding and improving the systems of socialist democracy.”⁴² In March 2004, the 2nd Session of the 10th National People’s Congress adopted *Amendment to the Constitution of the People’s Republic of China*, including in it the words “The state respects and preserves human rights.”⁴³ To elevate human rights protection from being the will of the Party and the government to being the will of the people and the state marked a leap forward in human rights awareness. In March 2006, the Eleventh National Five-Year Plan, reviewed and approved by the 4th Session of the 10th National People’s Congress, clearly stated that human rights should be cherished and safeguarded and the comprehensive development of the human rights mission should be encouraged. This was the first time China had put human rights content into its national economic and social development plan.⁴⁴ Furthermore, institutional arrangements have also been made at the level of government policies and laws, as exemplified in the National Human Rights Action Plan. China has also broadened and deepened its human rights cooperation with international society; it has signed and approved a number of international human rights conventions, taken part in framing new international human rights conventions and conscientiously carried out its obligations under those conventions.

Human rights are an important institution in international society. Their Western origin does not mean that they can be understood in only one way and with one set of connotations.

40 General Office of the State Council of the People’s Republic of China, *Gazette of the State Council of the People’s Republic of China*, Issue No. 39, December 25, 1991, p. 1349.

41 Jiang Zemin, “Hold High the Great Banner of Deng Xiaoping Theory for an All-round Advancement of the Cause of Building Socialism With Chinese Characteristics into the 21st Century: Jiang Zemin’s Report to the 15th National Congress of the CPC.”

42 Jiang Zemin, “Build a Well-off Society in an All-Round Way and Create a New Situation in Building Socialism with Chinese Characteristics: Jiang Zemin’s Report to the 16th National Congress of the CPC.”

43 National People’s Congress. *Amendment to the Constitution of the People’s Republic of China*.

44 Li Junru, ed., *Annual Report on China’s Human Rights*, p. 19-24.

Nations with different histories and cultures and at different stages of development understand the connotations of human rights differently. China's background knowledge and immediate practice in the conduct of human rights is not only the source of differences in Chinese and American views of human rights, but is also an important source of the remodeling of the international human rights norms. At the same time, China's development from a poor country to the second largest economic power in the world shows that development is not only a condition for realization of human rights, but is also inherent in the concept of human rights. The collective tendency and tradition in Chinese culture's understanding of man shape the Chinese preference for collective human rights. The Chinese stress human-heartedness as the foremost quality of humanity, whereas the Christian West emphasizes equality before God and in alienable rights, and understands rights as the natural rights of the individual. In *From the Soil: The Foundations of Chinese Society*, pointed out that whereas Western society was made up of independent individuals who formed different groups, giving society a group structure. China had a differential mode of association, like the ripples from a stone thrown into the water, relationships extend outwards in successive rings, going from self to family, from family to nation and from nation to world, with no clear boundaries.⁴⁵ These differences in the way the international community understands international relations can help us understand the human rights debates between China and Western countries. Western scholars, whose thinking is based on substantialism, see the international community as an independent entity, whose expansion—actually the expansion and enlargement of the embedded gene of European ideas—extends its range without changing its essence. All of international society is developing toward Western type of “self,” with any non-Western forms being assimilated to the West. Chinese scholars, on the other hand, basing themselves on the theory of process, regard international society as a process of generation and transformation. The nature and form of the self only make sense and become identifiable in the relationship between self and others. Interrelationships among different things rather than the “essential attributes” of things are the key to understanding human society. This view is based on Chinese interrelationships and the dialectal thought of the doctrine of the mean; it is a manifestation of the logic of relationships. As in other societies, paired relationships in international society are inclusive and complementary.⁴⁶ As an important component of international society, human rights should be analyzed from the perspective of mutual accommodation and complementarity.

In the case of the China-US human rights dialogue, each side may test the other's strength, trade interests, or clash. We do not deny that Western human rights ideas have a rational side, but these ideas and their practice represent only one of the varieties of background knowledge about human rights. The Western kind of knowledge should not set itself up as the sole authority or create a dualistic opposition between self and other. We should realize

45 Fei Xiaotong, *From the Soil: The Foundations of Chinese Society*, p. 32.

46 Qin Yaqing, *Relations and Processes: Cultural Construction of Chinese International Relations Theory*, p. 76-113.

that in current international human rights norms, human rights do not simply involve the one-sided inculcation or one-sided acceptance of ideas in such a way as to form a homogeneous relationship in which the one is internalized by “the other”; rather it is an interactive process in which all living creatures nourish rather than harming each other, while their paths run parallel without infringing on each other. “The pursuit of the improvement of human rights never ends, for there is always room for better human rights conditions.”⁴⁷ In its various human rights dialogues, China does not just accept Western propositions passively; it has its own understanding of the issues and cleaves to its own principles, promoting the practice of human rights norms through self-remolding. This understanding has unique Chinese characteristics, but is not limited by them; to some degree, it represents the shared views of the developing world in a more inclusive way. Through unremitting and active exploration, China has developed a “Chinese model” of safeguarding human rights.⁴⁸ The human rights dialogue between China and the US is also changing. No longer is it a one-way process in which the US sets the human rights agenda and the Chinese side responds passively. Today, both sides talk on an equal footing and there is a to-and-fro between them. In such dialogues, neither side aims to totally transform the other; rather, both seek to enrich understanding of the connotations of human rights by means of debate with a view to achieving inclusive co-existence. The human rights theory China and the developing countries have proposed, based as it is on the right to subsistence and development, and broadens the connotations of international human rights norms. China’s practice in molding these norms in the light of its own history and immediate circumstances encourages the inclusion of different views of human rights, broadens the connotations of human rights norms and expands the international consensus. The practice of this self-molding approach can be used as a reference by any country dedicated to exploring the path of human rights development in line with its own national conditions.

Conclusion

Despite noteworthy progress in research on international norms, the unidirectional linear research paradigm explores the road map of the emergence, diffusion and internalization of international human rights norms in a way that excludes the role of actors from different cultural backgrounds, especially non-Western backgrounds, in norm remolding. Western discourse hegemony in research on international norms conceals and suppresses the developmental space of non-Western discourse, under estimates non-Western countries’ role and influence in norm remolding, and ignores the multiple paths of international norms practice. At present, the rise of the non-Western world has brought new vitality and dynamism

47 The State Council Information Office of the People’s Republic of China, *Progress in China’s Human Rights in 2013*.

48 Luo Haocai, “The ‘Chinese Mode’ of Human Rights Protection.”

to the development of international norms. The practice of other cultures provides rich resources for the pluralistic construction of international relations theory.⁴⁹ Our analysis is based on the logic of argumentation and the logic of relationships, and sets out from the process theory of international society, with norm remolding included as an important link in the framework of norm research. We endeavor to fill the gaps and make up for the defects in current approaches and to go beyond existing research paradigms.

As a rising power with a long history, China will not comply with and internalize one-way international social norms in the course of its participation in international society. Despite being subjected to strong material and social structural pressures, China will remold international norms on the basis of its own history and current realities. The Chinese contribution to human rights norms goes beyond the classical Western analytical framework of the “impact-response” model;⁵⁰ it also provides new ideas and a new perspective for Chinese international relations specialists considering relations between China and the international community.

Of course, we should be soberly aware that in the field of international norms, compared with the absolute advantage of the West, the participation of the non-Western developing countries represented by China still has obvious gaps despite the great strides that have made in norm formulation and remolding. Exploring Chinese mechanisms for remolding and innovating human rights norms is essential for Chinese research on international relations and is also an important element and long-term task in exploring the establishment of a Chinese school of international relations.

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49 Qin Yaqing, “The Logic of Activities: The Meaning of the ‘Reorientation of Knowledge’ in Western Theories on International Relations.”

50 Yuan Zhengqing, “Review on *Beyond Compliance*,” pp. 255-257.

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