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The Right to Freedom of Expression in China and the West

China's Right to a Cultural Specific Freedom of Expression Orientation?

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Abstract

Freedom of expression is one of the most sensitive and intensively discussed issues between China and the UN today. The UN's criticism of China's freedom of expression orientation is embedded in a universalist understanding and conflicts with the cultural relativistic position China takes over the same rights. China and cultural relativists argue that the cultural, historical and political particularities of a state impact human rights orientation and by such, never can be universal.

Given the differences between China and UN's understanding of freedom of expression, this thesis analysis how China's history, politics and culture shape its current freedom of expression orientation. This analysis aims to explore whether or not China's freedom of expression orientation can be justified on the argument of historical, cultural and political particularities.

My thesis concludes that these particularities have a limited effect. By implementing Fairclough's model of critical discourse analysis, I have analyzed the relationship between text and its social context, being UPR documents and the particularities of Chinese history. My analysis demonstrates that the relationship that exists takes on a hidden agenda as the CCP uses Chinese particularities to promote self-interests.

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Declaration

I, (name), declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

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1. Introduction

Adopted in 1948, the Universal Declaration of Human Rights (UDHR), aims to give every human being the rights to life, security and liberty. The declaration consist of thirty articles and among them is the right to freedom of expression (Bailey, 2010). This particular right has become a highly debated topic during the last years. The Arab spring and the Charlie Hebdo tragedy revealed the power of freedom of expression and how ordinary people today are holding power to confront national Government and global religious thoughts. Even though people are empowered with more freedom today, some countries including China move in the opposite direction (Reporters Without Borders, 2015).

China's human rights practice and especially the right to freedom of expression has received a bad name both within the UN and among Non-Governmental Organizations such as Amnesty International and Reporters Without Borders. The latter organization publishes the report "World Press Freedom Index" every year, measures how much media freedom, that netizens, journalists and media organizations enjoy in their respective countries. According to the 2015 Index, China ranks 176 out of 180 countries, which is a drop compared to previous years. China's drop has made the international society call for a change in China's freedom of expression policy on the argument of its obligation to conform the UDHR freedom of expression clause (Reporters Without Borders, 2015).

In 1948, China was the first country to sign the UDHR and by such agreed upon the universal standard of freedom of expression, guaranteed through Article 19, which states:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers" (The United Nations, 1948, Article 19)

In addition, Article 35 in China's own Constitution also guarantees this freedom as it states:

"Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration" (Constitution of the Peoples Republic of China, 1982, Article 35)

Even though China recognized the importance of freedom of expression by signing the UDHR and explicitly recognizes this right within its own constitution, both the UN and

Amnesty International find the situation regards this freedom more restricted compared to other UN members, and specially to that of western states (Amnesty International Publications, n.d; OHCHR, 1996-2016b). Under pressure from the west to improve its standards, China reaffirmed its commitment to principles contained in the UDHR.

In the preparation of the Vienna Conference on human rights in 1993, thirty Asian and Middle Eastern countries drafted the Bangkok Declaration, which presented a strong contradiction to the formal acceptable universal aspect of human rights. Emphasizing on the differences between Asian and western values, the Bangkok Declaration argue for a state diverse human right interpretation and practice. The notion of “Asian values” goes to the heart of this controversy, and was codified as collectivism, economic and social rights, sovereignty and the right to self-determination. Although the Bangkok Declaration did not contribute to a more cultural relativist orientated UDHR, it brought Asian values to its pick and continues today to operate as a extended critique of human rights universalism (Davis, 1995a). The differences between China and western state on the issue of freedom of expression orientation, which was seen during the drafting of the Bangkok Declaration, by the low ranking on the WPI and as debated within UN forum, continues to dominate in the 21st century.

Inspired by the current dichotomy China taking a cultural relativist and the UN’s universal human rights orientation, this thesis explores the issue of freedom of expression in China. It further explores if the current orientation can be justified on the argument of Chinese particularities including; Confucianism, collectivism, authoritarian regime and the emphasis on economic rights. A discourse analysis is applied to explore the degree of strength between these particularities and China’s current freedom of expression orientation. The degree of strength will lead to the conclusion on; weather China’s freedom of expression orientation can be justified on the argument of Chinese particularities.

2. Structure of the thesis and research questions

The question that this paper seeks to explore is if China’s freedom of expression orientation could be justified on the argument of states particularities. In order to so, Chinese particularities such as: Confucianism, authoritarian regime and its emphasis on collectivism, social and economic rights will be addressed with the intention of explaining how various factors affect China’s orientation. Chinese contextual differences are used by the Chinese

Communist Party (CCP) today to defend its bad name within the freedom of expression discourse (Svensson, 2002). Western states are used as a comparative factor as China argues that the UDHR was founded on a western bias and that western dominance excludes Chinese values of collectiveness, political and social rights, sovereignty and the principle of non-interference. As these values are central to its policy formulation, they should have been taking into consideration in the drafting process of the UDHR. By such, the adoption and implementation process would have become easier (Blunt, 1995; Davis, 1995b). When this paper refers to western states it includes Europe, North America and Oceania. These regions tend to have similarities within the cultural, economical and often political spheres, in contrast to the Eastern world (Thompson, Hickey, & Thompson, 2016).

This thesis will in chapter number one explore China's first steps into the UN and how its human rights orientation has changed throughout the years. This will show that China's has played an important role in the imitating and drafting process of the Declaration, but has through the years shifted its agenda accordingly to national circumstances. The intensive debate between China and the west on human rights questions today, started at the 90s, when China got highly involved in addressing its cultural relativist approach in the international sphere.

The fundamental disagreement between cultural relativism and universalism, which is also found within the China-UN dichotomy, is outlined in chapter four and has made the theoretical foundation of this paper. The debate between cultural relativists and universalists has predominated the study of international relations for decades and in addition has entered the public discourse on international rights (Lenzerini, 2014).

On the one hand, cultural relativists argue that freedom of expression is a flexible term holding different values depending on the contextual setting. A cultural relativist approach goes well with China's argument of freedom of expression and how human rights needs to be understood in relations to its cultural characteristics. Universalism on the other hand argues that freedom of expression is a fixed term holding a universal value and by such, the CCPs exercise of discriminations and freedom of expression violations cannot be justified on the argument of cultural differences (Svensson, 2002). As this thesis attempts to explore the basis of this dichotomy, it is useful to assess the scope of differences, which appears between these two parts. This attempt has further shaped research question number one, which is:

R1: "How does China's recognition of freedom of expression differ from that of the UN?"

This paper further attempts to move beyond a descriptive framework of the differences between China's and the UNs freedom of expression orientation to explore the narrative behind China's position. China's freedom of expression orientation often receives a bad name within international forums without any further investigation on prerequisites for the situation. This paper does not keep its focus on a superficial level as it is to general to explore China's current orientation. Therefore, the underlying structure of the problem of states particularities will be explored.

China has stated by drafting the Bangkok Declaration and within the UPR that particularities has to be taken into consideration in states human rights evolution. Of that reason, an elaboration of particularities, which China argues to be the narratives, will be outlined in chapter four. These are: Confucianism, collectivism, authoritarian regime and the emphasis on ICESCR, and are further reflected in the second research question:

R2: "To what extent is China's current freedom of expression orientation a mirror of its cultural, political and historical particularities?"

Since this paper concerns the details around how China present their idea of freedom of expression (in words and patterns of words), a discourse analysis is used to investigate the actual language used. The same Chinese particularities as mentioned earlier will be used as key words in chapter six of the discourse analysis. A text-based discourse analysis is used and documents from the UPR will give a qualitative assessment of how China perceives freedom of expression within international forums. Throughout the analysis and by presenting information on the nature of the relationship between China, the UN and human rights, the last research question will conclude on the question this thesis seeks to answer:

R3: "Given these historical, cultural, and political particularities, to what extent is it legitimate that China practices a freedom of expression orientation different than that defined in the UDHR?"

If the findings from the discourse analysis concludes that China's historical, cultural and political background is radically different that of the west, and could by such justify for China's current freedom of expression orientation, it would be a central question to ask if

these differences is enough to call for a Chinese model of freedom of expression. It is further important to underscore that even though a justification could be made on the argument of particularities, this thesis do not agree with China's freedom of expression violation.

First, the theory of universalism alone is not enough to explore the dichotomy this thesis explores and therefore includes cultural relativism as an opposing theoretical framework. The inclusiveness of cultural relativism to this paper has to be understood as an attempt to grasp a fuller picture of the situation and not as an attempt to defend China's human rights violation.

Second, the main assumption of cultural relativists is that of, - cultural specifics should be taken into consideration when human rights are being evaluated. And only the extremes argues that torture or other forms of violence can be justified on the argument of cultural specifics. Radical cultural relativism gives too much potential for abuse, with those in power able to dictate what determines 'culture' to hide abuses of power (Freedman, 2011, p.120). Radical universalism is also a weak notion, dismissing culture entirely (Donnelly, 1984, p. 403). These thesis moves beyond the radical position of the two theories, and takes on a middle ground position, which is also referred to as the most objective approaches (Shao, 2013). Central to the middle ground position of cultural relativism is morality.

It is also important to comment that, a justification of China's freedom of expression orientation is necessary not the same as overlooking universal human rights. Rengger (2011) and Mutua (2007) argue that universal human rights are important and should not be overlooked, but embracement of cultural differences makes them more universal as a multi-culturalization is what makes universal rights a truthfully universal projects. This argument leads on to a new framework of universal human rights, including both the values of universalism and cultural relativism. However, how this new framework should be carried out is not the attempt this thesis tends to explore and would therefore not be addressed any further.

Essentially, this thesis wants to explore the prerequisite for China's freedom of expression orientation and not the consequences it leads to. In order to do so, this thesis continues with an outline of the natural relationship between human rights, China and the UN in the following chapter.

3. Background

3.1 Defining terms

3.1.1 The Chinese Communist Party versus the Chinese Society

Within the Chinese freedom of expression discourse, it is important to distinguish between the Chinese society and the CCP. The Chinese Government has its own agenda, which does not necessarily coincide with those of the Chinese society (Economy, 2014). As the CCP is ruled on communist ideas and allows limited public participation, the question is therefore to what extent China's freedom of expression policy is a mirror of Governmental self-interests rather than that of the people. If the CCP should mirror the Chinese civil society as a whole, a democratic reformation has to take place.

3.1.2 Freedom of Expression

As the next chapter will address, the meaning of freedom of expression has changed throughout time. Different early natural rights and human rights thinkers have all contributed to UNs Declaration of human rights, which are used by scholars, politicians as well as students worldwide today. The Declaration includes forty articles and among them Article 19 that guarantees freedom of expression to every human being. For clarification, when freedom of expression is mentioned later in this paper, it will refer to UNs definition, which is:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and seek, receive and impart information and ideas through any media and regardless of frontiers” (The United Nations, 1948, Article 19).

This freedom of expression definition will be used as a foundation to express China's aligns or lack of aligns with the UDHR definition of freedom of expression.

3.2 Human Rights Development- Early human rights thinkers

Plato introduced the idea of natural law around 400 B.C. Plato became important to Aristotle, as he built his perception of universal rights on the same ideas. According to these early natural law thinkers, natural law was a set of certain rights and values intrinsic to human nature and universal to all human beings. Like the human rights we know today, natural rights were fundamental to evaluate human morals and behavior (Tierney, 1997) .

In the time of Aristotle, the concept of human rights was rather vague, as it only guaranteed fair treatment to all, without emphasizing any further regulations. This vagueness makes the early concept of human rights different than the Universal Human rights we know today, which guarantee specific rights through law (O'Byrne, 2014).

In contrast to the earliest natural rights thinkers, who saw rights as universal, later human rights thinkers believed that human rights needed to be guaranteed through a social contract to be universally binding and respected. In early western philosophy, Thomas Hobbes addressed a state centric oriented rule of law. He argued that the state, represented by the King, had the right to rule. And by such citizens had the duty to obey, as they were being a part in a social contract between the state and every human being. By obey to this contract, citizens were guaranteed the right to basic security. If the state for some reason abused the rights, citizens could use their power to overrule the state in power. Hobbes' state oriented rule of law goes against natural law thinking, which as addressed above, views rights as something everyone enjoyed simply because they are human and not existing in a state-individual relationship (O'Byrne, 2014).

The idea of a balance, in sense of state and individuals equal rights and obeys also existed during the French enlightenment, but in addition, this period included peoples right to freedom of expression. François-Marie Arouet Voltaire confronted the concept of media censorship and argued that freedom of expression needed to be respected, meaning that humans beings have the right to freely express themselves without any interference from the state (Ray, 1998). Voltaire is one of the first philosophers addressing the issue of censorship, and empowered people to express themselves without any interference from the state. However, the theory lacks a pragmatic approach as it fails to address how the freedom of expression should be guaranteed and regulated and at its best just became a descriptive theory (O'Brien, 2013).

Immanuel Kant was the first philosopher to think of human rights in an ethical, practical manner, and his work served as a precursor to our modern understanding of human

rights. Kant addresses the issue of dignity and argued that if respected, dignity would lead to fundamental freedom and justice. New to the human rights orientation was Kant's idea of triangular power balance, which he named the "categorical imperative". Dignity was achieved through a division of power between the state, people and the power above. In addition to guarantee dignity through a power balance, the categorical imperative addresses morality as he states that everyone should:

"act in such a way that treat humanity, whether in your own person or in the person of another, always at the same time as an end and never simply a mean" (Kant & Gregor, 1999, "foundation of the metaphysics morals")

This imperative of Kant underlines universal respect and regulation as it was set forward to cover every human being. However, Kant's philosophy exhibited individual rights in a philosophical and theological manner as he believes in the power above states and individuals. According to him, the rights were exhibited by a mystified spiritual power. After him, human rights discussion became more political and relativistic oriented (Hansungule, 2010; Kant & Gregor, 1999).

Karl Marx opposed the idea of a mystical form of human rights, including "the power above". Marx saw rights as an outcome of a social process, dominated by the interests of the bourgeois. People making up the bourgeois class changes as a result of class struggle, so do the moral system (Vincent, 1986). By such; human rights become a rationalization of interests rather than timeless, absolute and universal. As men made up the bourgeois, Marx excluded gender equality from the human rights framework.

Marx found human rights, "the rights of the men" as he referred them to, relativistic, changing and a result of social interaction (Blackledge et al., 2007). The relativistic argument of Marx comes clear in his argument of the states moral system being a mirror of the bourgeois class (made up by men). The bourgeois, who was above the working class and ordinary citizens on the power hierarchy, was the only to speak the language of universal rights. They used the language to convince people to:

"deceives other into attaching themselves to the purposes of bourgeois society and it deceives itself into believing that these rights are in fact universal (...)" (Vincent, 1986, p.120)

Such an argument strikes down how early natural law thinkers argued that rights was inalienable to every human being (Vincent, 1986).

Early human rights theories are crucial to modern human rights orientation we know today. Kant's idea of human dignity and its obligation to treat humans as ends and not just a mean to an end is argued to guiding the drafting of the UDHR (McCrudden, 2008). Voltaire's and Kant's human rights regulation as a contract between people, is also to be found within the UDHR today as it makes clear that the state has the responsibility to ensue the rights of the people (United Declaration of Human Rights, 1948). Marx as an important figure within the moral relativist theory underpins that morals, which make up rights, do not hold absolute and universal truth claims. The latter idea go's at the heart of the argument cultural relativist hold against Universalists today. Universalist underscores how early human right thinkers fail to include gender equality. Today, the UDHR is extended beyond men and cover every human being (Barnard, n.d).

3.3 The Role of Human Rights Within the UN-China relationship

The foundation of human rights within the UDHR is based on the human rights movement in the aftermath of the World War II. During the War, millions of lives were lost and in order to prevent future genocide, the Allied powers came together and agreed to create an international human rights law. This law was in contrast to natural law, as it was written down into legislation (O'Byrne, 2014). UDHR was embraced in 1948, when the United Nations United General Assembly adopted the proposal by a vote of 48 in favor and no one against. Eight countries absented to vote, but China was not one of these countries (United Nations Association in Canada, n.d).

In addition to the UDHR, the International Bill of human rights operates with two additional treaties, which makes up what we today know as universal human rights. The two treaties are the Covenant on Economic, Social and Cultural Rights (ICESCR), and the International Covenant on Civil and Political Rights (ICCPR). China signed both of the treaties, but the latter has yet to be ratified. China's comments on the lack of implementation take on another prescient dilemma within human rights: the rights to economic development. China further argues that collective economic development has to be achieved before any ratification can be made (Bangkok declaration on human rights, 1993).

The argument of China being more collectivistic oriented goes against the UN Declaration as human rights are enshrined in a contract between the state and individuals.

Many countries in Asia and the third world argues that the conception of human rights only match the social reality of the collective oriented human condition (Jones, 1999). And therefore, human rights can only be valid within a collective group. Based upon this argument Triggs (1998) argues that:

”For example, trade union rights must be protected to give the individual the freedom to join a union. Or the protection of minority groups must be guaranteed if individuals are to enjoy their culture. Certain rights is collective in nature, even through the individual is the ultimate beneficiary (Triggs,1988, p.156)

Donnelly (2013) is skeptical about a collective oriented human rights approach especially when it comes to economic development. He argues that economic development as a collective activity takes the focus away from national human rights violation. When focus is on national economic development and the economic world order, countries becomes so focused globally that they forget about individual human rights within their own country. Donnelly’s argument can be applied on the case of China, which had and continues to have an outstanding economic development with an annual growth rate of 9,88 the last 27 years. This growth rate made China become the world’s second largest economy in 2015 in terms of GDP (McCurry, 2016), and at the same time worsened its freedom of expression record (Reporters Without Borders, 2015). Despite a worsening of human rights, China tends to hold another self-image within the UN forum. According to the UN, China’s self-image goes against its universal obligation to freedom of expression.

In 2008 a represent from the office of the State Council of China stated during the Universal Periodical Review (UPR) that China:

“respect the principle of the universality of human rights and consider that all countries have an obligation to adopt measures continuously to promote and protect human rights in accordance with purposes of the Charter of the United Nations and the relevant provision of international human rights measurements, and in the light of their national realities” (Working Group on the Universal Periodical Review, 2008, p.6)

In order to protect and promote human rights, Governments must have the will to embrace the legal and moral obligations. But it is one thing what countries verbally outline in international

relations to protect their reputation and another what their actual behavior is. The gap between attitude and behavior is also problematic when it comes to the Chinese Constitution.

China got its very first state constitution in 1954. The constitution guaranteed freedom of speech, assembly, demonstration, and religion among others. In the years that followed the constitutional approval, China made many steps towards institutionalizing human rights. The 1984 constitution introduced many rights, which were also seen in western liberal countries, and included a Chinese mirror of the international convention of Economic, Social and Cultural Rights (Lieberthal, Li, & Keping, 2014).

In this context, the Chinese government gives the impression of being keen to demonstrate that they are committed to improve the human rights situation. However, emphasis needs to be put beyond the impression China gives externally by drawing attention to China's actually (western) human rights standards. Firstly, if China should actually improve the situation, the ICCPR need to be ratified. Only then a domestic legal protection of all of the human rights will be possible and a demonstration of human rights progress can be made (N. Jiang, 2014). The challenge lies in the transaction of human rights discourse into adoption and hard law. One thing is to use human rights as a tool to socialize and as opportunism, another is to make human rights reflect its truly ideology attitude. Chinese leaders express that they are willing to embrace the human rights law. Embracing universal human rights make the CCP loose power, and since power is central to the Chinese system of governance, any clear idea of how to combine rule of law and power has not been endorsed. Since the time of Xiaoping, new notions as "socialist market economy", "Socialist rule of law with Chinese characteristic" has all flourished within the international sphere. To balance civil and political rights with economic rights seems to continue to cause troublesome to the CCP in the future (Patience, 2014).

China's steps towards international standards has made a call for political reform becoming more individual oriented while at the same time continue to economic develop (J. Wang, 2001). When doing so, China can take on countries like India, which has proved how to create a balance between individualism, economic development and embrace of human rights.

As the following Asian countries indicate, the concept of freedom of expression does not have to be limited in a collectivistic oriented society neither limits economic growth. India became the seventh largest economy in the world in 2015 in terms of GDP and at the same time had an overall higher score on the World Press Freedom Index during the last ten years compared to China. The same goes for countries like Indonesia and Vietnam, which both have

enjoyed economic growth and a greater opportunity to freedom of expression during the last century. Even though these countries indicated that freedom of expression can be balanced with economic growth, it has to be remembered that, China is not like other Asian countries. Since China entered the UN it has hold self-interests conflicting with those of both Asian and universal enshrined by the UN.

3.4 China's entrance into the United Nations and the work of Universal Human Rights

In 1944, China initiated a need for an international organization to ensure justice through an equal power division between states (Sajo, 2013). And later, China's foreign ministry spokesperson addressed China's desires to guarantee equality and non-discrimination for every human being. China's proposal was rejected by both the Soviet Union and the Great Britain. The United States shared China initiative to a worldwide agreement and brought this idea into the Dumbarton Oaks Conference. During the conference, the United Nations was formulated on the argument of a need for an international organization to maintain peace and security. However, an universal agreement on human rights was not fostered until 1948 as a result of four years of lobbying, international conferences and numerous rephrasing's on the Declaration (Hilderbrand, 2001).

In addition to the initiative on an universal agreement guaranteeing justice, China, represented by the Chinese philosopher Peng-Chung Chang, dominated in the pre-work of the Declarations formulation. Based on the hard work towards a universal Declaration, China was honored to be the first country signing the Declaration on the 10th of December 1948. Franklin Roosevelt further specified his hope for China to continue their work ensuring peace and stability into the future (Hambro, 1957; Loescher, Betts, & Milner, 2008). However, at the same time as China promoted democratic and liberal values internationally, they were facing remarkable shift towards a cultural relativistic and social unrest situation at home.

3.5 Mao and Beijing receive the UN membership

In 1949, Chinese communist leader, Mao Zedong declared the establishment of the Peoples Republic of China (PRC). The declaration of Mao was a symbol of and the end to the Chinese Civil War between the Chinese Communists and the National Party, which had been in an ongoing conflict since the 1920s. With Mao in power, the previous Government of China based in Taipei, which held the UN membership and the PRC with capital in Beijing challenged the UN system. The challenge lied in the fact that the UN system could only welcome one Chinese Government (Kesselman, 2012). The conflict between PRC and Taipei received international attention and was helped out by US peacekeeper Henry Kissinger (Tucker, 2012).

Kissinger and the US were planning to give green light to PRC membership in the year that followed after the visit in 1971. The green light was not suppose to favor the PRC, as the US wanted both of the governments to become UN members. This stand was not very realistic as both the UN and the Chinese governments would have rejected the proposal. Noteworthy, US proposal never had to make it through as already in 1971, the resolution 2758, concluded that Beijing was given a seat within the UN. The adoption was based on a majority consensus by already existing UN members on the argument of, -Peoples Republic of China was the only lawful representative within the UN (Ciment, 2015; Hanhimaki, 2004).

The UN membership, and more importantly the position in the Security Council, provided the Beijing Government with, symbolic value, as the UN recognized it as the only legal Chinese Government within the UN. And from its very start, the Beijing Government has challenged the universalistic, western way of thinking of human rights in contrast to Taipei in Taiwan.

The case of Taiwan is central to the universal-cultural relativist debate over human rights. Taiwan is very cultural and identical Chinese, but despite of that has embraced and implemented universal human rights. It could therefore be argued that the cultural specific of China is irrelevant as another state holding the same values act according to the UDHR. However, when it comes to freedom of expression, Taiwan does not embrace the same high level of this freedom as western states.

According to the Freedom House, western states like Norway, Germany and the United States scores over Taiwan on their freedom ranking (Freedom House, 2016). And on the WPI Taiwan ranked 48 in 2015, which is high compared to China, but not compared to western states (Reporters Without Borders, 2015). The case of Taiwan shows that Taiwanese

enjoys more freedom of expression compared to Chinese, despite their same historical, political and cultural particularities. But compared to western standards, this freedom is still restricted. One of the men that have affected China's current restricted freedom of expression is Mao.

Mao held an anti liberal policy towards international organizations and as his foreign policy, he applied the principle of sovereignty (Philpott, 1995). His foreign policy was strongly opposed to western superpowers within the UN as it was economically autocratic oriented and strongly related to third world countries collectivistic humanism orientation. However, Maos powerful foreign policy was more of symbolic than operational value, trying to create an imaginary "we-and-them" self-image within the UN forum. By taking a divisional rather than cooperation approach, China remained a disengaged member, which focused in exercising self-interests rather than common interests (Liu, 2014). Within the Security Council, Mao proved its distant position as he used its veto power to gain both economic and political concessions from the US. Without any concessions and by taking on egotistic manner, Mao oppressed UNs cooperational agenda (Hassler, 2012).

Maos self-interest approach towards the international community is an example of cultural relativism in practice. According to relativists, international organizations deny the need for political plurality, as they are building their foundation on universal rules and regulations. And these rules are further created by the most powerful states in the post second world war area, which according to cultural relativist being western states (Pease, 2003). However, the idea of UN as a western hegemon was not reproduced by China's next leader, Deng Xiaopings, as he moved China in direction of international cooperation.

3.6 China, UN and Deng Xiaoping

During the time of Deng Xioping 1978-1992, China's engagement in the international community changed. After a visit of Richard Nixon in 1972, the relationship between US and China became more cooperative than competitive in character. China changed its image towards cooperation by engaging in international trade. Through this action China appeared more peace loving and more willing to be involved in the international community. To underscore this image, China also downsized its military force by one million troops and in addition, got its first judge in the International Court of Justice (Liu, 2014). Xiaoping made

China take a more cooperation-oriented approach than ever before, which reflects his view of the UN as a universal open arena for cooperation and discussion. During his reign, Xiaoping also made changes towards a western democratic political system within the national congress (Gransow, 2013).

In 1987, Xiaoping put political liberalization on the agenda as he separated the Party from the state and made the election process more transparent. Despite Xiaoping's more liberal agenda, freedom of expression continued to be limited. A new Chinese constitution launched in 1982, claimed that democratic ideas, such as freedom of expression, conflicted with socialist values. Xiaoping feared that freedom of expression would challenge socialist ideas of the government and create chaos and instability and it therefore remained restricted (A. E. Kent, 1993). However, the Chinese society as a whole did not agree upon the government's view of socialism and anti-democratic values.

Pro-democratic student were taking to the Tianamen Square in Beijing to demonstrate against the new undemocratic constitution. The demonstration known as the Tiananmen Square Massacre, resulted in the loss of hundred of civilians, rather than democratization.

Xiaoping decided to retire from his position as leader for the Central Military Commission and as a formal political leader in 1992, but it has been argued that he continued to influence the political sphere both during the time of Jiang and Hu (Liu, 2014).

3.7 China continues integrate with the international community

During the reigns of president Jiang (1993-2002) and Hu (2002-2012), China continued to integrate towards the international community. They were both governing according to a policy of multilateralism. Jiang came to power in 1993 and with him in office, China strengthened its image as a peace loving superpower, willing to cooperate. The 1996 ASEAN conference revealed China's commitment to maintaining this image, - the foreign minister promised that China would continue to take the responsibility as a great power and continue focus on peace and development (Chai, 2003; Usa, 2009)

Further integration into the international community took place in 2003, when president Hu attended China's first G8 meeting in France. During the meeting, China expressed that the G8 forum is a step in the right direction of peace and demise of hegemonies' as it reflects willingness to engage in international norms and peace (Kent, 1993). Despite the promising

wordings, China's engagement in globalization was restricted to specific fields of cooperation.

The restricted approach seen within the G8 meeting and towards a universal accept of the UDHR has to be understood in relation to China's definition of "globalization". Globalization as a term was first used in the Chinese language in 1996 and it only appealed in the field of economics. It was synonym with free flow of global technology, information and service in the aim of cooperative advantage. At the same time, globalization was also about respect and differences, as development models within the globalized world should respect cultural diversity, social institutions and civilizations (Kroon, Blommaert, & Jie, 2013). The 1996 report of the 16th National Congress of the CCP highlighted these concerns. China's representative stated that there had to be mutual agreement on how globalization should be used and established as an advantage. Only when an agreement was made, the world could take a harmonic and not harmful cooperation approach (Freedman, 2013).

Within international forums, like when presenting the Bangkok Declaration and within the UPR China underscores harmony. The CCP further underscores that the UDHR lack mutual agreement on its operational form and therefore hinder a harmonic international sphere. In a simple manner, China's lack of freedom of expression could be understood as a failing by the UN to undertake pluralistic values within covenant. However, this argument falls apart, as China has agreed upon how the UPR wants to create harmony by applying universal, rather than pluralistic values.

3.8 The UN and China: future partners?

During the last decade, China has hold a more cooperative role within the international sphere in terms of participating in peacekeeping missions, the WTO, -and drafting and approving of the Millennium Development goals. The UN, as the most important factor for multilateral diplomacy, is an important arena for China to show their multilateralism manner (Subedi, 2015; Zhongjun, 2011).

Since the UN Charter was signed in 1948, multilateralism has played an important role within international relations, to face the complex diplomatic challenges. As a response to the more globalized and complex world of today, peace and human rights violations are solved in cooperation between states and non-states actors. In order to make multilateralism even more effective and powerful tool, Thakur (2012) argues that flexibility needs to become a central

element of the agenda. By becoming more flexible to changes and adaptive to non-western standards, the UN will become better equipped to maintain peace and security and more powerful dealing with black swans like China (Thakur, 2012). More specifically, the human rights need to be more integrated and inclusive in character and China needs to be socialized with the norms of international cooperation.

It has been argued that, by rebranding China as a cooperative partner rather than a competitor, the UN and China will become team players and the odds of future conflicts, on issues like freedom of expression will be reduced (N. Jiang, 2013). But this shift also depends on China's willingness to cooperation and stance towards international organizations. According to Charles Ziegler, learning and adoption of international norms are more challenging to authoritarian states than to democracies. Limited flow of international information, lack of transparency, intellectual debates and censorship, all hinder the learning process.

In the Case of China, Kent (2013) argues that its cultural background hinders the learning process:

(China is) (...) "cultural reliant on ethics rather than law, moral consensus rather than juridical procedure, benevolent government rather than checks and balances, and preference for solving conflicts through bilateral state relations rather than multilateral intervention,(...) and for the reliance on the constrains of international law" (Kent, 2013, p. 8).

However, there could be other factors affecting the learning process, whereas China adopts a western view of freedom of expression. First of all, cooperation on human rights issues is not a straightforward process whereas UN is being the sender and China the receiver of international norms. UN has been criticized for its ineffectiveness in impacting countries like China. It has been argued that UN's universalistic and diplomatic foundation hinders prevailing state sovereignty and human rights enforcement (Kent, 2013). But in order to make UN an effective sender of collective norms, and China a receiver of these norms, there has to be a common ground for cooperation. A prerequisite for cooperation, would be a universal understanding of the freedom of expression concept (Kent, 2013). The UPR forum was established on the aim of moving towards universal human rights. The UPR was created in 2006 and reviews countries accordingly to universal human rights standards, by taking a cooperational rather than forcing approach (OHCHR, 1996-2016a).

3.9 Universal Periodical Review Process

The UPR was created in 2006 and reviews countries accordingly to universal human rights standards. The aim is to protect and promote the universal aspect of human rights (OHCHR, 1996-2016a). The review is based on different human rights standards flowing from the following five different foundations:

1. The UN Charter
2. The United Declaration of Human Rights
3. Human rights instrument, which is made up of treaties states have signed, ratified or both
4. International Law
5. Initiate and commitment based on volunteerisms to coop with international human rights issue. It could for example be the initiation seen when China presented a national candidate to the Human Rights Council election. This actions has been argued to show China's commitment to further human rights improvement and willingness to move towards universal human rights standards (Kinzelbach, 2014; OHCHR, 2014).

The review is a complex and including process, starting out within the working group of the human rights council. The council consists of 47 member states, including the state being reviewed. At first, states get to present their own announcements of its human rights situation. Secondly, other states within the Council, makes recommendations and improvements to the country being reviewed, based on universal human rights standards listen above. It also has to be mention that other human rights mechanism as NGO's and civil society organizations also have the ability to present documents to the Council, which are taken into consideration when making reviews and reports. States then have the ability to either accept or reject the recommendations of the report (Redondo, 2012).

When a state accepts recommendations they are committed to improve its situation and be evaluated on the criteria of, - the level of implementation. According to a survey made on states willingness to accept UPR recommendation, 73% of the recommendations made in the twelve first sessions of the UPR were accepted. The positive result has been linked to the fact that the review is made by states itself and not expert groups, making an including and not judging framework for evaluation (Redondo, 2012). A high percentage of states willing to move towards universal human rights standards, strengthens the universalism theory of states

adherence to shared human rights norms. Despite a strong agreement on the human rights standards, China has both complied too the establishment process of the UPR and to the recommendations they have been proposed.

In the establishment process of the UPR mechanism, China tried to abandonment its universal value, as it could weaken its sovereignty (Shambaugh, 2016). China also obeyed to reviewing countries according to universal standards, the participations of non-governmental organizations and states expected obligations to follow recommendations set out in the UPR Report. In the end, they wanted the UPR mechanism to become more country-specific and that the review should be obtained by states sharing human rights orientation. However, non of China's compliances impacted the UPR mechanism as today, the UPR holds an universal foundation (Blackburn, 2011). The clash between China's relativistic and UNs universal foundation has been noticeable during the UPR reviews.

In its 2009 and 2013 review China accepted 42 out of 99 and 204 out of 254 recommendations (Human Rights In China, n.d). Interesting is the fact that during both of the reviews China stated that they had already implemented many of the recommendations that the report stated that they had not. This gap between China and other states review of the former countries human rights situation within the UPR, confess an ongoing dichotomy of human rights orientation on the argument of different human rights orientation. When China argues that they already have implemented the rights, it basically underscores that it holds another perceptions of what the implementation process requires compared to that of the UN and maybe more fundamentally, that China's human rights values recognized in relativistic values and national legal formations conflict with those of the UN.

4. Human Rights Theory

Ever since the first ideas of human rights arrived there has been an ongoing discussion regards the degree of philosophical, political and cultural influence on the rights. One of the most relatable issues has been between two different human rights ideologies, universalism and relativism. A focal point for discussion within this discussion is on the right to freedom of expression and China's obeys with this right.

Cultural relativists defend China's freedom of expression practice, arguing that no culture is superior to another whether of religion, morality, politics or law. As objective truths do not exist, every culture's subjective beliefs holds an equal value and can only be fully understood within its respective cultural context. China's freedom of expression orientation is culturally dependent and no universal rules could be made to apply and standardize this right (Brems, 2001).

Universalists on the contrary, call for improvement of China's freedom of expression record as human rights are general and covers every human being, despite national and cultural boundaries. Universalists bind the concept of universalism upon law and more specifically the UDHR. UDHR is a result of a universal understanding and agreement of how the contract on human rights between the state and people should be guaranteed. The universal aspect of the UDHR is expressed in its Preamble as it includes words like "common standards", "all people and nations" (The United Nations, 1948;(Svensson, 2002). The dilemma between universal rules and states sovereignty is further a central issue to the universalism theoretical orientation.

4.1. Universalism

Today the question of states sovereignty is central to the human rights understanding and the theory of universalism. The degree of sovereignty affects the possibility for freedom of human rights implementation. After the peace of Westphalia in 1648, sovereign states were established world wide, along with the idea of national self-determination. But ever since the 19th century, the world has become more globalized as economic transactions, international relations, immigration and culture have become more intertwined. Global intervening has caused challenges, which new actors as NGOs, IOs among others create international solutions upon. This new international structure-agency sphere calls for a new power allocation; whereas more power is being transferred from states to non-states actors (Baylis, Smith, & Owens, 2013).

As a result of power allocation, states sovereignty and self-determination declines, which further makes them less powerful when it comes to self-government in human rights questions. This is caused by the fact that international organizations take away nations

sovereignty, as states must conform some of their power to these organizations (T. Evans, 2001; Sarooshi, 2005).

In the future, NGO will continue to be more effective and influential in the international sphere. Within this sphere, they will increase the universal moral ground of rights, included the right to freedom of expression (Franck, 2001). In the future, human rights will therefore move in direction of objectivism as far as NGOs generate universal rules, rather than being subject to state regulated truth-claims.

Universalism is at its extreme a variety of objectivism, where only one truth exists. The objective universal standard is used to judge states, peoples and other actors actions in according to an uncompromising system determining right and wrong. However, objectivism is not something new within the human rights field, as it steams from natural law and the ideas of Grotius, Aristotle and Plato (Moscovici, 2000).

4.1.1 Early Universalists thinkers

Universalistic theoretical orientation has it's roots in natural law. Natural law claims that all people are members of a world community and the basis for this community is laid upon certain rules for appropriate behavior. In contrast to contemporary universal right thinkers, natural laws were not subscribed upon any declarations. Natural law is an innate part to the world community and obligated on a higher spiritual or moral level. In the second humankind came to earth they were applied to regulate appropriate behavior between human beings (Stearns, 2012). Inspired by the divine features of human rights, Hugo Grotius is considered to be a central figure to the natural law orientation, alongside Plato and Aristotle's as mentioned earlier.

Grotius is known as the earliest international law thinker. He argues that human reasons discovered laws and were so strong inherited in human reasons that no one could rip them apart:

“Now the Law of Nature is so unalterable, that it cannot be changed even by God himself. For although the power of God is infinite, yet there are some things, to which it does not extend” (Grotius & Campbell, 1901, p.22).

Grotius relates to universalism as he argues that laws, rules and social contracts altogether make a foundation to an universal rights regulation. He claims that international laws were formulated and used as a social contract between humankind, as it guaranteed acceptable social behavior. In addition to rules, the social contract also included the aspect of rights. Grotius saw international law as basic for natural rights and these rights further empower people with the rights to make decisions. Power could be used as a mandate to influence those being governed (Locke, 1965). It is therefore logical that modern universal right thinkers take on Grotius as they also see power as something divided between those in power and people being governed. The distinction lies on the power of obligation, which is today guaranteed through the UDHR.

The UDHR as a charter that protects citizens rights drawn on similarities to the charters like Petition of Rights (1628), declarations of rights stipulated after the French - (1789) and the American revolution (1776). These declarations guaranteed rights of men and were inherent in human nature. However, they are far from the UDHR and the universal understanding of rights we know today as they fail to be worldwide applicably and in addition has a limited inclusiveness in categories of persons (Brems, 2001).

It is clear that natural rights, different charters and national declarations have shaped the western understanding of human rights. However, it is the Second World War that has had the greatest impact upon the UDHR. Although, the idea of universality was introduced a long time before the UDHR, the concept of universally applicability and inclusive concept were not realized before 1948 (Brems, 2001).

4.1.2 Universalism today

Contemporary universalism principles are embedded in the UDHR. These principles have been described as a mechanism to regulate legalization and moralization. They are further outlined in thirty articles, covering all peoples and nations human rights orientation and made the foundation to a universal human rights regime (Gros Espiell, 1998).

Its universal character continues to ensure a worldwide respect for human rights today. Three values' are often used as argument to the continuing importance of universal human rights; first, its universal formal acceptance, second, its worldwide applicability and inclusiveness, and lastly, its cross-cultural foundation. It is a disagreement over the third

value, as relativists and China challenge the present the UDHR as an ideology of the West (Sajo, 2013).

4.1.3 Universalism and China

During the 19th and early 20th century Chinese philosophers become more westernized in their human rights thinking, compared to the time of Confucianism. By the end of the Qing dynasty (1912) the human rights discourse took on western democratic ideas. Angle (2002) argues that during the 19th century, the Chinese human rights discourse came close to what western countries know as human rights today. This point can be understood in relation to speeches held within international forums by Chinese political leaders.

The importance of universal values has been stressed by both president Hu and more strongly by Premier Wen Jiabao. During an official meeting in the White House in 2011, president Hu specified that China respects the universality of human rights (The White House, 2011). Jiabao shared a universal understanding of human rights as he underscored the importance of freedom, democracy, universal values and a common worldwide achievement towards human rights standard.

Despite a formal agreement about the universality of the rights, the CCP chooses to power themselves on the argument of retaining sovereignty. At the international level, China underscores its demand for social and economic rights including the right to economically develop, healthy life, being free from poverty and safe environment. This statement of China is taken an egoistic manner to empower themselves in the area they feel most important.

States self-empowerment itself is being a threats to the UN legal system, which is based on the strength of power sharing (Brems, 2001). Power sharing has further to be applied on the case of human rights guaranteed in the UDHR and its additional agreement.

4.2 Cultural relativism

In contrast to universalism, cultural relativists hold that universal human rights should not override values held by different states and societies. According to this theory, values emerge and hold moral standards in particular settings and people should be governed

accordingly to these particularities (Franck, 2001). This is also the case when it comes to the UDHR. Cultural relativists find the UDHR hegemonic, as it mirrors western moralities and values and fails to include that of other cultures. The UDHR emphasis western values as it stresses the importance of individualism rather than collectivism. O'Byrne (2003) argues that only western philosophers keep an individual focus on human rights. Among Asian cultures, which hold a collective human rights orientation, China claims that a more authoritative oriented rights approach should be respected in line with other western values

However, the current cultural relativist assumptions of states particularities ground its assumptions on Franz Boas theory of cultural depended socialization.

4.2.1 Early cultural relativist thinkers

The most famous cultural relativist thinker, Franz Boas, articulated on the idea of socialization as not being something absolute, but rather depended on ideas developed by contemporary civilization (Brems, 2001; Powell & Boas, 1887). As an anthropologist using fieldwork to document, Boas proved how people's behavior is a result of cultural learning. His study was an opposition evolutionary approach, which saw people's behavior as a result of a social stage depended process. Boas cultural depended argument continued to circulate among anthropologist after his death in 1946 (Glazer, 2011).

Melville, Herskovits was one of those inspired by Boas. He studied the connection between culture and history and agreed upon Boas claim of human behavior is being the result of cultural learning. Herskovits also found the world he was born into racist and used the value of cultural diversity to reject the hierarchical way of thinking about humankind. He further related cultural relativism to justice and argued that as long as human behavior depends on cultural learning, a universal standard of judgment is being powerless. Together with cultural relativist defending China's human rights orientation, Herskovits concluded that what is just in one culture (China) could be unjust to another (western countries), meaning that just could only be judged from within a particular society. Both the theory of Boas and Herskovits has been argued to be extreme in character as within this theories no absolute norms exists (Gershenhorn, 2004). The perceived threat to extreme cultural relativism comes from the argument of; if the international society lacks universal norms, human rights oppressions as slavery, torture and absence of freedom of expression could be entirely

justified. More recently cultural relativist have become less extreme in character and operated in other fields than just anthropology (Brems, 2001).

4.2.2 Cultural relativism today

Today, cultural relativism is represented by different scholars. Among these, ethical-, epistemological- and historical relativism all represent different theories, which emphasizes the value of individuals and cultures rather than universal truth claims. More recently, cultural relativism within social science has been replaced with a post-modern philosophy. Nevertheless, post-modern philosophy rejects absolutes and universals and applies these rejections on the critique of the UDHR.

One of the main arguments set out by cultural relativist is that the UDHR reflects some cultures more than others as it take a colonialist rather than a universalist approach. And by such creates an obstacle to the implementation process (Kennedy & Londres, 2006). The reason to this obstacle is the UDHR lack of examination of group orientation, communitarian respect and Confucianism. These values further set forward a balance between duties and respect between the people and the community within the Chinese society. The idea of balance between duty and respect is applied on people's rights to freedom of expression in contemporary China.

Restrictions are put on the press and hinders absolute freedom as people are obligated to work accordingly to their duty of responsibility (Brems, 2001). The definition of "duty of responsibility" is set forward by the CCP, and without any further clarifications it's a threat to Article 19 of the UDHR. One of the instances whereas this duty balance becomes problematic is when the CCPs use this obligation to guarantee self-interests. Claims based on cultural relativism could therefore be argued to be a "weapon to power". Barth underscores this claim as he argues:

"Culture is used selectively for that which seems most salient to the outsider, namely differences... (it) is used increasingly in public debate to define an arena for contesting discourses on "identity". Under current conditions, such discourses provide an extremely fertile field for political entrepreneurship, they allow leaders and spokesmen to claim they are speaking on behalf of others; they allow the manipulation of media access; and they

encourage the strategic construction of polarizing debates that translate into battles of influence. Such battles create hegemony and reduce options; they disempower followers and reduce the diversity of voices (Barth, 1995, p. 65).

In addition to Barths worries about how cultural relativism could be used to manipulate and hegemony, cosmopolitanism find the theory problematic as it lacks absolute and universal moral principles.

4.2.3 Critique of cultural relativism

Cosmopolitanism has been argued to lie between cultural relativism and universalism. Its theoretical foundation incorporates humanity as a whole and makes space for cultural diversity in terms of respect to cultural specific values. However, contemporary cosmopolitanisms find cultural relativism problematic as it rejects absolutes and universal moral principles (Etzioni, 1997).

In order to make valuable judgments, both humanity as whole and cultural particularities have to be taken into consideration. And only then, values becomes an outcome of well-informed and reflexive. “In practical terms, this means the promotion of shared cultural norms at a global level in the interest of enhancing humanitarian principles and practices, and to which a robust conceptualization of humanity is central” (Lawson, 2011).

The issue between universalist and relativist and such The UN and China, lies on the moral ground of justification, and questions if morals are and should be universal or cultural specific. With shared cultural norms, the issue of human rights violations on the argument of cultural differences would also be dissolved. Violations being justified by states on the ground of states “have no cosmopolitan duties to globalize their own conception of distributive justice” (Shapcott 2008, p.200), would have no more power as humanitarian principles and practices distribute the needed form of justice.

On top of that, cosmopolitanism argues that cultural relativism make little room for multiculturalism, in the sense of leaving less room for others historical, cultural and political aspects and limits their own cultural relativistic approach (McGoldrick, 2005). By limiting the plurality in the world community, a cultural relativistic approach misread the importance of

development and the respect to people desires as the development and contribution of females:

“The society would not benefit from the wisdom of the women in in the execution of political and social power and it would fail to profit from the economic acumen of roughly half of the population because of the exclusion of women from those enterprises (Kielsingard, 2011, p.176).

A more cosmopolitical-orientated approach, based on a pluralistic foundation could help China remain its cultural specifics while at the same taken positive steps towards international human rights practice. A pluralistic foundation respect and incorporate China’s historical, political and cultural specific within universal shared cultural norms.

4.2.4 Cultural relativism and China

Cultural relativism as a theory arrived in Asia in the 1990s. When China first became an UN member, they did not take opposition to universal human rights standard and in addition, actively supported UN human rights investigation worldwide. It was not until the late 80s, in light of the student demonstration in Beijing and the collapse of the USSR that China turned against these universal rights standard. As social stability has been seen as a foundation to economic development, the fall of USSR, the student demonstration in China turned the focus of the CCP to be on values promoting economic development including; sovereignty, non-interference and the particularity of nations culture. By focusing on the states self interests, the CCP believed they could take back stability (Sajo, 2013; Yonggen, 2001).

The CCP took a cultural relativist stand as a counterpart to the universal human rights standards. As the cultural relativist continued to circulate, Asian and Middle Eastern countries drafted the Bangkok Declaration. The declaration was a signal against western values, as they were arguing for historical, political and cultural specifics omission in determination of human rights standards (Douglas, 2000). Especially attention was put on countries right to economic development as being a precondition to human rights progress. As mentioned

earlier, the Bangkok Declaration and its emphasis on Asian values were used frequently by Chinese ministers in different international forums in the years that followed. In the end the Bangkok Declaration was rejected in 1993, as framework to a new human rights foundation. The question of western bias, which the declaration tends to address, is irrelevant as human rights itself represent dignity as an implicit value to all humankind. And by such cannot affect the validity of the rights itself (Ng, 1995).

This chapter has outlined the theoretical foundation on UNs and China's human rights orientation, and more precisely the debate between universalism and cultural relativists. As this thesis does not defend either of the positions, but rather wants to explore why China take a cultural relativistic position, the following chapter will elaborate on cultural, historical and political specifics, which make China differ from the western states. By exploring these specific, this thesis will be able to conclude on the research question of, - Whether or not China's freedom of expression orientation can be justified on the argument of particularities.

5. Chinese Specifics in the Current Freedom of Expression Debate

Even though the Chinese culture can be traced back to over 5000 years ago and has been argued to be one of the oldest, it has taken on cultural change from the globalization process (Dotson, 2011). As a result of globalization, the Chinese culture of today is mixed and diluted. And the result is a more pluralistic culture influenced by people and social structures all around the world (Lawson, 2011). During the last three decades China has reformed and opened up in the field of economy and human rights, endorsing international trade and adopted almost two hundred and fifty laws protecting human rights (Chau & Kane, 2014) .

As the world becomes more globalized the question is whether we still can speak of a specific Chinese culture. And if so, are the values making up China's specific culture so fundamentally different to western values that they affect its current freedom of expression orientation? Scholars have argued that the Chinese specifics of Confucianism and collectivism are just a rhetorical tool to keep the CCP in power and achieve further economic success. The research of Gordon Redding (1990) concluded on this assumption as he found connection between economic success and Confucianism. However, he did not conclude on whether the CCP exploit this tradition to achieve economic success or if Confucianism is a

natural foundation to the CCP policy without any egoistic manner. It is the space between this opposition pools-, Confucianism used as self-interest or cultural depended, this paper tends to question.

The following chapter tends to explore if the explanation for China's lack of universal human rights values and more specific the rights to freedom of expression can be found within its cultural, political and historical compass. This paper focuses on the four specifics of confucianism, authoritarian regime, collectivism and the emphasis that lies on the International Covenant on Economic, Social and Cultural Rights (ICESCR). They are specific selected for this paper as they represent values not found or having a weaker position within the western society and could by such be used as argument for China's different human rights orientation. In addition, Confucianism and collectivism have been debated within the academia as a potential hinder of China's introduction of democratic values as individual freedom and liberty (Sin, 2012). As the UDHR protects individuals, it goes against the Confucianism value of collectiveness. A collectivistic orientation makes the basis of applied Chinese social values and within the CCPs political ideology today (Fan, 2011; Page, 2015). Confucianism as a value itself could by such make an obstacle to the implementation of human rights.

Confucianism is also being relevant to the other Chinese specificities discussed later in this chapter (authoritarian regime, collectiveness and social and economic rights) as it promotes authority over liberty, collectiveness over individualism, and lack rights protection, as responsibility is being more important than rights (Sajo, 2013; Shin, 2012) .

Another explanation of China's current freedom of expression orientation is argued to lie in the long history of authoritarian regime (Gregg, 2016). This form of government rejects democratic values as they challenge the authoritarianism main value of centralized and arbitrary power. China also argues that many of the developing countries, which have introduced democratic values are facing chaos and disorder (Linz & Stepan, 1996). A situation, which according to Confucian and the CCP represent a threat to the preferred system of social harmony and order (Shin, 2012).

The last specificity being discussed in this paper is why China has implemented the ICESCR but not yet the International Covenant on Civil and Political Rights (ICCPR). The ratification of the former is linked to the Confucianism tradition, as (economic) development was the goal of this ideology and could only be approved by social involvement (Wu & Vander Beken, 2013). Western states and organizations like the Human Rights Watch argue that there are no legitimate reasons for China's postponement to the ratification and the main

reason is the CCPs hidden agenda of political control and surveillance (Human Rights Watch, 2013; Svensson, 2016).

5.2 The Cultural Specific value of Confucianism

5.2.1 Introduction

This section tends to expand knowledge and understanding of the contemporary freedom of expression situation in China by exploring the Confucianism tradition. Even though the focus on this paper is on the time after the UDHR was signed, the Confucianism tradition is included in this paper as it has dominated Chinese philosophy for the last twenty five hundred years, and has given rise to the ideas of collectivism, order, control and public law, which are all central values within the Chinese society today (J. Chan, 2013). This philosophy has further shaped how Chinese think about the world and it is recognized in the CCP's current freedom of expression policy (Dotson, 2011). By adding more historical knowledge to the field, a conclusion regarding Confucianism's influence on China's freedom of expression policies can be made. And if relevant, the question will be if Confucianism performs such a unique role that China can challenge UN's universal human rights orientation based on this particularity.

5.2.1 The Main Concepts of Confucianism

According to western intellectuals, the idea of rights is not exclusively embedded in western philosophy. Confucianism introduced a moral basis for human rights and has contributed to the Chinese rights historical heritage (Brems, 2001). The Confucian tradition has appeared in different variations throughout the years, including New Confucianism and Neo Confucianism, which both of which arose from the classical Confucianism and its assessment of norms and values (Yao, 1999).

The Confucianism philosophy is rooted in the teachings of Confucius including collectivism, order, control, and circulated in the 4th century B.C.E. His teachings were just one of several at his time, but his ideology become stronger after his death. A decade after his

death, the Confucianism scholar community was established and represented a strong moral belief system within the Chinese society. Later it expanded to become a dominant movement to other Asian countries, influencing both the cultural and political sphere (Nylan, 2008). A hotly debated issue today is how other Confucianism orientated states like South Korea and Japan have transformed into democratic states without hindrance from their historical past (Hsieh, 2014). Such discussion often strikes down to the question of South Korea and Japan are fully democratic countries (Park, 2008). However, not today or during the time of Confucius, his thoughts were dominating outside Asia.

Generally speaking, people were divided between those believed in Ancient Greek and Confucianism philosophical thoughts. The contrasts of the two are notable by their different view on individualism and society (Wu & Vander Beken, 2013). Confucianism emphasis on collectiveness makes a difference to the western individualistic approach, as the former underscores collectiveness and how it is structured throughout overlapped individuals. The aim of the collectivism is to create grand harmony by moderating people according to a set of moral values (Nisbett, Peng, Choi, & Norenzayan, 2001).

Confucius believed society should be organized through order, discipline, hierarchy, education, duty and family. According to Confucius, these values were the foundation of a stable political order and powerful states. During the Han Dynasty (156-87 B-C), Confucianism became the official state ideology and used as a framework for students, families, government officials source to learning and practice (Shin, 2012).

In 200 A.D, after a time of decline (pro to religious thoughts of Buddhism and Daoism), Confucianism was taken back its privileged position among intellectuals and within the societal life. A new variation, Neo Confucianism excided the classical and took new rules, which regulated social life. Now, the elders were seen as the highest power and women became abjection to men (Tu, 1984). However, Neo Confucianism continued to exclude moral concerns and inputs of ordinary people. Ideas conflicting to the states could lead to social chaos as new inputs would make people forgot their duties and obligation in life (Chen, 2004). This focus makes Confucianism incompatible to democratic values. In addition to exclude equality (of men to women), the right to political participation, political inequality, freedom (from duty), pluralism (in religious belief systems, gender representativeness in the standing committee), all are evidence of a Chinese historical past without a democratic legal system (He, 1997).

In the time before the Communist Revolution in 1948, Confucianism ideas of morality and hierarchy operated as common law. China also operated by public law, but this law has

been argued to be:

(..) “nearly all public law, referring to procedures, marriage, inheritance, and other matters relative to and important to government administration” (Fairbank & Goldman, 2006, p.183)

Compared to western values, whereas a lawgiver had the power to make laws becoming the states legal and moral order, Confucian saw law as something, which harmed people’s self-consciousness. Instead of governing people accordingly to the penal law, they were introduced to “li”. Li was norms guiding social proper behavior and operated as law regulator to all members of the society (A. F. Wright & Twitchett, 1962)

There are many similarities between “li” and natural law pressed by western philosophers. Both are affected by circumstances in a particular time period and only communicate its fully meaning in its right context and by such lack an universal obligation. However, what distinguishes the two is the aspect of shame. When people are guided accordingly to “li” they will remain the feeling of shame (in opposite to societies with legal punishment; people in those societies try to avoid punishment but will remain shameless). In effect, people are being in good character as they fear for shame hinder them from committing crimes (Bodson & Lloyd, 1992; H. Fung, 2006; Munro, 1969; Zhou, 1990). The value of “li”, shame and Confucianism as such did not continue to play such an important role, as it has in the 20th century.

5.2.2 Confucianism in the 20th century

In the early 20th century Confucianism saw a new decline in followers. People of a new cultural movement were arguing that Confucianism was holding back China’s modernization process and this view attracted massive support. On the other side, intellectuals argued that Confucianism could modernize by implementing Buddhist values and western liberal ideas. However, discussion regards Confucianism’s impact on modernization was closed by The May 4th movement and the Communist victory. After these events, Mao forbade all religious systems and philosophical thoughts, which challenged communism ideas of development and modernization (P. C. Chan, 2015).

Today Confucianism has made resurgence after Deng at the late 70s gave schools permission to educate in Confucianism. Confucianism as a subject is common both on private

and public schools and values of collectiveness and interconnection are central part of the student's textbooks. In addition to national schools, Confucian academics are established worldwide, providing its related norms and value. A possible threat lies in the combination of authoritarian regime and Confucianism as this type of regime limits political freedom and values other than its own. Western values of individualism and freedom are therefore limited, and people do not have the opportunity to choose whether Confucianism or western values represent the best governmental foundation. Limited information scope also limits people rights to freedom of expression as the former is a prerequisite to the latter and in addition, is included as a universal rights in Article 19 of the UDHR (The United Nations, UDHR, Article 19).

In practice, Confucianism could be used to protect the ideological content of the CCP (Shin, 2012). Confucianism is promoted within the scholarly sector, which makes the CCP capable to realize a mass indoctrination from a very early stage of life, which make the Confucianism's political benefits being realized and western values omitted more likely. If this mode is being a hidden agenda, the CCP could defend its action by bringing the cultural discourse on matter (Blocker & Starling, 2010; Solé-Farràs, 2013).

5.3 The Cultural Specific value of Authoritarian Regime

5.3.1 Introduction

China is run by the CCP and its applied authoritarian political system. Over the last years, and especially after Xi Jinping came to office, the CCP's has taken more control over the civil society by limiting the Chinese right to freedom of expression (Economy, 2014). This action has to be understood in relation to China's historical past and its applied values including order, control and centralized power. Of that reason, it is necessary to study China's regime history to understand whether its freedom of expression orientation really is affected by the different past and its affect upon current freedom policy.

This chapter tends to question if the political performance of the CCP, taking on communist values, could be argued to be a result of China's political compass. If the relation between political performance and political compass turns out to be strong, the question will be whether it is legitimately by China to trump Article 19 of the UDHR on this political specific argument.

The chapter's focus will be on the time after China's communist regime came to power in 1949, as after this power shift, China was facing a new human rights orientation. Thus, the CCP took on greater authority and power over ordinary citizens, which created a challenge to peoples universal right to freedom of expression embedded in the UDHR (Meisner, 1999).

In addition, human rights first became an important subject internationally after the UDHR was signed. In the time before the declaration there were no universal juridical standards states could be judged upon. The declaration further makes clear that the responsible to implement and uphold human rights in order to live up to the UDHR standards, lies on the government. Therefore, the current freedom of expression violation in China has to be related the to CCP and their attitude towards universal human rights.

5.3.2 China's authoritarian regime in the post Mao area; the role of Confucianism, rights and rules

China's political foundation totally changes after the CCP came to power in 1949. From being a state conducted upon Confucianism values, Marxist-Leninism became the official orthodoxy guiding the CCPs political decisions. Similar to the Confucianism tradition, Marxist-Leninism limited the rule of law, as it was argued to only represents the interests of the most powerful people and by such omits the preferred value of equality. In a Marxist-Leninism society, the rule of law is not needed, as people are of equal power and interests. In contrast to democratic states whereas law is used to guarantee equal rights, law was used an instrument to maintain social order (Krygier, 1990). The CCP emphasized that “

“law is to be used by the proletariat as a weapon in class struggles against the enemy in order to realize the people's democratic dictatorship” (Peerboom, 2008, p.44)

When the party of power use law to maintain self-interest, rather than collective ones, it takes on a dictatorship tendencies. States governed by dictatorship use their political power to ensure the entity's power remain strong (Smith, 2008). When it comes to dictatorship and human rights, evidence shows that dictatorship is more likely to suppress human rights, as a legal system do not exists to protect peoples interests (Olson, 1993). In the case of China, the fact that the CCP used the law to realize and support dictatorship, makes it less likely that a

democratic transition will happen. If the CCP should stay in power when a democratic transition happens, the willingness to change needs to come from within the CCP itself whether that be towards western human rights or human rights with Chinese characteristics (Fairbank & Goldman, 2006).

Even though Marxist-Leninism was to be seen within Mao's political attitude his communist ideas first and foremost departed from Confucianism values (Peerenboom, 2005; Ren, 2007). But no doubt, both Marxism-Leninism's and Confucianism's law orientation, which is seen in contemporary China, give little space to democratic values including freedom.

During the time of Mao, there was limited freedom of expression. Mao suppressed demonstrations and voices representing a threat to his political ideology. The so-called "class enemies", who were people that did not support the Communism leadership, were a particular target to him. Within the formal legal process class enemies become number one priority and in addition to being convicted on the sentence of threatening political stability they were constantly monitored in the public sphere (Rojek, 1989).

The leaders of the Communist party created a division between those who supported the Party and the so-called class enemies. The space created between the two groups goes against Confucianism values, which holds that the society should ensure equal dignity of human being. In the old Confucian tradition, the value of equal dignity of every human being was so important that it was a legal principle and human right (Chunde, n.d). The value of equal dignity was also under threat by the criminal justice and the communist party. They became the highest power and governed by arbitrary rules rather than justice. A rather lawless society, which was seen in China made people cooperate and confess law they did not commit in fear of what sort of punishment the CCP otherwise could impose on them (Wu & Vander Beken, 2013).

After Mao's death, Deng changed the focus away from political struggle and stability to a collective modernization process. Now, law became connected to the developing process and as a tool to increase the party's resume, both nationally and globally. As a symbol of the willingness to make a better resume, China introduced criminal law and criminal procedure law, which has been argued to be an important step towards a juridical criminal system (Leng & Chiu, 1985). However, both of the laws were erased during the 80's and in addition, the CCP lacked respect to other human rights (Kent, 1993).

As a result of complex economic challenges, the CCP tightened its grip on rights as one child policy and other democratic values, including freedom of expression, prior to

socialism. Apart from the socialism priority, Deng's economic reform made room for international contact and western influence. Chinese citizens were allowed to read international books and news, travel abroad, enjoy new hobbies, which were inspired by the west and buy such went against Mao's previous national protectionism policy. The opening up policy of Deng made Chinese intellectual calls for an integration of civil rights into the constitution, a call leading to public demonstrations. The CCP performances indicated willingness to move towards western standards. However, this willingness was ended when the CCP realized that they no longer could balance democratic ideas and stability. The Tiananmen Square protest of 1989 has been a symbol of a shift away from westernized form of freedom (Kent, 1993).

The demonstrations seen during the 80's had increased and become a challenge to the Chinese stability and their preferred human rights policy. After a period of massive demonstrations, the CCP responded to the Tiananmen Square demonstration by sending tanks and troops to put an end to the situation and take back power. The consequences of this action were the death of thousand of Chinese civilians and a tightened grip on the civil society by applying restrictions on people's freedoms. The CCP argued that peoples rights to freedom of expression and assembly could be used to encourage more demonstrations and questions the CCP policy, and in the end lead to social instability (Hicks & Motofumi, 1990).

5.3.3 The role of China's Authoritarian regime from 1989-today

After the massacre at Tiananmen Square in 1989, the CCP began a new political approach with the aim of balancing economic development with social reform. In the field of economic the policy become more liberal and within the social sphere more conservative taking on authoritarianism as during the time of Mao. The separation of two Chinese spheres created a need for a mechanism to ensure internal balance and cohesion. Of that reason, the CCP started to use more money than ever before on social control activities and limit peoples rights to freedom. In fact, the Chinese stability budget became higher than its defense policy budget, which forms a strong case for universalists to question CCPs attitude and willingness towards human rights improvement (Z. Wang, 2014).

Another adjustment made in the aftermath of the Tiananmen Square massacre, - was the introduction of corruption as a political instrument to create stability. The CCP is buying

the loyalty of the intellectuals as universities were receiving generous founding's to research on specific topics, in favor of the CCP. There is clear fairness lying in the power of students and intellectual's ability to challenge the Chinese stability. By making them more powerful (in terms of increased political contact) and wealthy, there is unlikely that they will make a real threat again (Z. Wang, 2014). But if someone should oppress the CCP, the Chinese government has effective principles of law and punishment to take back power of ordinary citizens.

Like during the time of Mao, the CCP stills view themselves as the most suitable decisions maker. In the line with the agenda of creating social stability and economic growth, the CCP continues to operate by the political principles set forward by Mao, without democratic rules. The police have without any need of consent, the power to put sanctions on individuals, whether they have committed minor crimes or social disorder. The criminal justice system is only used in bigger cases involving serious crimes, which give the Chinese police more power over Chinese citizens compared to that of western societies (Ma, 1997). Interesting enough is the aspect ordinary Chinese put on the police. In stead of seeing the police as someone who limits freedom, they put trust on their work and in how they regulate the social sphere (Jiao, 2001). The hierarchical power structure, represented by the CCP and the police on top, is rather different to western democratic system, whereas the power is held by the people. A democratic transition in China, towards universal human rights is also challenged by the fact that; the more people are used to hierarchical power during the pre democratic period, the more skeptical they are about implementing democracy as the preferred form of government (Dahrendorf, 1990; Eckstein, 1961). In addition, a Chinese democratic transition is also argued to be challenged by another specific,- the Confucianism tradition.

In 2012, Sin conducted a survey, which proved that Confucianism oriented people prefer a non liberal mode of democratic governance. Interesting is the finding that Chinese people being detached from the Confucianism orientation are being ten times more supportive of liberal democracy than those still being attached. This finding is also proved in other Asian countries, backing up the fact that detachment from Confucianism is the way to go in order to transform into a liberal political culture. However, the process of transformation requires more than detachment from Confucianism. The states majorities have to be committed to the transition and able to handle a new political culture (Sin, 2012).

Wakeman (1993) argues that if authoritarian regimes should come to an end, a powerful civil society needs to be established and prepared to take over the power when the

regimes falls. China had not yet reached the institutional stage with associational institutions separated from the state. Peoples Republic of China was established in 1949, and its related culture can be tracked back to ancient times. It could therefore be argued that China's has had time to develop a separate institutional model from the state. But the timeframe of this development is not fixed, but rather depend independent actors within the society. Actors like religious movement, nongovernmental organizations, private entrepreneurs and media houses all affects this process by raising strong and independed voices (Wakeman, 1993). If a democratic transition takes place in China before a separate institutional model has been developed, a regime fall will cause chaos as different institutions and civilians will struggle to take on power. In the time of the authoritarian regime fall in west- Europe in 1989, both Poland and German had strong institutions, which made up the foundation to a new civil society. In the case of Poland, the Catholic Church had already established a strong institution, which became the center to where people allocated their trust.

The US is one of those countries, which has reached the institutional stage. It took 226 years from the constitution was signed until the society guaranteed equal rights. Notably, still today, Americans tend to be discriminated regards they skin color, which is a evidence of that US still has step to go in order to operationalize equal rights. Despite 226 years of struggle for equal rights including everyone's right to freedom of expression, US ranks only 49 on the 2015 WPI, even though it is embrace a democratic form of government (Reporters Without Borders, 2015). Weather freedom of expression is a prerequisite for democracy or if it's the other way around, evidence shows that 50% of today's worlds countries are democratic and out of these 70% are illiberal, meaning that people are not endorsed with freedom of expression (Moyo,2013). This evidence questions the role freedom of expression plays in democratic countries and how closely these countries connect with universal rights standard guaranteeing freedom.

5.4 The Cultural Specific Value of Collectivistic Orientation

5.4.1 Introduction

Collectivism has a long history within the Chinese society as it is embedded in Confucianism. Within the Confucianism heritage and within a collective oriented society as

such, individuals are fostered to do what is best for the society as a whole and put individual interests aside (Huntington, 1991). More precisely, Hofstede defines collectivism as:

“ (...) a society in which people from birth onwards are integrated into strong, cohesive in-groups, which through peoples lifetime continues to protect them in exchange for unquestioning loyalty” (Hofstede, 1984, p.51).

The collectivistic foundation China holds hampers freedom of expression in the sense of individual's sensor themselves as their fear their opinions will be taken as selfish and cause damage to the collectivistic harmony in the public sphere (Hofstede, 1984). On the correlation between self-censorship and collectivism, Shih states that:

“In order to avoid the appearance of acting against collective interest, people would carefully avoid speaking on behalf of any particular sectors, enterprises, families. All acts are conducted in the name of the state, and therefore of collective interests, as well as being carried out through state channels” (Shi, 1999, p.xviii).

In addition, censorship can be justified by the Government on the argument of security and stability in the society, which according to the CCP, benefit all in terms of social development (Shi, 1999). When added to the human rights discourse, the CCP as a monitoring performer conflict with western ideas of personal interests, goals and values drive people's behavior. These conflicting values also affect the issue of freedom of expression as individual freedom is being a central part of the UDHR foundation (United Nations, 1948).

The following chapter will explore if the reason for China's different freedom of expression orientation lies in their specifics of a collectivist society. And further, to what extent this specific is so strong that it could be used to justify Chinese freedom of expression orientation.

5.4.2 The UDHR emphasis on individual rights and China's collective orientation of the declaration

When the UDHR was signed in 1948, a new human rights discourse was established, which signaled a different view on the relationship between individuals and the state. This

new discourse embraced values as self-autonomy, self-respect and dignity and were further obligated at a universal level through an declaration (Hunt, 1996). At the same time, if human rights should hold any value, they need to be recognized and implemented of the state power (Donnelly, 2004).

The realization of rights lies in the hands of the state powers. So, China's state power has the capability to adopt or reject the collectivistic aspects of human rights by refuse to agree or agree to implement the rights into domestic law (Baehr & Smith, 1996). Scholars have argued that the CCPs policy rooted in Confucianism and its collectivistic orientation has made human rights implementation challenging. Donnelly (2004) argues that Confucianism did not develop a foundation for human rights practice or implementation, as its ruling ideology did not embrace rights, but rather a collective harmony as guideline to proper behavior. Lack of human rights foundation in general, affects both social and political ethics within a society (Shin, 2012)

5.4.3 Chinese different social practice- from the time of ancient Chinese until today

The collective focus, embedded in the Confucianism tradition has also affected Chinese contemporary social interaction and the assessment of human rights within these interactions. From the time of ancient Chinese, the focus of social practice has been on how activities could be coordinated to those of others to minimize social dilemmas, rather than being driven by self-interests. The coordination was challenging as Chinese saw themselves as embedded in a large context made up by complex relations. The coordination was guided by rules, which were flexible and had a collectivistic, rather than an individual focus. Rights in western states were in contrast more analytical and attached to an objective right or wrong truth claim (Lloyd, 1991; Toulmin & Goodfield, 1962), and a set of logical formal rules to governed peoples moral behavior (Miyamoto, Nisbett, & Masuda, 2006).

The writing of Yihan and Fourtheres, challenged the collectivistic Chinese orientation during the 1930s, as they had through education in the west seen how democratic values had advantaging these states in terms of social development (E. S. Fung, 2006).

During the 1930s, the debate on collectivistic versus individualism continued (E. S. Fung, 2006). The debate was a conflict between different Chinese liberal intellectuals educated in the west. Through western influence they had developed different perspectives of

whether democracy or authoritarian regime were the best governance to solve the national crises as the Japanese violence. Notably, neither during the 30s or today, increasing western influence would necessary provide an individual rights orientation to the Chinese society. The outcome depends on contemporary national and international circumstances (Wan, 2007b). Shifts towards a more collectivistic and less individual rights orientation was for example seen after the Tiananmen Square massacre and when Xi Jinping came to office. Both of which limited Chinese right to freedom of expression (Economy, 2014; Li & Fang, 2013).

Even though an increase in western influence is not enough to provide China with an individual rights orientation, indirectly western impact has been argues to be the reason for China's ratification of the ICESCR (Wan, 2007a). On the other side of the coin, it has been argued that China made this ratification because these covenant takes on collectivistic values. The ICESCR equalized states right to self-determination and development to traditional individual rights (Svensson, 2002).

5.5 The cultural specific value of China's emphasis on the ICESCR

5.5.1 Introduction

China's human rights discourse tends to prioritize economic, social and cultural rights over civil and political rights. The former rights are recognized by the ICESCR and came in force in 1976. The latter rights are guaranteed through the ICCPR and also came in force in 1976. The development of these Covenants affected the human rights debate, as China has signed both of the Covenants, but not yet ratified the ICCPR. Within the UPR forum, western state find China's prioritisation problematic, as both of the Covenant has equal priority by the UN (The United Nations, 1966). As there is non legal mechanism within the UN to enforce China, the impotency of ratification lies on a symbolic ground. A ratification would symbolized that China is moving in direction of universal human rights standards (Svensson, 2002; The United Nations, 1966). From a westerner perspective, ratification can be used to put "shame" on China, when they fail to live up to international standards.

China on their side will gain weight in the international community by ratify the rights, as more states would includes them as trade partner when a common understanding on human rights are established (Peerenboom, 2008). Western states and the US have threatened to

impose higher sanctions and imports tariffs on China if they not embrace a political reform and guaranteed more freedom (Guangcheng & McMillan-Scott, 2013) .

The reason why China has not yet ratified the ICCPR can not lie on the problem of guaranteeing freedom of expression by law, since Article 35 of China's own Constitution in addition to the Article 19 of the UDHR, which China has signed, already guarantee this right. The reason is more complex and has to be understood by China's use of rights as a mechanism to reach economic success. China argues that the right to economic development goes before other rights as the latter right is viewed as a precursor to other human rights implementation (Howard, 2012). China's view contrast to western human rights orientation, which recognize equal protection of all of the rights (C. Wright, 2014).

5.5.2 Economic and social rights in relation to China's historical past

Human rights have developed through the years. In the mid 70s, human rights gained a new feature by implementing both the ICCPR and the ICESCR. The first set of rights included civil and political rights, and are a mirror of western liberal human rights values developed in Europe during the 17th and 18th century. The other set of rights, including economic, social and cultural rights, is the result of different socialists movement and the economic depression during the 1930s, calling for a better welfare system in Europe. Despite the western aspiration of the rights, countries in Latin America as well as in Asia included economic values within their constitution on an early stage (Morsink, 1999).

The roots of economic and social rights in China go back to the Chinese character "Li". Even though the Confucianism tradition included "Li" to be a philosophical and moral aspect, it has exist since the time of ancient China, and started to dominate the philosophical texts during the Han dynasty (Hofstede & Bond, 1988).

According to "Li", Chinese should be self-sufficient within a family structure. Family relations made individuals a small peace within a collective production and consumer system, connected by family blood. This value has not to be mixed with western values of selfishness and individualism, which are often found within the western economic model (Hofstede & Bond, 1988).

The traditional Chinese economical model, created the foundation to a interconnected collective sphere, rather than a economic system based on private ownership, competitive

markets, profits and international connection (Baehr & Smith, 1996; Kidron, 1970). The collectivistic ideology continued to dominate as an ideology within the Chinese economic system during the 20th century (Subedi, 2015).

In 1921, Gao Yihan promoted the balance of collectivism and individualism. He argued that individual development will in the long run lead to collective social progress as collective gain is inherent in every man's nature. He further argued that economic rights should be protected through national law. In order to enjoy these rights people needed to get essential conditions of life covered, which also lied in the hands of the state. As an example he said that, - education as an essential condition of life, which give people the ability to enjoy their freedom of expression. Without education, freedom of expression would be meaningless and rather empty (Angle, 2002).

Yihan takes on western human rights orientation in the sense of laying the full fitment of human rights in the hands of the state. But on the other side, he takes on Confucianism values as he sees rights as something that benefits the society rather than individuals. According to him, states let people enjoy economic rights in the intention of collectively enjoyed rights, which achieve the state with progress (Svensson, 1996).

When China adopted the UDHR in 1948, they were under communist regime lead by Mao. Mao's communist ideas of citizenship are in stark contrast to the west as it excluded civil and political rights, but included economic rights as the right to work access (Kent, 1993). A research project was conducted in 1986 and concluded that:

“China's social security system is actually not a “social system”. There is no national system covering pensions or medical care. Instead, China's social security system is largely realized by means of employment. Anyone will have welfare benefits and security so long as he or she gets a job” (Kent, 1993, p.69).

The Government emphasis on work as a precondition to welfare benefits and security drags the question away from human rights violations on the argument of human rights development as a step-by-step-process. Bueno de Mesquita (2005) argues that the emphasis need to be on economic rights as these rights guarantees Chinese work and work leads to wealth and education in the middle class. After a time, the middle class will be so wealthy and educated that they feel the need to take control over their future. As middle classes are assumed to support democratic values, the Chinese middle class will go against the

authoritarian regime and pave the way to political development (De Mesquita & Downs, 2005; Pezzini, n.d).

5.5.3 China's emphasis on economic rights today

The emphasis, which China puts on economic rights, also came clear in the 2011 Bangkok Declaration, which is an alternative Declaration formulated by Asian countries. Economic development will protect welfare rights and only when they are protected, civil and social rights could be guaranteed (Davis, 1995a). However, universalists argues that the Bangkok Declaration is just a shield against western interferences. In addition, China's argument on social and economic rights, as a precondition for a meaningful system of civil and political rights, has been proved wrong by western democratic countries. If China should put equal importance on ICCPR and the ICESCR it needs to surveillance from its political past and the Confucianism tradition, which continues to influence current economic policy (Lauren, 2011).

Confucianism has affected and continues to affect the way China think about economic development. The Confucianism tradition has been criticized by Max Weber to hold back national economical and social progress (Weber & Gerth, 1953). As a respond to Weber, people holding Confucius values argue that, by promoting order and discipline in the school and work sector, national economical development will be made (Wiarda, 2013). During recent years, China has indeed achieved economic progress and became the second largest economy in 2011. The way China has achieved its economic success differs from western countries taking on a more liberalized economic model (P. B. Evans, 1995; Wade, 1990).

Rooted in the Chinese Confucianism traditional norms like collectiveness, centralized power and social orientalism are rather unique compared to western cultures. Being influenced by this value-orientation, the Chinese authorities and the economic experts have been able to shaped their own national economic development agenda without interferences from the masses. As a result of higher income and welfare, the leading powers have enjoyed massive support without remarkable interference. As the Confucian tradition promotes equality and maximizing welfare of the people, an increased and equal income distribution could be used as evidence for Confucianism success. Wiarda (2013) argues that China has a more equal income distribution than any other countries in the world and by such being an

evidence for Confucianism values in practice.

6. Empirical Study

6.1 Methodology

This chapter presents the methodological framework and the analysis of the thesis. First, the methodical framework of discursive analyses will be presented and second, the findings from the analysis. A qualitative research is chosen, as this thesis tends to explore aspects of social practice through words rather than numbers (Bryman, 2015). For that reason documents from the Universal Periodical Review (UPR), as a written secondary source of data, are used as elements of the analyses. The UPR provides necessary information to the dichotomy between the UN and China, which this thesis tends to explore. More precisely, reports from the UPR will provide me with information on how China defend and explain its freedom of expression orientation, compared to that of the UN, within a freedom of expression discourse. I find the UPR the most appropriate forum for this study, as both China's report on its own freedom of expression orientation and other states evaluation of China's situation is outlined within these reports.

6.2 Discourse analysis as method

A discourse is understood as the ways we use language in different aspects of life, as when interact in the politic sphere or family relations. The analysis of how language is used within these different aspects of life is a discourse analysis (Jørgensen & Philips, 2002). Discursive analyses can be used in different ways in social science research. Discourse could be used as a theoretical approach and as a way of analyzing data (Dunn & Neumann, 2016). This theses use discursive analyses as a qualitative methodical approach. I chose qualitative methods because my research questions are produced in the aim of discover the reasons behind China's freedom of expression orientation by analyzing language rather than statistical investigation. This thesis is concerned with the language Chinese representatives use within the UPR forum, as it has become a microcosm of the current dichotomy between China and

the west on the issue of freedom of expression. This dichotomy has been underpinned by the arguments of universalism and realism, representing their respective parts.

I further want to pay attention to how language is a form of social practice, determined by its specific contexts. Social practice serves different interests, and I want to explore which interests are served by positioning China's freedom of expression orientation more restrictive than most UN member. In the process of exploring which interests are served, I relate human rights discourse to power, and take on a critical discourse analytical approach (Marianne W Jørgensen & Phillips, 2002; Salter & Mutlu, 2013).

A critical discourse analysis explores the differences between subjective meanings and objective reality. "Discourse analyses studies practice of producing knowledge and meanings in concrete contexts and institutions" (Talja, 1999, p.2). By such, I can explore the starting point of knowledge and meaning production, and whether China's freedom of expression discourse is produced within the UPR forum or a discursive construction of social reality. And by social reality I refer to the social reality of China's cultural, historical and political background (Talja, Heinisuo, Pispala, Luukkainen, & Järvelin, 1997).

Critical discourse analysis stems from the theory of Foucault, whose writing has inspired contemporary discourse theorists as Campbell, Bartelson and Fairclough (Bartelson, 1995; Campbell, 1992). It is useful to go into his writings in order to understand the basic concepts of the theory, - before more complicated principles of the theory can be applied (Prado, 2009). Foucault was interested in the study of discourse and how language contributes to the understanding of who we are and what we know about something. Our understanding/knowledge is produced from within a given discourse, and we cannot separate ourselves from the discourse we are in. Therefore, knowledge is not a production of a universal reality, but rather a reflection of the production of knowledge from within a given discourse. Within each discourse the most powerful regime produce "truths". Truths therefore creates something that is discursively and perspectival, rather than something universal valid (Foucault, 1982).

As Foucault viewed universal truths as unattainable, he was not interested in defining truths. Truths would not confirm to reality, as there exists power regimes representing self-interests rather than universal truths. There is therefore no man that explains the world, but rather produces it through the use of language. Foucault interest's was therefore on this process of truth production, which is claimed to be the same within any given discourse.

He further argues that discourses have to be understood as frameworks through which subjects and relationships are created. Truths are created by the most powerful regime within

a given discourse and by such make truth embedded and produced by a system of power. By neglecting objective truths, Foucault takes on constructivism. As Foucault, constructivists argues that truths are social constructed (Baylis et al., 2013)

Another element of Foucault's theory, which goes well with constructivism, is that of change. He argues that discourses are a fragment of the history, constructed through socio-cultural change and flexible. Truths are constantly changing through the educational system, economical and political ideologies and the media. These institutions do not struggle for absolute truths, but rather to make up rules to determine what is true and not true. Power to influence comes from everywhere, also from these institutions, but the power to pervade the society comes from the "regime of truth". Each discourses holds one "regime of truth" (Foucault, Morris, & Patton, 1979; Hall, 2001).

Contemporary critical discourse theory is skeptical about how Foucault sees discourses as a framework that limits the ability to influence to only one "regime of truth" (Foucault & Rabinow, 1984; Talja, 1999). They argue that different knowledge regimes exist within each discourse and produce different truth claims. This is also the case in my thesis whereas China and the UN are fighting within the human rights discourse struggling for their right to define freedom of expression. I will therefore use the stance of the contemporary critical discourse approaches, to explore the discourse narrative given by China and the UN within the UPR forum.

6.3 Research design- a critical discourse analysis applied to the case of China's freedom of expression orientation

There is a difference between the language China and the UN use within the human rights discourse. A critical discourse analysis is applied to explore the role of language and how it is related to China's historical, cultural and political background. Critical discourse analyses pays attention to pre-existing materials and how discourses are constructed and maintained through relationships (Bryman, 2015; Guzzini & Leander, 2005).

As I want to explore the relationship between discourses and pre-existing material, I will use Fairclough's three-dimensional model as a framework to the analyses. The idea behind the theory of Fairclough is that texts itself is not enough to provide a comprehensive analysis. Texts have to be analyzed in relation to their social context in order to provide insight into how meaning is created. When I go beyond the searching for the seemingly

activities in the society, I am able to provide information about how meaning is created. China's freedom of expression orientation will be analyzed accordingly to the three-dimensional model of Fairclough, which includes the following three parts:

1. **The text dimension:** Analyzing the freedom of expression discourse through UPR documents.
2. **The discursive practice dimension:** Analyzing production and consumption of UPR documents.
3. **The social practice dimension:** Analyzing in which context China's freedom of expression orientation is taking place. That would be the context of historical, cultural and political specifics.

Even though all of the previous three elements do not have to be included, I choose to include all of them in my research (Marianne W Jørgensen & Phillips, 2002). However, I did not follow the framework in a linear way. Fairclough's first dimension refers to the analyzing of reports from the UPR forum, which is outlined later in this chapter. This dimension will further be evaluated accordingly to socio historical conditions (being dimension number three of the model). Socio historical conditions are found within the theoretical section of this thesis. The socio historical elaboration will put values into my discourse analyses, as a critical discourse analyses cannot be explored isolated from pre-existing material. Dimension number two in the model is also covered in the theory chapter, under the section of how the UPR was formed and how its function. All of dimensions, provide me with enough material to generate a critical social research, which is further being the aim of a critical discourse analyses (Marianne W Jørgensen & Phillips, 2002). In the end this model will help me explore the current dichotomy, between China and the UN by applying explanatory critique.

A critical discourse analysis is further meant to provide explanatory critique. "Explanatory critique takes its starting point on a problem that the researcher should help to solve" (Jørgensen & Phillips, 2002, p. 77). The problem I want to solve is that identified by the mismatch in freedom of expression orientation between China and the UN. A critical discourse analysis further pays attention to the misrepresentation that might exist between reality and the view people have on the same reality. In my case, it could be that the Chinese leaders misinterpret UN's universal aspect of freedom of expression, and by such refuse to apply these standards. However, the misrepresentation could either be deliberate, as a result of a hidden agenda of the CCP, or wiliness by the Chinese society as a whole to protect their

cultural relativistic values. If the former is the case, a critical discourse analysis applies a critical approach to social problems within the aim of discover power relationships that are often hidden (Sepideh Mirzaee, 2012).

Before I go in to the analysis, the next paragraph will provide weakness and strengths in my methodology. By addressing these aspects, I communicate to the reader that I am in command of my thesis. I understand which factor which limits my research and my recognizing them, further researchers have the potential to improve these aspects and by such making their research stronger.

6.4 Methodical weakness and strengths

6.4.1 Analyses material

The documents used in this thesis are secondary sources of data. The advantage of using secondary sources is that more time can be used on the analysis rather than conducting and transcribing data (Bryman, 2015; Crossman, n.d). It also easy to access and replicate the data, as these are available to everyone online. The replicating elements strengthens the reliability of my research (Hall, 2001). In addition, throughout my work in Amnesty International, I have been working with UPR dataset. My experience with UPR reports has familiarized me with the reports included in this thesis, and I know the language and format of these sorts of documents.

The main disadvantage of using secondary sources is that it necessary not provides me with the exact information I would like to have regards China's freedom of expression orientation. If I had conducted data my self with use of interviews, I would have the ability to formulate the question in a way to answer my research questions and ask follow up question in order to get the information needed regards China's particularities' of Confucianism, collectivism, authoritarian regime and the ICCPR (Collins, 2010).

In addition, my evaluation of China's freedom of expression is based on document published in 2009 and 2013. This means that the two cycles of 2009 and 2013 might fail to give me an accurate representation of China's current situation. China has not submitted a report of their mid term evaluation, which is supposed to give an update on the situation between the two cycles (OHCHR, 2016). China's next cycle will be in 2018 and information regards the situation between 2013 and 2018 would therefore be limited.

However, documentation from 2009 and 2013 is substantial. It is impossible to address all the material related to China's freedom of expression in a 30 credits master thesis. Generally speaking, very few analysis methods are capable of displaying every detail of the material. The researcher is therefore in the important position of including material related to the research question(s) (Bryman, 2012). Because of the substantial amounts of UPR documents, my analysis neither covers every detail of the documents. The documents are not read in detail but analyzed using keywords. Specific words related to cultural, political and historical discourse have been used as "key words" to handle the data material. These key words include "freedom of expression", "Article 19", "collectivism", "Confucianism", "ICCPR" among others, with the aim of exploring the research questions. The use of keywords will allow me to see overall characteristics of the material and sort out what is relevant to the research as text. Text not related to keywords will be excluded for further investigation (Cao, Tian, & Chilton, 2014). Further, keywords were used as a springboard to my discourse analysis. By looking on the contexts, frequency and relationship of the keywords, I am in position to explore the relationship between the UPR discourse and the discourse on Chinese particularities.

This way of focusing on text is what Fairclough refers to as analysis of words. Words can (...) "be employed in relation not only to documentary sources but also to all kinds of other data because of its commitment to treating phenomena as texts" (Bryman, 2012, p. 556). The component of other data, which Bryman refers to, will be outlined in chapters three and four. Keywords are further grouped together as "themes" in order to explore patterns in China's freedom of expression discourse and process a summary of the data (Potter, Wetherell, Gill, & Edwards, 1990). These themes include, "western states call for improvement", "China defend their position on the argument of development", "China defend their position on the argument of Confucianism", "Non-western state support China", "Non-western state support China's economic development". These activities are further useful as a discourse analysis include- "(...) to work with what has actually been said, or written, exploring patterns in and across the statements and identifying the social consequences (...)" (Jørgensen and Phillips, 2002, p. 21). Applied on my thesis, the social consequences Jørgensen and Phillips refers to, is the dichotomy between UNs and China's freedom of expression orientation my thesis tends to explore.

6.4.2 The challenge of language

As the UPR reports are transcribed from Chinese to English, it creates a challenge of the real meaning being misunderstood or lost. The differences between Chinese and English are not just the difference in words versus signs, but also how the language is structured. By structure I mean the differences in where the emphasis in sentences is put and how the meaning is outlined (Y. Wang & Chen, 2013). In addition, narratives and metaphors are commonly used in verbal communication. And as these often are impacted by culture, a direct translation, which includes words, makes it difficult for readers to capture the real discourse (Polkinghorne, 2005). The challenges, which lie on translation, might therefore have affected the English report. As a consequence, the reports might fail to capture the accurate meaning expressed by Chinese representatives within the UPR. However, it is important to emphasize that the translations were made by experts approved by the UN and not by myself. The expertise put into the translation makes it less likely that meaning being lost and misunderstood. The quality of translation is affected by to what degree the translator is familiar with the case, culture and people under study. It is also affected by the translator's familiarities of the place and circumstances where the translation take place. As mentioned, the translations were made by expertise, which make the quality of reports high.

Back translation is often used in the dealing with translation-related problems. Back translation is defined as the researchers translation of document into another language and back again. However, I am not so familiar with the Chinese language that I could use this technique in my thesis (Birbili, 2000).

6.4.3 Reliability

Qualitative research in general has been criticized by its weakness to transfer categories from one research to another. Categories are the different methods used to capture data and include; interviews, observation, reports among others. In general, categories are a tool used in the analyzing process to systemize data. According to positivists, when a research lacks a common foundation of categories to analyze data, it fails to account for reliability, and by such becomes unreliable (Bryman, 2015).

Qualitative researchers argue that the unreliable aspect is irrelevant. Within a qualitative research a line is drawn between the natural and social world. In a quantitative

research in contrast there is no distinguishing between the natural and social world being analyzed. The argument of qualitative researchers is based on a constructivism assumption, arguing that there is no necessary intrinsic connection between the discourse being analyzed and the world outside the discourse. Therefore, (...) “reliable measures of social life are only needed by such “positivists” (Jenks, 1998, p.87). The use of different categories in a qualitative research underscores the different discourses within the natural and social reality.

Moving beyond reliability as used in quantitative research, the quality of critical discursive analyses are assessed by using another methods of reliability evaluation. It takes on the question of completeness in the sense of further analyses of the UPR reports used, should not leads to new findings. I have therefore outline my research process and conclusion in such a way that its mirror the reports in an accurate way and defend my inference. This form of evaluation takes on the criteria of coherency and accountability, which is further elaborated on under next paragraph of validity (Silverman, 2013; Wodak & Meyer, 2009).

Another way to capture completeness is to analyze data until the data starts to repeat itself. After ten UPR reports, I started to explore patterns in how China and western states expressed themselves about freedom of expression. Of that reason, I ended by analyses at report number ten (Wodak & Meyer, 2009) .

By making a retest of the study, the researcher could also prove the degree of reliability. This involved the measurement of stability from one occasion to another. A high degree of stability proves the reliability of a qualitative research as its provide completeness (Golafshani, 2003). However, I find this approach problematic, as I cannot count for changes in the prerequisite values affecting China’s current orientation. As my elaboration of China’s freedom of expression orientation shows, China’s policy has changes in tandem with its national conditions. Analyses of just the UPR hearings would not account for these conditions, and the research would not obtain a high degree of stability. The question of stability therefore becomes irrelevant to evaluate my research.

6.4.4 Validity

Validity in social research evaluates the connection between the research and the real world. However, in order to make such an evaluation, the starting point has to be on the assumption that the world exists independently of our notion about it. A discourse analyses, taking on consttucuvism argues that the world is constructed discursively, and the creation

depends on the interpreter's notion. Therefore, my version of China's freedom of expression, can just be one of many notions on this issue. However, this is not the same as saying that all opinions about freedom of expression are good. There exist multiple procedures to evaluate whether my notion outlined in this thesis is good or not (Wood & Kroger, 2000).

Critical discursive analyses can be evaluated according to validity in terms of being "strong". "Strong" as used in English stems from the Latin word *latire* and concerns to what degree the analyses is grounded in evidence and its ability to resist criticism and objectivism (Webster, 1976). In order to make my research strong I have concerned coherence and accountability.

The degree of coherence is evaluated upon to what extent the conclusion made in a given research is grounded in the theory and evidence of the same research. The more coherence, that exists, the more likely is it that the reader will trust the research and agree on the findings. In this thesis I have communicate the theoretical background and findings in such a way that they are clear and concise and in a language easy to understand to everyone (Polkinghorne, 2007). By such, I limit the possibility of being criticized for lack of trustworthiness, which further straightening the research validity (Marianne Winther Jørgensen & Phillips, 1999).

In a practical manner, I have ensured coherence by using Faircloughs three-dimensional model, and linked evidence and theory. A strong link between evidence and analyses is not the same as defending China's freedom of expression orientation. The aim of my thesis is not to conclude whether or not there is a connection between the current freedom of expression orientation and China's historical past. The aim is to evaluate this link and explore how strong it turns out to be. And only then, I can answer my research question of whether China's current freedom of expression orientation can be justified on the argument of particularities.

Accountability mean that the research process explicit and transparent. I have justified the choices that have been made during the process in order to make the reader in position to judge how my choices have affected the freedom of expression discourse. However, my perspective on freedom of expression is shaped by Norwegian upbringing, as well as studying Chinese and being a student in Beijing. My experiences are relevant to the epistemological question of a discourse analyses. Epistemology discusses how we obtain knowledge about the world and how we put focus on a specific phenomenon, but overlook others. The shape of focus is affected by our background and further makes us unable to see the world objectively (Dunn & Neumann, 2016). This argument goes to the heart of a critical discourse theory,

arguing that there is no universal truth, as “any researcher can arrive at a privilege account of the aspect of the social world being investigated” (Bryman, 2012, p.529).

Having the methodical framework of a critical discourse analysis in mind, I will now turn to the actual analyses provided for this thesis. As mentioned, this analysis applies UPR reports on Fairclough’s three-dimensional model, in the aim of explore the language used within the freedom of expression discourse.

6.5 Applying Fairclough’s three dimensional model on China’s freedom of expression orientation- analyzing discourse through text

In the previous chapters, Chinese cultural, political and historical particularities in addition to the structure of the UPR forum have been explored. These parts make up the second and third dimension of Fairclough’s analysis model. The following section will go into the last dimension of the model, - analyzing texts.

First, the UPR analysis results will be outlined accordingly to the differences between the UN and China, and such universalism and cultural relativism on the issue of freedom of expression. These results will make me in position to answer the first research question:

“How does China’s recognition of freedom of expression differ from that of the UN?”

Second, findings related to the four specifics, which China argues to be the narratives behind their freedom of expression orientation will be presented. These finding will further enables me to answer the second research question: **“To what extent is China’s current freedom of expression orientation a mirror of its cultural, political and historical particularities?”**

Lastly, after exploring the first two research questions I will close this chapter an conclude on the third research question, which is **“Given these historical, cultural, and political particularities, to what extent is it legitimate that China practices a freedom of expression orientation different than that defined in the UDHR?”**

As mentioned, the theoretical framework of Fairclough’s model, underscores that text itself is not enough to provide comprehensive analyses. Practically, the analysis will be made by both analyzing UPR documents and by relating these document to dimensions number one and two of Fairclough’s model, being that of, - the discursive practice dimension (production and consumption of UPR documents) and the social practice dimension (the context, whereas China’s freedom of expression orientation takes place). These dimensions are outlined in

chapter three and five. By such, my analysis will be conducted according to Faircloughs way of analysis text, - looking for relationship between the China-UN discourse and the discourse of social practice.

6.6. Where has the analysis lead us? Universalism versus cultural relativism on China's freedom of expression debate

Chapter three and five of this thesis, being the social practical dimension of Faircloughs model, demonstrated that a current dichotomy between China and the UN exist over freedom of expression. By analyzing the UPR reports, being the texts dimension of Faircloughs model, I conclude the same dichotomy. However, the analysis demonstrates that China fails to take a clear cultural relativist position, as they argues to respect the principles of the UDHR and takes effort in promoting the universal values of the declaration domestically (United Nations General Assembly, 2013). China's attempt to take on universal values is made explicit by Chinese representative to the UPR.

China's representative to the UPR argues that he's countries' freedom of expression orientation is based on the fact that: "China respects the principle of universality of human rights, and is of the view that all countries have a duty to take measures, commensurate with their national conditions, continuously to promote and protect human rights in accordance with the purposes and principles of the Charter of the United Nations and the basic spirit of the Universal Declaration of Human Rights and the relevant international human rights instruments" (United Nations General Assembly 2013, p. 2). And in order to protect universal human rights: "China is a party to 25 international human rights instruments (...) including the six core human rights conventions" (Working Group on UPR, 2009, p.7). By just looking at these statements, China gives the impression of being a cooperational partner and willing to move in direction of universal human rights standards. However, by comparing pre-existing materials and China's UPR statements, this thesis discovered a conflict between the two. The same conflict between rhetoric and the reality goes for China's Constitution.

China underscores its attempt to take on universal orientation by arguing that they act accordingly to universal human rights and that "The Constitution explicitly provides that citizens enjoy freedom of speech and of the press, and have the right to criticize a State organ or its officials and to make suggestions" (United Nations General Assembly, 2008, p.14), and

further that: “No individual or press has been penalized for voicing their opinions or views. The Chinese Government is firmly committed to promotion and protection of human rights and looks forward to enhance cooperation and exchanges with all countries on the basis of equality and mutual respect to advance the cause of human rights”(United Nations General Assembly, 2009, p.17). As we know that the Chinese Constitution is subordinated to the CCP and that it does not hold the status of legal basis within the court, it fails to protect individual rights. By such, China’s Constitution fails to “complete guarantee” freedom of expression. A critical discourse analysis is interested in mismatches between reality and the view people have on the same reality, as it wants to explore the reasons beyond the mismatch. In the analysis I explored how the mismatch between China’s rhetoric within the UPR and the reality of Chinese particularities could be understood in relation to power.

By looking at the CCPs power over the right to freedom of expression, they are in position to adjust this freedom both to domestic and international changes. These changes could be in terms of more cultural relativism or universalism or as seen within the UPR, - a combination of both. China’s current position within the UPR is therefore not a mirror of a truly middle ground position, but how the CCP has made human rights as two-sided projects. However, even though China’s human rights position is argued to takes on a two-sided-story, the analysis of the UPR documents demonstrates that their operative position is cultural relativistic.

The Report of the Working Group On the Universal Periodical Review recommendations, demonstrates that China rejects the equal importance of the rights as they argued that: “A reservation is made only when the domestic situation calls for it” (United Nations General Assembly, 2009, p.16). This argument of China, make them in position to agree upon the rights they find suitable to their own national situation. China is further bringing their national situation on matter when they argued that: “Despite the specific situation in China, the government is trying very hard to implement the recommendations” (United Nations General Assembly, 2010, p. 2). The wording “trying very hard” is rather vague and makes it impossible to other states evaluating China concrete progress. In addition, as long as China argues to hold a “specific situation”, the question is how hard they will try to let go of their specifics and achieve universal human rights standards. The analysis found that China continued using the arguments of holding a “specific situation” at the same extend in 2013 as in 2009. This argument was used to defend their own position and by responding to recommendations made by other states.

The analysis of recommendations by other states, demonstrates that China's cultural relativistic stand is supported by other non-western states. As I earlier have argued that western states refers states within Europe, North America and Oceania, non-western states are those not included in this definition.

Overall, western states recommended China to move toward a universal human rights orientation, by removing its obstacles that hinder people enjoyment of freedom of expression. The recommendation of The United Kingdom of Great Britain and Northern Ireland, Spain and Sweden were all rejected. They wanted China: "To revise its legislation and practice that violate the right to freedom of expression and release all persons held in this connection, e.g., Mr. Paljor Norbu and persons arrested in connection with Charter 08" (United Nations General Assembly, 2009, p. 20), "To simplify requirements for official approval of religious practices in order to allow more individuals to exercise their freedom of religion and belief and to better respect the religious rights of minorities" (United Nations General Assembly, 2009, p.24), "Urgently release those being held in detention or imprisonment for exercising their right to freedom of expression (United Nations General Assembly, 2013, p. 22). These recommendation are concrete and by accept, can be measured according to concrete progress for example by asking, - how many of the persons arrested in connection to the Charter 08 that have released.

China on the other side, supported by non-western states, demonstrated their opposing position by taking on a cultural relativistic stand. On a general level, China accepted non-western state recommendations that either defended China's positions by emphasizing cultural relativist values as the right to economic development, the importance of ICCPR, harmony, independence, self-determination and sovereignty, or took on vague terms that by accept, makes it impossible to measure concrete progress. Tajikistan is one of those states, that defended China's cultural relativistic position as it takes on the value of stability in their recommendation of China to: "Continue measures to further economic and social development of Xinjiang Uygur Autonomous Region, to protect the right to freedom of religion and belief as well as to maintain stability in this autonomous region" (United Nations General Assembly, 2013, p.27). The value of balance can further be connected to the particularity of Confucianism and by such China's cultural relativistic position.

In addition to Tajikistan, Ecuador and Oman's recommendations were also accepted by China as they underscored Chinese cultural relativistic position and the particularities of balance and harmony. Ecuador underscored the importance of China to maintain a (...) "appropriate balance between economic, social and cultural rights and civil and political

rights” (United Nations General Assembly, 2013, p.17), and in the name of harmony Oman stated that, - “Continue its efforts for the promotion of human rights in legal and judicial reforms, economic development and other areas towards promoting a harmonious society, democracy, the rule of law and human rights” (United Nations General Assembly, 2009, p.28). In general, the analysis found that China accepted recommendations, which allows an integration of Chinese particularities within their freedom of expression discourse. And, as mentioned, the analysis further found that these recommendations were first and foremost signed by non-western states.

The tendency of a current dichotomy between western and non-western states over freedom of expression is a tendency within the UPR document in general and not just in the document on recommendations. Therefore, what China argues to be a Chinese cultural relativist stand, is in reality more a non-western cultural relativist stand. This stand is defended by Pakistan and The Islamic Republic of Iran among others.

On the argument of sovereignty, The Islamic Republic of Iran, as a non-western state, recommended China to: “While guaranteeing this freedom of speech, strengthen Internet governance” (..) (United Nations General Assembly, 2009, p.15), which was accepted as it makes the CCP in position to tighten its grip on social media, and act accordingly to a policy of cultural relativism. Another, non-western state supporting China on the argument on sovereignty is Pakistan. Pakistan underscored this right by arguing that: “China does not require external advice on securing the rights of its people as it has taken concrete steps to build the future of its people”(United Nations General Assembly, 2009, p.22). “Strengthening Internet Governance” and excluding “external advice” make little room to free speech and universal human rights influence and make the CCP in position to act accordingly to self-interests.

By applying the second dimension of Faircloughs model, I demonstrate that China’s cultural relativistic position was also seen in the preparation of the UPR process. Under the establishment process the UPR mechanism, China took on a cultural relativist position as they tried to hinder the UPR holding universal human rights values, which states further should be evaluated upon. China wanted accepts for states particularities. China’s accept of 42 out of 99 recommendation underscores their skepticism that China’s hold to the universalism evaluation process of the UPR. China’s low accept contrast to the facts that, - at an average level, states accepted 73% of the recommendations made within the UPR.

6.6.1 Concluding remarks

The analysis on cultural relativism and universalism was conducted in the aim of answering my first research question being that of: “to what extent differ China freedom of expression orientation to that of the UN?” The difference found in this analysis, is linked to the social practical dimension of Faircloughs model, outlined in chapter three and five, and demonstrates that China holds a conflicting stand on the issue of freedom of expression. In contrast to UNs fixed universal human rights orientation, China takes on both a cultural relativist and Universalist human rights position within the UPR, depending on the context freedom of expression is being discussed. When China’s representative underscores China’s accept and promotion of universal human rights, it conflict with the discourse of Chinese particularities. This position was further discovered by analyzing recommendations made by other states. China accepts recommendation that make them in position to integrate their “different situation” within their freedom of expression discourse.

The fact that other non-western states take on the same cultural relativistic position and its related values makes the current dichotomy over freedom of expression divided between western and non-western states, rather than western states and China in particular. The analysis of cultural relativism and universalism, conclude that China’s cultural relativistic position is not found to be specific Chinese neither fixed, but rather non-western and depending on national circumstances.

6.7. The argument of Confucianism

The pre-existing texts demonstrate that the Confucianism tradition has influenced China’s human rights discourse since they signed the UDHR in 1948. The same texts demonstrate that Confucianism gave rise to the values of collectivism, order, control and harmony. These values are further being argued by the CCP to be the foundation of its current human rights policy, including their policy on freedom of expression. Values related to Confucianism were also found by analyzing the UPR documents.

On the Confucianism value of harmony, China argued that they are (...)”endeavoring to build a harmonious society in which all citizens enjoy their rights to education, employment, medical and old-age care, and housing, thus ensuring equal participation by the entire population and all individuals in development and in the fair distribution of the benefits

resulting therefrom, as stated in the Declaration on the Right to Development” (United Nations General Assembly, 2009, p. 6) and further that they: “(...) coordinates and promotes the safeguarding of civil, political, social, and cultural rights as well as the rights of special groups, develops a broader, fuller and sounder people’s democracy, and comprehensively promotes the coordinated development of rights of all kinds. It fosters a fairer and more harmonious society, and works to ensure that every citizen enjoys a life of ever-greater dignity, freedom and well-being”(United Nations General Assembly, 2013, p. 3). As the pre-existing text demonstrates, - harmony was the grate goal of Confucius. However, the way the CCP and Confucius follows the value of harmony is rather different.

When Confucius discovered a conflict within the society, he wanted to find a solution based on negations and compromises to take back harmony. The CCP in contrast, creates harmony based on top-down decision-making and without any public participation. As a result of the current globalization process, how the CCP creates and integrate harmony today could be the result of this process. However, the fact that other states balance harmony with freedom of expression in a less restricted way proves this argument wrong.

The case of Japan, South Koreas and Taiwan, demonstrates that harmony could be maintained together with freedom of expression. Even though these states have been argued to not be fully democratic, they have developed towards democracy more than China. The democratic transition has enabled their citizens to enjoy freedom of expression orientation, which is more similar to how this right is defined by the UDHR than by China. This democratic transition, demonstrates that harmony and Confucianism as such, are an evolving value and tradition, which do not hinder states to implement a universal freedom of expression orientation.

Another value related to Confucianism, which China promotes, it that of balance. Balance was an important value to Confucius as he argued that it relates to harmony, and that these values further are preconditionary to economic development. With economic development, Confucius referred to improving public welfare, and not liquid money. He argued that good public welfare was important as, - when people are achieved with better welfare they give support to the men in power. Without support, states have no one to defend their sovereignty or implement economic plans or running theirs states in general. By such Confucius saw balance as a prerequisite to the state system without limiting peoples right to freedom of expression.

Today, the intense focus, which the CCP has on economic development, has been argued to cause serious problems including limited freedom of expression. Within the UPR

China's representative argued that China has "(...) made remarkable progress in promoting and safeguarding the right to development in recent years and its experience shows the need to: strike a balance between reform, development and stability; place great emphasis on poverty reduction; work hard to improve well-being and promote inclusive development; and enhance environmental and ecological protection" (United Nations General Assembly, 2013, p.7). China also took on the values of balance or more precisely, their lack of balance to defend its weak performance on human rights development. The former comment, contrast to the Confucianism idea, as China argues that they need to "strike a balance between reform, development and stability", while Confucius saw balance as a prerequisite to development. The latter comment connects rights with balance in a way, which cannot be linked to Confucianism. Even though Confucianism do contain theory of rights; articulated by "Li", this concept is more a moral guideline to people's behavior than a right and wrong truth claim. In order to explore the usage of balance within China today, I moved beyond the Confucianism tradition.

According to Fairclough, production of values like balance, need to be understood in relation to the power regimes. According to him, the power regime within a given discourse has the ability to create moral values. And if the CCP as China's power regime, wants to create the moral value of balance, they are in position to do so, and further make the Chinese society develop. So, the argument of lack of balance as a hinder to human rights development cannot be explained by Confucianism, but rather by the CCP unwillingness to achieve this value. This analysis further demonstrates that CCPs unwillingness to create balance is also noticeable in their international policy agenda.

In order to balance power and good relations, the CCPs political approach has to be legitimate by other states. As mentioned, the CCP argues that their domestic policy is rooted in the Confucianism values of balance and harmony. Their unwillingness to achieve balance and harmony within the international human right sphere, by not accepting universal human rights, questions their relation to Confucianism. As long as globalization makes the Chinese sphere more interviewed with others, balance and harmony should also be the guiding values to this new extended Chinese sphere in order to act accordingly to Confucianism values.

The pre-existing texts also questions if the CCPs use of Confucianism values can be connected to its cultural compass or being a result of self-interests. Even though the CCP argues that Confucianism stems from its cultural compass, the adoption of this tradition has varied depending on national circumstances. During the time of Mao Confucianism was forbidden as a religious system. Although Deng reintroduced Confucianism into the school

system, it was just legal as social guidance and not as a religious thought. The restrictions, which the CCP puts on Confucianism, make the tradition being a legitimacy of self-interests rather than a footprint of its cultural compass. A culture compass, as Confucianism, is a shared tradition that stimulated the same attitude, values and goals, and do not varies upon the people in power (Brander, 2012).

As long as China's current human rights orientation is reflected by self-interests in the name of Confucianism rather than Confucianism values itself, the current freedom of expression ordination loose its power to be legitimated on the argument of cultural particularity. The following statement of China: "Given differences in political systems, level of development and historical and cultural background, it is natural for countries to have different views on the question of human rights" (United Nations General Assembly, 2009, p.13), has to be understood as a hidden agenda by the CCP to defend its policy by bringing the cultural discourse on matter.

The last values related to Confucianism, which were found by analyzing the UPR documents were those of equality and respect. China addressed these values in their 2013 national report, as they underscored the importance of "promoting the progress in social and economic development and the cause of human rights based on the principle of equality and mutual respect" (United Nations General Assembly, 2013, p.3). These comments connect Confucianism to economic development, but not freedom of expression. Social progress is by China understood, as theirs increasing ability to safeguard basic human needs as nutrition and medical care (Mok, 1999). Therefore, the terms equality and mutual respect as in the context China use them, do not implicit symbolize that China protects freedom of expression on the argument of Confucianism values. In addition, these terms are also found within the universalism stand, as the virtue of the UDHR was build upon respect to justice and equality of rights between all human beings (UDHR, 1948). Being the foundation to universal human rights, these terms are often used by other state within the UPR and cannot be argued to be Confucianism specific.

Lastly, the analysis demonstrated that the value of Confucianism is shared by other states. Vietnam recommended that China "continue its efforts in legal and judicial reforms, economic development and other areas towards promoting a harmonious society, democracy, the rule of law and human rights" (United Nations General Assembly, 2013, p 13). Cape Verde emphasis balance as they, - "acknowledged significant progress in economic and social rights. It encouraged the best possible balance between change and stability" (United Nations General Assembly, 2013,p.6). On the value of harmony, "Indonesia

commended the Government's efforts to promote harmony and understanding among these communities as well as within the different religious groups (United Nations General Assembly, 2009, p.18). Other states taking on the same values as China, and at the same time holding a better freedom of expression orientation, makes China's justification of current freedom of expression orientation on the argument of Confucianism fragile.

6.7.1 Concluding remarks

Essential, China's performance within the UPR forum and pre-existing texts demonstrate that China's fails to connect the Confucianism tradition to its current freedom of expression discourse. Confucianism related values are used to defend and explain their human rights orientation in general, but not the specific freedom that thesis focus on. When Chins use Confucianism related values within the UPR, this thesis demonstrates that they are used to defend self-interest by the CCP. The way the CCP use the Confucianism tradition to defend self-interests underscores that China's current freedom of expression orientation cannot be a mirror of truly Confucianism values.

The values that China argues to relate to the Confucianism tradition are rather being specific Chinese, as other non-western states take on Confucianism related values within the UPR. The states that relates to Confucianism values within the UPR, have a better name within the freedom of expression discourse than China. These states underscores that Confucianism is not an obstacle to freedom of expression improvement.

6.8 The argument of authoritarian regime

The pre-existing text demonstrates that China's political compass is very different to that of the west. As long as political regimes affect the legitimacy of human rights norms, China's political compass has been analyzed as holding a potential connection to current freedom of expression orientation. When I analyzed how China relates its political compass to current freedom of expression orientation, I was struggling to find a clear-cut connection. When analyzing the UPR document, I explored that China totally omits it's politically past and rather focus on its current political system.

China underscores its current political system as moving towards a western orientation in the sense of: “Deepening political restructuring; expanding citizens’ orderly participation in political affairs, improving democratic institutions, diversifying the forms and expanding the channels of democracy; holding democratic elections, further developing the process of democratic decision-making, democratic administration and democratic oversight, guaranteeing the people’s rights to be informed, to participate, to be heard and to oversee; gradually adopting the same ratio of deputies to represented population in elections to people’s congresses in urban and rural areas” (United Nations General Assembly, 2008, p. 6). Further, in the 2009 circle China, explained how a political restructuring and improvement of democratic institutions have resulted in a “Chines-style of democracy”. “A Chinese-style of democracy is characterized by democratic election, democratic consultation and democratic self-government” (United Nations General Assembly, 2009, p.4). However, the Chinese-style of democracy mismatch with both the western democratic model and the political values found within China’s political compass. The mismatch makes “a Chinese-style democracy” take a middle ground position, that neither gets support by universalist or cultural relativists, and more importantly, cannot justify China’s current freedom of expression orientation.

When I was exploring China’s authoritarian history, I also included the Confucianism values of order and control. As the CCP applied these values to its current freedom of expression orientation, I was exploring how they could be linked to China’s political past. Important is the fact that Confucianism thoughts are not naturally authoritarian, but its focus on hierarchy requires an authoritarian political system. Essentially, how Confucius and China today applied and use the authoritarian system is found to be rather different.

While, Confucian saw the authoritarian system as an important mechanism to create order and control by using soft power, the CCP use authoritarianism to justify the use of human rights violations. The CCP different interpretation of Confucianism ideas makes them unique in the sense of- never seen before, rather than something cultural distinguished. United States of America was one of those states that recommended China to stop controlling peoples right to freedom of expression by taking to human rights violations, - “End the use of harassment, detention, arrest, and extralegal measures such as enforced disappearance to control and silence human rights activists as well as their family members and friends” (United Nations General Assembly, 2013, p.20). The mismatch between Confucius and the CCPs interpretation of the notions “order” and “control” detaches China’s freedom of expression orientation from its political compass.

Another important value of the Confucianism tradition, which could be linked to China's authoritarian system and further current human rights orientation, is the exclusion of juridical rights. The Confucianism tradition took on the cosmic law of "li", which was a guide to social appropriate behavior between humans and humans and the nature. And when everyone acted according to "li", the society would be achieved with social order. In the analysis, the argument of "maintain social order" as an argument to explain current freedom of expression orientation was not found, neither was "li". If the concept of human rights had been argued to hold other values, China's different human rights discourse would have been more understandable. Shortcomings in national law could have explained China's human rights orientation. The UPR is a forum to connect, engage and find solution to human rights problems. As long as China omits the reasons behind their problems, it would be difficult to the international community to find a solution that would be anything that another western hegemonic human rights agenda.

Essentially, the fact that these terms are not used within the UPR, mismatch to the finding from the social practical dimension of Faircloughs model, - that of the pre-existing text dimension. This mismatch leads to the conclusion that these values are not the underlying premises of China's discursive freedom of expression practice.

When China argues that "li" and "maintaining social order" are the guidelines to its authoritarian preferred values, this thesis questions its exclusion of democratic values. Leaders acting upon "li" should promote national interests and exclude self-interests. When self-interests are excluded, leaders include their people in decisions regarding national interests and leadership election. China argues that they promote national interests in terms of economic development. But why does the Chinese leaders take such a control, and hinder people from leadership election and questions on national interest, when they argues that people are happy with the situation.

By applying the second dimension of Faircloughs model to the UPR documents, I demonstrate that the production of UPR documents itself do not hinder China to address their authoritarian past. Sri Lanka connects Mao to current time by stating "60 years previously Mao Zedong announced to the world that the Chinese people had stood up, expressed pride that today the Chinese people are standing ever taller" (United Nations General Assembly, 2009, p.10). Sri Lanka's assessment of Mao, demonstrates that states are in position to link political past to current time within the UPR if they want to.

6.8.1 Concluding remarks

The analysis on China's performance within the UPR demonstrates that the CCPs preferred authoritarian values are not a footprint of its political compass. The analysis of pre-existing materials demonstrates that China takes on values as "order", "control", that has a long tradition within China authoritarian past. But today, these values are upheld to justify human rights violations instead of maintaining its true objective-, harmony. In addition, in my attempt to explore the relation between China's political system without juridical system and freedom of expression, I was searching for China's assessment of this relation within the UPR.

Within China's national report, which addresses the background of the state under review and its framework to protect and promote human rights, their reasons behind current human rights orientation was not addressed, rather than being "different".

6.9. The argument of collectivism

The analysis of the UPR documents does not find a link between collectivism and China's current freedom of expression discourse. Within the pre-existing text in contrast, collectivism is by China argued to be one of those notions that impact its current freedom of expression orientation. By applying Faircloughs model, my analysis explores the mismatch between China's right discourse and the general discourse on Chinese particularities.

In the national report of 2009 China stated that the UN should "promote the coordinated development of individual and collective human rights" (United Nations General Assembly, 2009, p.5). China have also by the Bangkok Declaration underscored the importance of collective rights. However, as fare as the UPR reports and Bangkok Declarations indicates, China do not link collectivism to freedom of expression, more than arguing that the collectivistic nature of China needs collective rights.

The collectivistic orientation of the ICESCR has been argued to be the reason behind China's ratification of the Covenant. The ICESCR guarantees people the rights to self-determination, which further make people, decide their own social and cultural development grounded on an individual or collectivist foundation. China's comments within the UPR, its active role in the formulation of the Bangkok Declaration and it's signing of the ICESCR underscores a collectivistic orientation over human rights. But at it's best, this statement just

confirms that China takes a collectivistic orientation over human rights, and not how its collectivistic orientation affect current freedom of expression policy in detail. If China connect between the basic elements of collectivism, and China's current freedom of expression discourse to its compass, there will be more likely that their current freedom of expression orientation can be justified on the argument of collectivism. In the searching for the relationship between collectivism and China's political compass, the activity of censorship is also analyzed.

Censorship can also be linked to collectivism and further to the value of harmony. People in a collectivistic oriented society base their behavior on what is best for the society as a whole. Both peoples use of self-censorship and Governments use of censorship can be understood as activities that have the objective of collective gain. The collective gains, is further being that of harmony.

Confucius did not explicit address the issue of censorship, but he argued that people have the right to remain silence and that Governments are allowed to do what they need to maintain harmony. On the right to remains silence, this right is seen by how Chinese use self-censorship today. However, as long as self-censorship is the result of people being under threat of punishment, it becomes detach from the understanding of Confucius and a result of how rights are lost rather than guaranteed. When Confucius argued that the Government had the right to do what was best to the society, this right did not include the right to use punishment as imprisoning or physical violence, but rather negotiation and soft power tools with those involved. On Confucius argument of "being in power to maintain harmony", the Chinese Government argues that the main purpose of censorship is to maintain harmony and by such act according to the guidelines of Confucianism. However, the way the Chinese government practice censorship has created massive demonstrations, both domestically and globally. These demonstrations have leaded to different camps over human rights and created imbalance of power, - between those supporting the CCP and those supporting free speech guaranteed in the UDHR. This unbalance is being harmful to the national harmony, and by such self-contradict to what the CCP argues to be the aim of this activity.

The way China use censorship is further questioned within the UPR reports of recommendations by other states. These reports demonstrate that China rejected recommendations that wanted to end censorship. Austria recommended that Chins should improve their situation so "all persons including bloggers, journalists and human rights defenders can freely exercise their right to freedom of expression, online as well as offline, without fear from censorship or persecution" (United Nations General Assembly, 2013, p.23).

Austria further recommended China to “Take steps that all persons including bloggers, journalists and human rights defenders can freely exercise their right to freedom of expression, online as well as offline, without fear from censorship or persecution” (United Nations General Assembly, 2014, p.11), both of which were rejected. In order to end censorship, China need to admit that they use this Government imposed limitation over freedom of expression. China argued that: “on freedom of speech and expression, the delegation noted that China’s law provide complete guarantees. The Government encourage the media to play a watchdog role and there is no censorship in the country” (United Nations General Assembly, 2009, p.17). As mentioned, the watchdog role of the media plays a monitor role by the Government, more than being a safeguard of maintain collective interests.

The Chinese Government argued needs to watchdogging was underscored by the acceptance of Iran’s recommendation, - on strengthening Internet Governance to ensure the web content. By acceptance, the recommendation of Iran makes China in position to limits freedom of expression further by using censorship. A preferred position, which was confirmed through China’s national report. China argued that the Government is responsible to crack down cyberspace activities and that it has taken action to control criminal activities online. The problem lies on the fact that the CCP has formulated the definition of criminal activities, and that this definition is not public known. Meaning that the CCP could use the argument of “crack down cyberspace in line with collectivistic values” to protect their own interests. In addition, the CCP fails to address whose interest are served by controlling criminal activities online, which further hinder censorship to be linked to collective gain.

Another important point is that of how the pre-existing text demonstrates that the Chinese government hinder individual values developed within the Chinese society, and make collectivism a indoctrinated value more that a choice by the people or a mirror of a cultural compass. During the 30s, Chinese educated in the west, brought back the notion of individualism as they saw how individual oriented society in the west has achieved people with social welfare. When arriving China, these ideas were hindered to cultivate by the Government, on the argument of, - breaking down harmony that would further hinder economic development. Western individual oriented states have enjoyed such an economic development since the Second World War that peoples have described as a miracle. These states have proved that while moving towards individual and private enterprises, they are still able to enjoy economic growth (Crowley & Ost, 2001). The same goes with Asian countries like India and Indonesia that endorse a balance between economic development and individualism values at a greater degree.

6.9.1 Concluding remarks

The pre-existing texts demonstrate that collectivism has been an important value within the Chinese society and continues to be. By applying Fairclough's model, this thesis demonstrates that the mismatch between China's rhetoric within the UPR on the notion of collectivism and the social practical discourse. Both the use of censorship and the way people are threatened to censor themselves oppose to the way Confucius created a collective harmonious society. As long as the CCP creates the cultural value of collectivism the way they do, Chinese do not know what another way of living is like, and will feel that this way of living is unique compared to other countries taking on individualism values. But in the end, this uniqueness is just created by the CCP and not a mirror of China's cultural compass.

6.10 The Emphasis on the ICESCR

The pre-existing texts demonstrate that China views economic rights before other human rights such as freedom of expression. Further, according to China, economic success is the precursor to an ICCPR implementation. On the question of when an implementation of ICCPR will take place, China argues that they still "is a developing country. Although its total GDP ranks among the world's highest, the country still ranks well below 100 in terms of per capita GDP" (United Nations General Assembly, 2008, p.18). By relating the implementation of ICCPR to economic development, China argues that human rights is a step-by-step process and that the reasons behind their emphasis on ICESCR over ICCPR is that they have not yet reached such a high economic standard that other human rights implementation can be made.

China achieves international recognition for its impressive economic development, which they justify by just looking at the economic numbers, deserves. However, by just looking at the economic numbers that indicate that 600 million people have been lifted out of poverty, it is easy to forget about the 50 million that have died from the CCP rule (S. Jiang, 2016). A central question, which China needs to answer, is how many more that need to suffer from its authoritarian system, before an implementation of civil and political rights will be made. A first thing to do would be to recognize all rights as having equal value and making the human rights implementation linear, rather than a step-by-step process.

This analysis was made in the aim of exploring how China addressed their priority on economic within the UPR and to what extent this priority is determined by its past. The

analysis of the UPR documents demonstrated that China take a step-by-step-approach, and underscores that they are in the process of ratification: “A joint-meeting mechanism consisting of departments involved in plan drafting is put in place to supervise and review the implementation. On the recommendation of creating conditions for an early ratification of International Covenant on Civil and Political Rights, China makes a pledge in the National Human Rights Action Plan that it will continue pushing forward legislative, judicial and administrative reform to bring domestic laws in line with the Covenant and create an enabling environment for its ratification” (People’s Republic of China, 2009, p.2) and further that: they are in the process of creating a condition for an early ratification (United Nations General Assembly, 2009).

The analysis of the UPR document further demonstrates how China put more weight on “the rights to economic development” over other human rights, as they argues that they, - “(...) takes the furtherance and protection of the right to subsistence and the right to development as first principles. It coordinates and promotes the safeguarding of civil, political, social, and cultural rights as well as the rights of special groups, develops a broader, fuller and sounder people’s democracy, and comprehensively promotes the coordinated development of rights of all kinds” (United Nations General Assembly, 2013, p.3). China also underscored that the emphasis of economic development is not something specific Chinese, and further that they wanted to share their expertise: “To better realize the right to development, China is actively sharing its experience and practices in the areas of poverty alleviation, development of education and health, economic development promotion, and governance with other developing countries, assisting recipient countries to improve their self-development abilities, and promoting economic development and social progress in recipient countries” (United Nations General Assembly, 2013, p.18). The importance of sharing experiences is also recognized by The Vietnam as they “(...) recommended that China share with the international community an experience in promoting the right to development and poverty reduction” (United Nations General Assembly, 2009, p.13). These statements demonstrate that “emphasizing economic rights” is not something particular Chines, as both China itself and Vietnam shared the same priority. In my analysis I also included other states than Vietnam to explore if economic priority was a shared norm within the UPR, and if such, this priority would be less specific Chinese.

Other states like India, Nepal and The Islamic Republic of Iran were supporting and encouraging China to continue focusing on economic rights, - India: “Continue to promote economic development in ethnic minority regions and strengthen their capacity for

development” (United Nations General Assembly, 2013, p.26), Nepal; Continue promoting economic development in all regions and strengthening their self-development capacity” (United Nations General Assembly, 2013, p.26) and “The Islamic Republic of Iran commended China’s strong commitment to human rights, welcoming its openness in addressing human rights issues, as well as its impressive economic development during the last three decades and significant advancement in Chinese people’s enjoyment of all human rights” (United Nations General Assembly, 2009, p. 16). However, it is important to underscore that by supporting China’s economic development, states do not automatically excluding the importance of an ICCPR implementation. In addition, the analysis further demonstrates that even though China’s receive support on its economic rights orientation, within the UPR, they receive even more recommendation to implement political and civil rights.

The analysis found that both western and non-western states recommended China to implement the ICCPR. On the question of ratification, Republic of Korea recommended China to “Expedite the efforts to ratify the ICCPR” (United Nations General Assembly, 2013, p.14), “Jamaica noted the pursuit of necessary reforms to ratify ICCPR and encouraged China to strive for its early ratification” (United Nations General Assembly, 2013, p.8), “Slovenia encouraged ratification of ICCPR and integration of its provisions into domestic legislation” (United Nations General Assembly, 2011, p.13) and Brazil recommended China to “Ratify as soon as possible ICCPR” (United Nations General Assembly, 2013, p.14). In addition, western states as Norway, Denmark and Germany, looked beyond China argument of economic development as a first principle and called for implementation. In the end, the analysis demonstrates that a dichotomy exists over the rights to economic development between China and “the rest”. Even through Asian states did not explicit argued that the rights to economic development should triumph other human rights, these states have by a implementing the ICCPR demonstrated that the rights to economic development can perfectly cohere with civil and political rights. The same argument goes for the other states that also called for an implement of the ICCPR, as they also combine economic development with civil and political rights.

By analyzing the UPR documents I demonstrates that China argues that the right to economic development is trumping other rights. This discussion is further foundered on the problem, which I now turn; China’s rights to justify their emphasis on economic development on the argument of its different compass.

On this thesis attempt to move beyond the fact that China priorities economic rights over other human rights, and explores the reasons behind this stand, this thesis looked for how this priority could be connected to China's collective orientation. Collectivism is connected to economic rights as being the foundation to the Chinese collective orientated production and distribution system, and how economy is being something central controlled and planned by the Government. China's collectivistic orientation has made peoples accept the CCPs policy of economic, as it is argued to serve collective gain.

Today, the Chinese sphere cannot be argued to be purely collectivistic. Economic development has made China turning towards a more individualistic sphere. This tendency follows my basic assumption of, - when societies reach the industrial modernization, the advantage of collective work start to drop. The society starts to realize that individuals are more efficient in terms or processing more recourse, and the citizens realize that they need to be more individual and independed from the state to achieve their goals. This is seen in China today, as more private enterprises, peoples educated and travel abroad than ever before and the youth are sending their parents to elderly care. Therefore, China's collectivistic orientation does not have the same power in the Chinese sphere today.

In addition, within the UPR China addressed that economic rights are being number one priority, but fail to link this assumption to its cultural, political and historical compass, and make their justification of current freedom of expression orientation on the argument of "emphasizing economic rights" fragile. In the searching for the connection between past and current time on the issue of economic priorities the analysis discovered that China argues that: "The international community should respect the principle of the indivisibility of human rights and attach equal importance to civil and political rights and economic, social and cultural rights as well as the right to development" (United Nations General Assembly, 2008, p. 5) and that China delegation "thanked all the countries concerned and The United Nations agencies for their assistance in economic development, poverty alleviation and efforts to achieve the MDGs" (United Nations General Assembly, 2009, p.15). At it's best this statement is just emphasis China's economic priority, rather than move beyond the narratives and answer the question of why China holds such a priority

6.10.1 Concluding remarks

The analysis of the emphasis, which China puts on economic rights, demonstrates that this current agenda cannot be linked to its historical past. China's collectivistic orientation, which have been the foundation to its economical orientation of today, and the reason behind the emphasis on economic rights over other rights, do not hold the same power within China today. The economic growth has made China turning towards individual values. In addition, China's economic priority was supported by other states, which makes this particularity less Chinese. On the searching for other values explaining China's priority, this connection was neither found by analyzing the UPR documents. The connection between the China-Un discourse and social structure has therefore to be found by implementing others values.

7. Conclusion

This dissertation explores the current dichotomy between China and the UN on the issue of freedom of expression. It seeks to respond to the question of whether or not China's current freedom of expression orientation can be justified on the argument of historical, political and cultural particularities.

As the theory and my findings from the analysis demonstrate, the dichotomy between China and the UN is concrete and has resulted in a different interpretation and practice of freedom of expression. However, the particularities that China claims are the narratives behind its current freedom of expression, such as Confucianism, collectivism, the long history of authoritarian regime and ICESCR, do not strongly shape its current freedom of expression orientation. They are proven not to be uniquely Chinese; these values apply to other non-western states as well.

The CCP uses the value of Confucianism in a self-interest manner rather than in the same agenda as Confucius. The analysis on Confucianism also demonstrates that other non-western states adopt the same values on the question of human rights. In addition, other states like Taiwan have a tradition of Confucianism, but have moved in direction of a universal human rights orientation. Taiwan is by such evidence of culture as an evolving process and that Confucianism is not a hindrance to implementing- freedom of expression.

The particularity of collectivism, in the way the CCP assesses it, does not have a link to China's current freedom of expression orientation. In a collectivistic society, people base their behavior on what is best for the society. When the CCP argues that they use censorship to create collective gain in terms of harmony, this thesis demonstrates that the CCP uses censorship for its own self-interested gains. Censorship- and the threat the Chinese feel to censor themselves, opposes the way Confucian created a collective harmonious society. The same argument of self-interests explains the particularity of authoritarian regime.

The CCP promotes values like "order" and "control", which have a long tradition within the Chinese authoritarian past. But today, these values are upheld to justify human rights violations instead of maintaining its true objective- harmony. In addition, this thesis demonstrates that China's authoritarian past without a western juridical system does not affect China's different freedom of expression orientation. Within the UPR, China argued that its authoritarian past was different to the political history of the west, but not having an explicit influence of current freedom of expression orientation.

On the last particularity, being that of the ICESCR, this thesis demonstrates that this value cannot be linked to China's historical past. China's collectivistic orientation, which is foundation of its economical orientation of today, and the reason behind the emphasis on economic development do not hold the same power today. Economic growth has pushed China to embrace individualistic, rather than collectivistic values. The fact that this value of economic rights applied to other states as well, make this priority less Chinese.

Ultimately, this thesis concludes that China's historical, cultural and political particularities do not justify how China limits and controls the freedom of expression of its citizens.

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