

Human Rights in China: Beneficial or Threatening?

China's Assessment and Implementation of Human Rights

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Abbreviations

ACFTU	All-China Federation of Trade Unions
CP Rights	Civil and Political Rights
CAT	The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
DIHR	Danish Institute for Human Rights
ESC Rights	Economic, Social and Cultural Rights
GMD	Guomindang, the Nationalist Party
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
NGO	Non-Governmental Organization
NPC	National People's Congress
PB	Political Bureau
PBSC	Political Bureau Standing Committee
PLA	People's Liberation Army
SCIOC	State Council Information Office of China
TFD	Taiwan Foundation for Democracy
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNHCHR	United Nations High Commissioner for Human Rights
USSR	Union of Soviet Socialist Republics

1 Introduction

1.1 *Focusing on Human Rights in China*

In terms of population, the People's Republic of China is the largest country in the world with its overall 1.4 billion citizens (Peerenboom 2007: 121). China has experienced what has been perceived as a miraculous economic rise. This has led many to believe that China will be the next superpower alongside the United States of America. Historically, China was a country overflowing with riches, bringing the world several important inventions. A fascination for this country, and an eagerness to experience and understand contemporary China, was part of the motivation I had for focusing on China in my research. Conducting a field work during the Paralympics, I experienced Beijing at its best, while also getting a glimpse of how things work beneath the shiny surface.

China, after having opened itself to the world from the beginning of the 1980's, suddenly found itself having to relate to a concept of human rights again,¹ which most of the rest of the world seemed to have accepted as good and true, even universal. Criticism, in regards to China's human rights policies and practice, became more frequent. They often came from human rights organizations like Amnesty International and Human Rights Watch, or from the United States and other Western countries. The focus on human rights in China increased particularly after the Tiananmen Square incident June 4th 1989. The situation in Tibet also led to an additional focus. In the recent Beijing Olympic Games 2008, China experienced great attention and pressure from the outside world concerning the human rights situation, as the whole world had its eyes fixed on China. The Olympic Games, however, did not appear to lead to much change with regard to human rights, and some would even argue that matters became worse (Dagsavisen 2008; Gao 2008: 10).

My motivation for going through with a research, and for writing a thesis on this subject, was an eagerness to comprehend the factors leading to this supposed lack of human rights, as well as to identify the Chinese Communist Party's reasoning in regards to this matter. China will, in all likelihood, be a power of tremendous influence in the world for decades, perhaps centuries, to come. Having one fifth of the global population, their stance on human rights and how they choose to deal with them, will be of great importance for the

¹ Human rights were much debated in China before the CCP came to power in 1949. See De Bary and Tu 1998 for more information.

promotion of human rights worldwide. Also, writing a thesis on this issue will provide a chance to go deeper into a Chinese human rights view that is somewhat different from the Western one. A Chinese approach that may challenge the existing human rights regime, could generate intercultural discussions that may either strengthen or weaken the UN's influence on interpreting human rights. This thesis will further grant a chance to observe how the Chinese political system is responding to a constantly globalizing world, having to juxtapose Marxist ideology with liberal thought. Finally, it is an opportunity to enter another culture, political system, tradition, and way of thinking, a process that inevitably challenges ones own thoughts and necessitates re-evaluation of previously held views.

1.2 *Aim of Thesis*

The aim of this thesis is to go deeper into China's understanding and evaluation of human rights. The third chapter's main focus is to present the views of the UN and China on human rights, respectively, to get a background understanding of these views, and to identify the arguments that are used. The aim of the fourth chapter is to present China's political system, its official ideology, and relevant political concerns, to be able to observe the impact these elements have on the Chinese assessment and implementation of human rights. The aim of the last chapter is to discuss the findings in chapter 3 and 4, and to reach a final conclusion to the research questions that will be presented below.

One assertion of mine, which we will investigate further in this paper, is that the CCP has overriding concerns that prohibit the authorities from implementing parts of the human rights articles in the Universal Declaration of Human Rights. I wish to evaluate whether the Chinese assessment on human rights indeed depends on the level of threat they pose against the position of the Chinese Communist Party. My assertion is thus, that those human rights that are perceived as threatening to the CCP will be rejected, and no implementation will be promoted or encouraged from Chinese authorities. Pressure from abroad, involving these specific rights, will therefore be rejected. However, those rights that are perceived as beneficial or non-threatening by the Chinese Communist Party will not face insurmountable difficulties in its implementation, and may also be encouraged by the authorities. Thus, concerning these rights, pressure from abroad can lead to significant improvements. Through such an analysis, one should be able to better understand the stand-stills in the implementation of certain rights. This could perhaps, at a later time, be an opportunity for another study,

researching what kind of strategy would be best for promoting human rights in a regime that has overriding interests limiting the possibilities of certain human rights.

1.3 Previous Research

One might assume that not having the opportunity to read literature written in Chinese, one loses out on an important aspect of the human rights discourse within China. However, the topics of Chinese society, its economic rise, as well as its human rights situation, are well documented in literature written in English. Also, many government papers on human rights, as well as other Chinese documents, are translated into English, limiting the disability in this area.

Chinese politics, society, and culture, are subjects that are covered widely in academic literature. Confucianism and human rights are thoroughly discussed through several articles in de Bary and Tu's book, *Confucianism and Human Rights*. These articles take up the debate on whether Confucianism and human rights are compatible (De Bary and Tu 1998). The question of how to understand human rights, especially in relation to Chinese tradition and culture, is covered in Angle (2002), Bell (2006), Peerenboom (2007), Svensson (2002), and Zhao (2000a). Bell and Peerenboom are rather critical towards the current Western understanding of human rights and democracy, whereas Mahoney and the articles in Zhao oppose a particularistic interpretation of human rights. Zhao, in his book *A Nation-State by Construction*, also provides a good presentation and evaluation of nationalism in China (Zhao 2004). On human rights, specifically, Bergem, Karlsen, and Slydal (2004), Høstmælingen (2005), and Mahoney (2007), are important sources that broadly present the history of human rights, and also describe how the human rights regime works today. Sandström (2005) explains how the ideologies of Humanism and Marxism came to life, and the essence of these systems of thought. For readings on the Chinese political system, Professor Bruce Gilley and Professor Susan L. Shirk are excellent sources (Gilley 2004; Shirk 2007). The book *Chinese Society*, edited by Perry and Seldan (Perry and Seldan 2000), describes the Chinese society on a grassroot level and the many challenges that remain to be solved. Confucianism is well covered by the aforementioned de Bary and Tu (1998) and Rongen (1988). Newspaper articles along with articles found on the Internet have also provided access to relevant information on several subjects. Feng (2008) and Gao (2008), for example, have published articles giving good insight into the Chinese political opposition and contemporary politics.

Government White Papers and other relevant documents are also easily accessible on the Internet (as the Bangkok Declaration 1993; SCIO 1991; 2001; 2005).

Although much has been written on this subject, my hope is that my experiences and insights from my stay in Beijing, combined with written sources, will lead to a unique contribution providing insight from a different angle than those which have been presented before.

1.4 Research Questions

The methodological chapter, chapter 2, will describe how the data for this paper was collected, and how the field study was conducted. It will also include an assessment on different issues a researcher must be aware of in performing a research in a country with a different culture than his own.

Following are the two research questions that will be the focus of this thesis:

How does China relate to the United Nations interpretation of human rights through the Universal Declaration of Human Rights? What role do political concerns play in the process of implementing human rights in China?

One of the fundamental arguments in China's rejection of the UN's concept of human rights is related to the first research question. China argues that their acceptance of human rights must be deeply connected to the particular cultural, historical, and developmental situation. The Western view on human rights is considered deeply rooted in the Western cultural heritage, and therefore appropriate for the West, but not for China. Since the UN's view promotes human rights as universal, while China thinks of them as particularistic, it is natural that we in the final discussion also discuss these two views. One may find differences in views on human rights among Western states as well, and this paper will therefore be using the UN's interpretation of human rights found in the UDHR, as a standard for the "Western view." Thus, in chapter 3, we will firstly clarify the concept of East and West, after which we will, secondly, go into the dynamics of Chinese culture and human rights, focusing on Confucianism, the concept of 'face', and the Chinese concept of human rights. Thirdly, we will take a look at the history of human rights, both before and after the Universal Declaration of Human Rights. We will then end the chapter by, fourthly, presenting China's and the UN's

view on human rights, respectively. This should provide an understanding of the differences between both the UN's and the Chinese assessment of human rights.

The answer to the second question, presented in chapter 4, will deal with the role of Chinese politics in the human rights process. Firstly, we will identify different groups in Chinese society that may have different interests and assessments on human rights than the Chinese Communist Party. Secondly, we will go into different important issues concerning the political situation in China, presenting Marxism-Leninism and current political principles. Thirdly, we will take a look at nationalism, and the influence it has in Chinese society today. Fourthly, we will go into the authorities' goal of upholding stability in the country. Finally, we will attempt to identify and discuss rights that may be beneficial for the CCP, as opposed to rights that may be perceived as threatening.

In chapter 5, the conclusionary chapter, a summary will be given of the findings thus far, before moving on to discussions and final conclusion of chapter 3 and 4.

1.5 *Delimitation*

Although these research questions open for quite an extensive paper, we will delimit them as to provide an in depth presentation and discussion of the issues at hand.

In chapter 3, discussions will be limited to include the main arguments presented by the UN on the issue of human rights, and to China's response and interpretation. It would have been possible to include other views as well, for example the views of Muslim countries on human rights, giving a more comprehensive discussion, but this is not within the frames set forth in this paper. The philosophical and pragmatic aspects of the UDHR's claim that human rights are universal will therefore be presented and discussed based solely on the UN's and China's view on the matter. The philosophical discussion on human rights as universal or particular is a big issue. To stay within the scope of this paper, no attempt will be made to prove that human rights are universal. This issue will therefore only be discussed to the extent necessary for providing a sufficient explanation for how the two views presented by the UN and China are justified. A discussion beyond this should be left to a thesis which can go more in depth into the debate over the universality of human rights. The aim of this paper is rather to compare the views of the UN and China, and to discover which aspects are problematic, and which might be reconcilable. When discussing Chinese culture and human rights it is possible to include many different elements of Chinese culture. This paper will, however, limit itself to

including Confucianism, the concept of ‘face’, and the Chinese human rights concept. The reasoning for choosing Confucianism is that the Chinese authorities themselves are in the habit of referring to Confucianism when talking about Chinese culture and human rights. We will not go into depth on Confucianism either, but focus on the most relevant arguments that are promoted in this debate. The concepts of ‘face’ and ‘*renquan*’ (human rights) are presented because these are important elements for understanding the Chinese behaviour in the international human rights discourse. I have chosen not to focus on Daoism. The reason being that Daoism, although tradition-wise still alive in China today, has less to contribute to debates on political and ethical issues, this due to its anarchistic teaching. Legalism, which is another traditional teaching with a certain historical influence in China, will not be presented either. Being more of a reaction to Confucianism, this teaching held forth that all governance should be based on punishment and reward, not on virtues, as Confucianism does (Rongen 1988: 42).

In chapter 4, dealing with political concerns in relation to human rights, we will delimit ourselves to including the elements of Chinese politics that we consider most relevant for the human rights situation in China, since political concerns and considerations may be many. We will not include political concerns on a lower political level than within the top level of the Chinese Communist Party, the government and the state institutions. In section 4.2, Maoism, which was a central ideology during the reign of Mao, is left out. Maoism has limited influence in China today, and will therefore not be presented. I will however describe in short Marxism and Leninism, together with other relevant political principles that have had a greater impact on Chinese politics. The same goes for the sections presenting nationalism and the focus on social stability. These descriptive sections will be used as background information for providing a better understanding of the factors which are important for the Chinese assessment of human rights. In the end these sections will form the basis for the discussions in section 4.5 and chapter 5.

2 Methodology

2.1 Collection of Data

In my research period in the autumn semester of 2008 I conducted a documentary study, a field study, and an exchange study in a Chinese university. The field study in Beijing lasted from September 2008, until the end of November 2008. With a few exceptions, written sources are the main source of this paper, whereas field data are used merely to provide a more comprehensive understanding.

The aim of my field study in China was to get a sense of Chinese society in general, not to focus specifically on human rights issues. I wanted to get an understanding of Chinese culture, religion, and politics, as well as other important aspects that would be helpful in my analysis on the human rights situation in China. For issues concerning human rights, I decided to let the written sources form the basis, although experience during the fieldwork gave me some insight into this area as well. Thus, sections 3.2.2 and 4.2.4 in this paper are mostly based on data gathered during the field study, whereas in the other sections of this paper, field data is only used as background information. By going to China and getting a physical closeness to the society about which I was writing, I could move beyond the mere theoretical approach to the issue, and get an important addition to my research.

Observations were a central part of data collection during the field study. A daily field diary was kept, recording observations that could be of relevance and interest to my research. Also, I attended classes in Chinese and in Chinese culture at the Beijing Language and Culture University. From this, and from interacting with Chinese people and foreigners in daily life situations, I gained useful contributions. The interviews that were conducted contributed particularly to three topics, namely Chinese culture, religion, and the Chinese government's human rights discourse with other countries. The interview guides that I prepared were used in formal interviews with one university professor, a few students studying in China, and a diplomat working in China. For purposes of anonymity, not all interviewees will be listed in the bibliography. Studying Chinese culture included learning about the Chinese way of thinking, Chinese values, and important concepts like 'face' and

'*guanxi*'.² In addition, documentary sources were central in the field study, including Chinese newspapers published in English, Internet publications, personal blogs and online discussion forums. Overall, the documentary study included the books and articles mentioned in 1.3, along with the other sources that are mentioned in the bibliography.

To sum up, the data collected in the field study mostly concerned Chinese society in general, as well as data on China's international discourse on human rights, characteristics of Chinese culture in China today, and Chinese religion and philosophy. Information on Chinese politics, human rights papers, Confucianism, democracy, Chinese nationalism and other human rights subjects, were mostly based on theoretical studies.

2.2 Reflections around the Role as a Researcher

According to Hammersley and Atkinson (2007: ch. 4) there are many different roles a researcher may choose, or be forced into. My experience was perhaps one closer to the latter. As a white European male, I am by most Chinese easily put in the role of foreigner, or often "American". Of all the "ascribed characteristics" (Hammersley and Atkinson 2007: 79) I had, being Caucasian appeared to be the most important. Using Hammersley and Atkinson's terms, my role was perhaps closest to "observer-as-participant" (Hammersley and Atkinson: 82), as I was living and participating in the Chinese society as a foreign student. This role provided different opportunities. For example, Chinese people often expected that I, as a foreigner, would be critical towards China. They were therefore not afraid to discuss issues they were concerned about, even sensitive ones. At other times though, people had a defensive approach towards me, apparently not feeling secure enough to talk openly.

One should bear in mind the differences in thinking when studying another culture. As a Norwegian, or more broadly, as a Westerner, I come from a tradition with different perspectives and values than the Chinese. This may lead to misinterpretations, as observations and experiences may have different connotations in the foreign culture than at home. Svensson points to the fact that different cultures may have different understandings of a concept (Svensson 2002: 6-7), as the Chinese concept of 'human rights' shows us. 'Human rights' are often translated '*renquan*,' which may in reality be understood as a concept closer to human 'power' than human 'rights'. In this way, there may be negative connotations

² The concepts of 'face' and '*guanxi*' will be introduced in section 3.2.2 and 4.2.4, respectively.

connected to the expression, as power can be interpreted as more threatening than rights (Ching 1998: 70-71). We will look at this concept in 3.2.3.

Historically, especially in the colonial period which will be mentioned later in the paper, Asia was looked at in a prejudist manner. Such perspectives are still present in some academic circles (Narayan 1997: ch.2). Narayan lists different approaches that could be problematic for Westerners when studying non-Western cultures today. These are all based on what she calls the anthropological perspective, which she summarizes with two imperatives: “‘It is important for mainstream Westerners to take an interest in Other cultures,’ and ‘It is important that this interest not involve moral criticism of Other cultures by mainstream Westerners’” (Narayan 1997: 125). In her experience, this is something which often occurs when Western researchers put another culture under scrutiny. Although a researcher may experience feelings of historical guilt, or worry that he might be accused of ethnocentrism, he should make a conscious attempt to prevent such sentiments from having an impact on the research paper (Narayan 1997: 124-127). At the same time, although applying a cultural relativistic approach when conducting one’s fieldwork and gathering data, it is not problematic if the researcher takes a position in the discussions.

I will now mention some aspects that might influence a Westerner in a country like China. Firstly, I was now in an officially communist country with limited civil rights. The freedom of speech and the freedom of religion are examples of rights that a Westerner normally takes for granted in his or her home country. Experiencing the opposite, sometimes led to feelings of insecurity and unease during the field study. Such feelings may have an impact when later analyzing and assessing the same society. Hammersley and Atkinson write that

It is only through watching, listening, asking questions, formulating hypotheses, and making blunders that the ethnographer can acquire a good sense of the social structure of the setting and begin to understand the culture(s) of participants. (Hammersley and Atkinson 2007: 79)

The reader should be aware that it is difficult to gain an adequate emic perspective of Chinese society by staying in Beijing for three months. Also, although earnestly attempting to analyze the issues at hand objectively, there is the possibility that values or beliefs may unconsciously influence the results. This is, of course, something I will attempt to avoid. I have as far as possible attempted to put myself in the position of China, the UN, and other actors referred to in this paper. In any case, there are also advantages to studying an issue with the eyes of an

outsider. By observing phenomena from a different point of view than ethnic Chinese, one might notice significant aspects that would not be considered peculiar for Chinese people.

3 Assessing Human Rights

In this chapter we will study human rights, the history of the concept, and the way it is presented and implemented through the Universal Declaration of Human Rights and the UN covenants. We will also see how the UN and China interpret human rights. Firstly, by looking at the concept of ‘East and West’, which is connected to the concepts of ‘Occidentalism’ and ‘Orientalism’, we will see how ‘East and West’ is used today, especially in Asia. Secondly, we will describe some elements of Chinese culture and see how they can be related to human rights. Thirdly, we will go into the history and present system of the human rights regime. Fourthly, we will see how the UN and China evaluate human rights, respectively. By this we should be able to identify important arguments made by both the UN and China in respect to human rights, looking also at how the views are justified.

3.1 *The Concept of East and West*

In this paper the terms ‘Asia’ and ‘China’ will be preferred over the term ‘the East’, whereas ‘the West’ and ‘Western’ will be used more freely. It is useful to see what lies behind the broad concept of ‘East and West’, to make sure that we do not unknowingly use an imprecise or degrading concept.

The concept of ‘East and West’ is closely connected to ‘Orientalism’ and ‘Occidentalism’. These terms go back to the colonial times when the view of Asia was fairly romantic, simplifying and leaving out parts of the culture (Narayan 1997: 15). This led to an imagined and geographical separation between East and West that, according to Said, held its ground for hundreds of years (Said 2001: 227). Often the East, or the ‘Orient’, was seen in a “very stereotypical and negative fashion” (Svensson 2002: 63), whereas the West or the ‘Occident’ was seen more positively. ‘Western’ is mainly used in reference to North America, the Europe and Australia, whereas ‘Eastern’ encompasses Japan, Korea, China, Thailand and other East Asian states. In the colonial age, the distinction between East and West through Orientalism and Occidentalism was not made with the intent of simplifying and describing cultural differences, but rather as “[...] an important part of attempts to justify, and interrelated attempts to challenge, the legitimacy of colonial rule” (Narayan 1997: 15). One could almost assert that the situation today has been reversed. As Svensson points out, it is no

longer primarily Westerners but rather the powerholders in the East that contribute to upholding this view of great differences between East and West. When it comes to human rights, the view that human rights are “good for the West but not for Asia” (Svensson 2002: 63), is Orientalist in character. In this perspective, human rights are considered appropriate for the West, whilst foreign and inappropriate in the East. Asia is still presented by Asians in a stereotypical and homogenous manner as it was during the colonial age, but now the negative characteristics from the colonial times are turned to positive ones. Such characteristics include; “commitment to the common good, duty fulfillment, reverence of authority, stability and order, economic vitality, and so on” (ibid). Asia is idealized, whilst the West is demonized, with focus on negative characteristics such as “rampant individualism, lack of public morale, materialism, the breakdown of civil society, and economic stagnation” (ibid). Similar negative characteristics are used to attack the West’s position on human rights and democracy. For example, the West is criticized for having a double standard and not themselves following the high-held principles they propagate. In this way, Orientalism and Occidentalism have been revived, but changed the other way around, still keeping stereotypes and differences as alive as they did hundreds of years ago (ibid). In the West however, the use of the terms ‘Orientalism’ and ‘Occidentalism’ are no longer common in academic circles, although as Narayan showed above, prejudices and stereotyping still exist.

Keeping alive such characteristics and stereotypes does not help the situation between Asia and the West. Feelings of suspicion and distrust between the East and the West are commonplace. Misunderstandings often occur, contributing to strengthen such sentiments, and leading to unnecessary tension. There are, to be sure, differences between the East and the West, both in regards to the culture and otherwise. Having the concept of East and West can be a useful generalization for distinguishing between two different traditions of thought and culture. This distinction will therefore be used also in this paper, hopefully avoiding the negative sentiments and stereotyping that have been dominant in earlier centuries, and still present a problem today.

3.2 Chinese Culture and Human Rights

In this section we will take a closer look at Confucianism, the concept of ‘face’, and the Chinese concept of human rights. Many elements of Chinese culture could have been

included here. However, the following elements seem to be the most important in the discussion of Chinese culture and human rights.

3.2.1 The Impact of Confucian Values and Teachings

Here we will look at the impact of Confucian values and teachings in the human rights discourse. I find it necessary to take a closer look at Confucianism for two reasons. Firstly, when Chinese leaders and intellectuals today talk about Asian values and Chinese culture, they are in fact referring to Confucianism (Svensson 2002: 52). This is important due to the fact that, after Mao's reign, Chinese culture, i.e. Confucianism, became the leading criteria for deciding what aspects of foreign influences were to be viewed as acceptable or unacceptable in China (de Bary and Tu 1998: xiii). Secondly, the traditional Chinese teaching on the relationship between society and the ruler is based on Confucianism.

Hu shows that Confucianism has been used and presented in different ways throughout history (Hu 2000: 56-57). He identifies three main groupings of conceptions of Confucianism. First, there is mainstream Confucianism, which is mainly identified with *the Analects*, the book presenting the Confucian teaching. The second conception is Confucianism as a state ideology, where the rulers have often formed the philosophy of Confucianism to suit their own interests. The third grouping unites Confucianism with Chinese civilization, as the CCP does. According to Hu, who claims that Confucianism has been interpreted this way out of convenience; this is a mistaken interpretation (ibid). In this section and in the paper in general, mainstream Confucianism is the conception that will be used, as this conception is the one which is most often referred to in the discussion on human rights.

Confucius,³ who lived from 551 to 479 BC, lived in a time when moral values and norms had a weak position in the Chinese society. Confucius wanted to influence the rulers at the time to be more concerned about morality, and less abusive in their use of power. He claimed that having the people's trust was the most important element when governing, even more important than food and weapons (Rongen 1988: 148). He tried to rekindle the old Chinese traditions and have the Chinese people pay them respect. However, Confucius did not reach through with his teaching, except for amongst his followers, until after his death (Rongen 1988: 9-15). His way of thinking, values, and proposed organization of society, have had a great influence in East Asia ever since. Although people in China today often appear

³ Or K'ung-Fu-tzu (Jandt 2007: 28)

unaware of the essence of his teachings, the old traditions and some of the values still seem to have a firm hold on Chinese society. It is also worth mentioning Mengzi, the next great teacher within Confucianism, who quoted Confucius, but who also had teachings of his own. He is known for his positive view on the human nature and for putting the importance of people over rulers (Hu 2000: 56), although Confucianism as an ideology does strongly emphasize that both the ruled and the rulers have their own place in society (Chang 1998: 122).

There are several important virtues in Confucianism; the more basic ones are; ren, yi, shu, and zhi, which may be translated into; benevolence, justice, solidarity and honesty, respectively (Rongen 1988: 29-32). Perhaps the most important, however, is filial piety, respect and love for one's parents (Jandt 2007: 28). Duty is also a central concept in Confucianism. Officials, for example, have a duty to serve and govern by moral rules. Yet, they would be wrong to serve if the governance was immoral (Rongen 1988: 32). Five basic relationships are central in Confucianism: father and son, reflecting love, ruler and minister, reflecting the relation of righteousness, husband and wife, reflecting chaste conduct, elder brother and younger brother, reflecting order, and friend and friend, reflecting faithfulness. A strong work ethic has also been promoted within the Confucian tradition (Jandt 2007: 28; Kwok 1998: 85).

Not much is written on Confucius' view on the human being. Society is categorized into a hierarchy, namely, low-ranking people and high-ranking people. The first group is being characterized as unwise, whilst the high-ranking people are considered the wise. He has also said that although human beings appear to be similar in nature, in reality they are different. It is not easy from *the Analects* to draw a conclusion on how exactly Confucius viewed the human beings. Yet, Confucius stated that human beings were born "upright" (Hu 2000: 60), so it should not be far off to conclude that Confucianism maintains a positive view on the human being; even before it has become an educated being (Rongen 1988: 35-37).

Singapore consciously used Confucianism as a tool in its nation-building after its independence (see Bell 2006: ch.8). The founding father and former prime minister of Singapore, Lee Kuan Yew, was the one to revive and use Confucian values such as strong work ethic, social discipline, and zeal for learning (de Bary and Tu 1998: x). The goal was to build up the small and ethnically mixed city-state, and with the help of Confucian values, they succeeded, eventually achieving great economic prosperity. This caught the attention of China in the beginning of the 1980's. From being banned in China during the Mao period, Confucianism was now accepted, revived and promoted by the CCP, through an official

speech by the CCP official Gu Mu (ibid). President Hu's harmony slogan, as will be presented later, is also an effort to connect with Confucianism. The way 'harmony' is interpreted by Confucius and by the CCP, may, however, be different. According to de Bary and Tu, Confucius would "[...] underscore rather the the idea that peace and harmony depended on trust and confidence in the ruler, which could only be won by moral example, humane governance and reliance on consensual institutions (the rites)" (de Bary and Tu 1998: xiii). A famous Confucian saying upholds 和而不同 (He er bu tong), or "Harmony without conformity" (ibid). The CCP, on the other hand, would see 'harmony', or peace and stability, as "the keys to economic progress" (ibid), since stability is an important factor in continuing a successful development of a state.

Confucianism is central in regard to the Chinese human rights debate. One should however specify that the main reason for having to include Confucianism in the human rights debate is because the CCP equals Confucianism with Chinese culture, not because it necessarily *is* Chinese culture. Cultures change constantly, and involve more elements than those which can be included in a single traditional philosophy. In any case, Confucianism has won favor within the CCP, and it is no longer looked upon as a tool for repression or as a feudalistic ideology (de Bary and Tu 1998: xi). The CCP gains benefits in opening up for Confucianism. Promoting "harmony" grants the authorities a justification for discouraging riots and demonstrations, and, moreover, emphasizes a work ethic that can further enhance China's modernization program. Also, the ideology can be used in promoting nationalist sentiments that can ultimately strengthen the CCP's position, a topic we will address in the next chapter. Finally Confucianism, emphasizing differences in culture, serves to strengthen the CCP's argument in the human rights discourse that rights must be seen as something cultural-specific, rather than universal. Thus it may be used to justify a society that puts emphasis on the collective over the individual, where the people should serve the state, and not the opposite. Nevertheless, Confucianism, being closer to the liberal democratic view, can also serve to "empower" the people. If the emperor does not rule according to his duties, does not exhibit the right virtues, and does not serve the people fairly, Confucianism grants the people the right to rebel against the authority. This concept of violent overthrow is known as *minben* in Chinese, and has historically led to rebellions against many Chinese emperors (Wang and Titunik 2000: 84-85). Irene Bloom shows how the thoughts of Mencius can be compatible with human rights. She claims that human moral equality and natural dignity were basic elements in his teachings. These elements, she claims,

[...] with their crucial affirmations of human equality, responsibility, relatedness, and respect – are consistent with and morally and spiritually supportive of the consensus documents [on human rights] that figure so importantly in our emerging modern civilization. (Bloom 1998: 111)

Bauer and Bell are hesitant to use Confucianism, or cultural traditions in general, for instrumental purposes. “[...] one cannot simply scan traditional culture and pick out the ideas that are favorable to contemporary human rights culture while ignoring those aspects that are at odds with or inhospitable to contemporary rights” (Bauer and Bell 1999: 8). It seems that both the Chinese authorities and the liberal side are guilty of using such a method.

Hu concludes that Confucianism as a doctrine is anti-despotic, but as a state ideology it serves the political system (Hu 2000: 58-69). Therefore the results of applying Confucianism in the human rights discourse will vary depending on how Confucianism is presented and used. This is possible because Confucianism was officially abolished for 30 years in China. Today, it is principally scholars who have access to writings on the philosophy of Confucianism, whereas the population in general has a much shallower understanding (de Bary and Tu 1998: xvi). As a result, Confucianism can be interpreted and presented in different ways, and used for different purposes. Historically, also Confucianism has often been interpreted to serve different interests, as Hu showed above (Hu 2000: 56-57).

3.2.2 The Concept of ‘Face’

The concept of *‘face’* is a key word in understanding Chinese culture, or Asian culture in general. As one of the students that was interviewed explained, having face could be comparable to appearing honorable in other people’s eyes. Buying a very expensive thing that one actually cannot afford, is an example of something a person might do to maintain face among people. Both losing face oneself, and making others lose face, must be avoided at any price, since making others lose face is considered a grave insult. Jandt shows that there are two ways to conceptualize ‘face’ in Chinese, either through *lian* (face) or *mian* (image). Lian “represents the confidence of society in the integrity of ego’s moral character, the loss of which makes it impossible to function properly with the community” (Hu in Jandt 2007: 65). In other words, *lian* is what you are in the eyes of others. This aspect of face, can thus be lost. *Mian*, on the other hand, “stands for the kind of prestige that is emphasized in the U.S., a

reputation achieved through life” (ibid), meaning, it is something you do not have, but gradually achieve.

An example of public loss of face can be found in Chinese politics. The Shanghai mayor, Chen Liangyu, having contributed to the economic prosperity the last decades in Shanghai, ridiculed Premier Wen Jiabao during a congress meeting, claiming that Wen’s performance could not even be compared to the achievements of Chen. Chen was a member of Jiang Zemin’s clique, or *guanxi*,⁴ which is a competitor for power against the *guanxi* of President Hu Jintao. Not long after, Chen was fired due to charges of corruption, a charge that many suspect President Hu stood behind. One might draw the conclusion that it was in fact due to his attack on Wen, leading to Wen’s loss of face that was the real reason behind Chen’s charge of corruption, and his following dismissal as a mayor.

Avoiding upsetting others, and avoiding making them lose face is crucial, both in politics as well as in other aspects of life in China. This is also important on a national level. China as a country, or the Chinese people as a whole, have a common face. Historical incidents, where foreign powers forced China to accept agreements that greatly disfavored it, are considered a great loss of national face (Leonard 2008: 10-11). After the 1980’s, when the CCP started encouraging nationalist sentiments, these historic events have been often repeated, portraying China as a victim of foreign aggression. No distinction seems to be made between the historic events at that time, and the situation today. Hence, foreign attempts to promote human rights and democracy in China, are by China considered a continuation of the foreign hegemony and influence during the colonial age (Shirk 2007: 222; Svensson 2002: 58-59). This aspect must be remembered whenever meeting with China and discussing human rights. Although the Chinese assessment of this foreign influence as a threat against China could be considered an exaggeration, there does exist an international double standard on human rights. We will look more closely at this below.

To reduce the antagonistic sentiments against “foreign hegemony”, it is important that discourses with China on human rights be characterized by mutual respect and understanding of the specific situation the country is currently in. That being said, countries outside of China should not be afraid to state their case or be oversensitive when putting forward opposing views. When criticizing China, one should do this in the Chinese way, making sure that China does not lose face. A good example of someone who has succeeded at this is the Norwegian politician Olav Gunnar Ballo. Ballo, in human rights roundtable discussions with China, in a

⁴ See section 4.2.4.

humble manner, told of how the indigenous population in Norway had been unfairly treated by the Norwegian government a hundred years ago. By admitting that Norway by no means is a country without human rights breaches in its recent history, he avoided a confrontative approach. Afterwards, he could enter into a discussion on the situation in Tibet (Hoem 2008).

3.2.3 The Concepts of ‘Human Rights’ and ‘People Power’

A small, yet important aspect regarding the connection between Chinese culture and human rights, is the aspect of how human rights are comprehended by the Chinese. For a Westerner, human rights may have connotations to concepts that are considered very positive, like freedom and democracy. In China, however, ‘rights’ has often been translated with ‘quan’, meaning ‘power’. And the term ‘human’ has been translated into either ‘min’; people, or ‘gongmin’; citizens. Thus the individual aspect is more or less absent, giving a more collectivistic interpretation of the concept. However, the term ‘ren’, is more suitable for translating the concept of an individual, and this term is used for ‘human’ in literal translations. Thus, a literal translation is normally ‘renquan’, ‘people power’ in Chinese (Ching 1998: 70-71). As Julia Ching points out, such a translation makes human rights appear more threatening to the establishment, and may be interpreted as “a fight for political power” (Ching 1998: 71). The meaning of a concept can, however, be changed, and as Svensson shows, the Chinese view of the concept has changed much over the years. Although the CCP has characteristically maintained a very critical view on human rights, they actively referred to human rights before the revolution in 1949, in order to gather support in the population. Now, again, the Chinese stance on human rights per se has become less critical (Svensson 2002: 305-307).

3.3 *Human Rights through History until Today*

The Universal Declaration of Human Rights (UDHR) is a natural source of information when examining the so-called “Western” comprehension of human rights, although variations in the understanding of human rights exist also in the West. Rights, in general, have their basis in traditions and beliefs much older than the United Nations, yet it is through the UDHR that

different nations in the end agreed upon a document manifesting the belief in, and tradition of, human rights.

3.3.1 Human Rights before the Universal Declaration of Human Rights

There are many historical philosophies and events that may be said to have influenced the idea of human rights. We will not go into all possible options, but rather briefly touch upon some of the perhaps most important contributions that we know of today.

Already among the Stoic philosophers around 300 B.C., there was a comprehension of norms based on natural rights. These natural rights were laws considered to stand above human laws in society. They were thought to be universal in nature, and based on reason. These natural rights were thought to be the same for all human beings; a thought that at this point in history was quite radical (Bergem, Karlsen, and Slydal 2004: 32-33). Mahoney denies that either the Stoics or the Romans had such thoughts about natural rights, and rejects it as a popularly held presumption (Mahoney 2007: 1-2). He makes no effort, however, to provide evidence for the contrary. He argues, rather, that only the thought of a natural law was present in these societies. For Mahoney, natural rights had their start in the middle ages. He shows that the concept of ‘justice’, as the basis for human rights, can be found in Greek philosophy, expressed through Aristotle. In addition to legal justice, which can be altered by demand from the surroundings, Aristotle presents an idea of natural justice, which is more fundamental and cannot be altered by people’s desire. This is what Mahoney argues eventually evolved into natural rights and then later to human rights (Mahoney 2007: 1-3). The thought of a common natural law was central within the Roman Empire, where the Roman philosopher Marcus Tullius Cicero pronounced the existence of a law that was in accordance with nature, for all men, unchangeable and eternal. As Mahoney quotes him: “There seems to be ... a law of nature which comes to us not from opinion but from a kind of inborn power” (Cicero in Mahoney 2007: 3), and it is “[...] one law, eternal and unchangeable, [that] will encompass all peoples at the same time” (ibid). The understanding of the natural law was, however, different at that time than it is today, one pointer being that slavery was thought to be a natural part of human society.

Another development in the history of rights was the creation of the Magna Carta, a British legal document in the 13th century, manifesting the rights of “free men” (Bergem,

Karlsen, and Slydal 2004: 33; my translation). This happened at a time when ‘free men’ were defined in a narrower sense than today, in practice not including all the people of Britain, but rather the barons of England (Mahoney 2007: 18). In the 17th century, which Mahoney argues marks the beginning of the modern human rights thinking, one finds the British “Petition of Rights” and the “Bill of Rights”, dated 1628 and 1689, respectively. The Bill of Rights was intended as a document to control the power relations between the king and the parliament, rather than realizing the rights of ordinary people. Rights were in other words of mere instrumental use for the elite. Nevertheless, John Locke took advantage of the Bill of Rights, introducing his own ideas on the topic of human rights. His thoughts were welcomed, mostly because the parliament saw the advantages in having the Bill of Rights justified also in a philosophical sense (Mahoney 2007: 18-19). The Bill of Rights constituted “the immortal rights of the British citizens” (Bergem, Karlsen, and Slydal 2004: 36; my translation), and similar declarations were adopted by other countries, like France and the United States. It included a demand for equality, freedom of speech and religion, as well as economic liberties (ibid).

Later all these demands led to a new ideology; liberalism. One of the most important defenders of liberalism was again the philosopher John Locke. He claimed that all men are born free and equal, and that these were rights given by God. The universal aspect of rights was as central here as with the Stoics. For him, freedom was the same as the absence of coercion. He also promoted the thought of a contract between society and the individual. As we will see later, this is one method for justifying human rights today. He believed that society and the individual had certain responsibilities. The society had the responsibility to protect the individual, and the individual the responsibility to accept the authority of the society, or state. If this contract was broken, the individual had the right to rebel or re-negotiate the contract. In 1789, during the French revolution, a declaration of the rights of man and citizens was written. It claimed that the human being is born free, stays free, and is equal to other human beings. Only when people in a society have a common interest in having social differences can such differences be acceptable (Mahoney 2007: 18-22). Socialism was also derived out from this new ideology. One of the differences was that socialism put a greater emphasis on brotherhood and equality than freedom. ‘Equality’ also included economic equality, realized through state distribution. Karl Marx, probably the most influential socialist in history, claimed that human rights had a limited validity. The reason being that human rights also protect private capital and ownership, something that does not lead to economic equality (Mahoney 2007: 36-37).

Through history there has been no lack of arguments opposing human rights. There are various philosophers and others who have argued against the idea of natural rights, some of the better known being Edmund Burke and Jeremy Bentham. The latter pronounced natural rights as nonsense, claiming that natural rights were imaginary, based on imaginary laws (Mahoney 2007: 30). Bentham promoted instead a utilitarian perspective that would “at all times [seek] what will bring about the greatest net happiness of the greatest number of people” (ibid). Kant was another philosopher thought to be of great influence regarding the concept of ‘human dignity’ (Mahoney 2007: 33). His contribution to the philosophical aspect of human rights will be discussed later in this paper.

The idea of human rights was also strengthened through the fight for women’s rights and the abolition of slavery. The atrocities of World War II similarly contributed to speeding up the process of producing a universal human rights declaration. During the war, the American president Franklin D. Roosevelt pointed out four basic freedoms for all men: freedom of speech, freedom of religion, freedom from want, and freedom from fear, which were included when forming the new declaration. In 1942, 26 of the allied powers pledged to form a future world organization to promote peace, inter-state co-operation and development (Bergem, Karlsen, and Slydal 2004: 43-48).

3.3.2 Human Rights after the Establishment of the United Nations

In 1945, while planning the establishment of the United Nations, various states and NGO’s worked actively to make sure that human rights were to be a part of the organization responsibilities. The Charter of the United Nations says in article 76, that a basic objective is “to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion [...]” (UN Charter 1945: art.76c). On December 10th 1948, the Universal Declaration of Human Rights was established, supported by states from different parts of the world⁵ (Bergem, Karlsen and Slydal 2004: 48-51). In the preamble of the 30 articles included in the UDHR, the declaration emphasizes that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world” (UDHR 1948:

⁵ China was one of the countries supporting the declaration, but this was the year before the Chinese Communist Power came to power in China. For a list of the countries sitting in the human rights commission responsible for the drafting of the UDHR, see Bergem, Karlsen, and Slydal 2004: 51. For a list over countries who signed the UDHR in 1948, see United Nations 1948: 22.

Preamble). Further, “human beings shall enjoy freedom of speech and belief and freedom from fear and want” (ibid), and “universal respect for and observance of human rights and fundamental freedoms” (ibid). Moreover, it holds forth the need for a common understanding of these rights and freedoms.

As well as including civil and political rights, some argue that economic, social, and cultural rights were only included into the UDHR after great pressure from the USSR and other socialist countries. Although the United States in particular was hesitant to include ESC rights, others argue that there was no state in direct opposition to the ESC rights, meaning that ESC rights would have been included regardless of the pressure from the socialist countries (Mahoney 2007: 48-49). Still, even today there are disagreements between particularly socialist countries and Western countries on which rights are to be emphasized, as we will see later in the paper.

Besides the UDHR, the two most important international documents of the UN are the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These covenants expand upon the UDHR and give it a pragmatic aspect, making it possible for countries to ratify the covenants and be held responsible for human rights breaches. Upon ratification of UN covenants, the states must either incorporate the covenants into legal law, or transform the national legal laws so that they are not in conflict with the covenants (Bergem, Karlsen, and Slydal 2004: 23). Let us look more closely at which rights are included in the ICCPR. Civil rights are intended for the protection of life, integrity, freedom of religion, freedom of speech, and so forth. Political rights are intended for the protection of the right to suffrage and elections. The ICESCR, however, includes economic rights that are intended for the protection of the right to work, labor unions, the right to strike, and so on. The social rights are intended for the protection of the individual when out of work, when sick, and so on. Finally, cultural rights are intended for the protection of the right to education, to take part in cultural life and so on. There are opportunities for states ratifying the conventions to make reservations limiting the documents in some areas (Bergem, Karlsen, and Slydal 2004: 19-20; 60-62).

After the end of the Cold War, it seemed necessary to re-examine human rights, to again put emphasis on the role of human rights in global society, and to see how they would be best suited to fit the new global situation. The UN World Human Rights Conference in Vienna in 1993 was held to recall the origin and history of the human rights movement, and to reaffirm that human rights are derived from an inherent human dignity and worth (Mahoney 2007: 57). They also affirmed that ESC rights and the fight against poverty are as important as

the hindrance of violations against CP rights (Mahoney 2007: 175). In the year 2000, the 192 members of the United Nations gathered again, this time for a Millennium Summit; a meeting with the purpose of presenting a plan for the beginning of the new millennium. During the summit, the Millennium Declaration was formed and approved. Although mainly focusing on how to fight poverty, other areas of UN activity were emphasized as well (FN-sambandet n.d.). In regards to human rights, the fifth chapter states that the members have agreed “[t]o strive for the full protection and promotion in all our countries of civil, political, economic, social and cultural rights for all” and “[t]o respect fully and uphold the Universal Declaration of Human Rights” (UN Millennium Declaration 2000: ch.5 pt.25).

Having touched upon the history of human rights, and how they were finally expressed in the Universal Declaration of Human Rights, the next section will give attention to how the UN and China understand and evaluate human rights.

3.4 *The United Nations and China’s View on Human Rights*

This section will present the UN’s and China’s views on human rights, respectively, as well as the arguments that are used for justifying these views. We will start by looking at the United Nations assessment of human rights.

3.4.1 United Nations Assessment of Human Rights

The United Nations holds a universalist perspective on human rights. Twiss provides the following definition for universalists: “Universalists tend to emphasize the universality of human rights as legal and moral norms as well as some sort of foundationalist epistemology to ground their status as universal moral rights” (Twiss 1998: 38).

There are several ways of justifying human rights. Bergem, Karlsen, and Slydal list six of them (Bergem, Karlsen, and Slydal 2004: 53). These approaches will shortly be defined below. The first approach, the concept of natural rights, which was presented above, is based on the belief that in addition to laws of society, there are also ethical laws of nature. These laws can be discovered through the use of logic and conscience. They are not created by humans and they stand above all other human made laws. Rights can be considered part of these natural laws, and are thus called natural rights. Following this same logic, there are, as a

second approach, religious natural rights. According to this view, a god or creator is behind the natural laws. Moreover, the human being is created in the image of God, and thus has an inviolable dignity and worth, which must be protected through human rights. A third method used for justifying human rights is through the concept of a fictitious contract between a society and its citizens. Authority is, in this scenario, given to the authorities in exchange for rights. The fourth approach, being more instrumental, claims that all people have certain basic material and intellectual needs. To make sure that these needs are met, it is necessary to ensure the protection of human rights. A fifth method is to claim that human rights do not need any justification from religious or natural rights. That it is enough to show that human rights have been accepted by international negotiations, which are a product of global agreement. The sixth and last approach that Bergem, Karlsen, and Slydal mention, bases the necessity of human rights on the individual's need for protection in modern society. At present in society, individuals are left to themselves to a much greater extent than before, and may be manipulated by the authorities through the use of modern technology. Also, this approach argues that the presence of great multinational companies makes protection for the individual from the economic powers in society necessary (Bergem, Karlsen, and Slydal 2004: 14; 53).

Mahoney claims that rights, according to the UN, are thought to be positive in themselves, not solely depending on positive results. "It seems possible to consider respect for human rights to be not an action which results in justice and peace, but an action which is actually one of justice and peace" (Mahoney 2007: 127). Further Mahoney notes the importance of global consensus in the human rights regime. He quotes Drinan stating that whilst the moral or metaphysical assumptions may be under discussion, "[...] there appears to be a relatively settled feeling that the broad acceptance of the idea of human rights as universal is adequate to continue to make human rights enforceable" (Drinan in Mahoney 2007: 139). This is comparable to the fifth method of justification, which assumes that the more human rights are agreed to, the greater validity they have. Still, this is not sufficient evidence for the existence of human rights, according to Mahoney. The 1993 Vienna World Conference on Human Rights is another important source of information when identifying what kind of approach the UN state members and NGO's working for human rights use for justifying human rights. The earlier UN High Commissioner for Human Rights, Mary Robinson, emphasized at the 50th anniversary of the UDHR the instrumental importance of human rights, especially the individual's need of protection from "poverty, discrimination and political oppression" (Robinson in Mahoney 2007: 58-59). Others refer to a theory of "the

convergence of probabilities” (Newman in Mahoney 2007: 155), where all the different reasonings and justifications of human rights are converged, giving proof of the existence of human rights (Mahoney 2007: 155-156). While leaving the answer to the validity of such an argument open, Mahoney states that ““the wonder of our being’ seems well suited to explain why human beings possess an intrinsic dignity, and are therefore worthy, or deserving, of the deepest moral respect, as bearers of moral human rights” (Mahoney 2007: 150).

So, which of the approaches of justifying human rights are used in the UDHR? Traditionally, for example in the American and French declarations of independence, rights were thought to be derived from both a divine power, and human nature. In the UDHR, however, no references are made to the derivation of the concept of dignity from a divinity (Mahoney 2007: 124). This is likely due to the fact that the Declaration had to be supported by countries from other backgrounds than the Judaeo-Christian tradition (Sandström 2005: 26). The United Nation’s decision to leave out a divine creator of rights as a justification, could in other words also be due to the influence of humanism, where the human being is given a value without a religious influence (Sandström 2005: 37). Still, the UDHR has not rejected the possibility for a divine interpretation. The approach of natural rights is not necessarily the approach the UN uses either, but this will be discussed later in the paper. The third method, the thought of a social contract, is not mentioned as an important aspect either. The fifth approach, referring to a global consensus on human rights for justification, does not seem to be what the United Nations holds forth as the main argument, although a global consensus undoubtedly is important for the moral authority of the UDHR. Twiss states that in addition to having a human rights consensus, the human rights must be appropriate as a common moral system for most of the world’s different value systems. These rights are not in need of a moral justification derived from one tradition, but should rather be a system representing what humanity has learned and included in different moral traditions over the history of mankind. This, he believes, should be justification enough (Twiss 1998: 35-38). The weakness of this approach, however, is the fact that not all traditions are compatible with the principles of the UDHR. Further, his approach does not include a philosophical justification of human rights per se, which, in my view, would be a weakness when claiming that human rights are moral norms. Sieghart proposes that it is irrelevant whether human rights have existed before, one must simply agree that they should exist from now on (Sieghart in Mahoney 2007: 135). Again, without a philosophical justification for human rights, there is reason to be concerned as to whether such an agreement can provide moral ground for human rights, when competing interests are given priority over human rights

concerns. Sieghart's argument is too simple. As Mahoney argues, agreeing to something does not necessarily make it a moral claim (Mahoney 2007: 136). The fourth and the sixth methods of justification, where human rights are portrayed as necessary for the protection of the individual from oppression and the new challenges of modern societies, are also frequently mentioned by the UN. Many believe that the establishment of the UN and of human rights can be seen as a direct consequence of the two World Wars, and especially the Holocaust, in which the horrendous treatment of human beings made an enormous impression around the world (Mahoney 2007: 42). Likewise the suffering and repression of human beings around the world today may re-affirm the need for human rights, and in this way justify them.

Actually, none of the justifications listed by Bergem, Karlsen, and Slydal are what the UN would use as their main argument for human rights. Rather it is the concept of a human dignity that is held forth. Klug states: "the concept of dignity replaced the idea of god or nature as the foundation of 'inalienable rights'" (Klug in Mahoney 2007: 145). The declaration produced by the 1993 Vienna World Conference on Human Rights states that "all human rights derive from the dignity and worth inherent in the human person [...]" (*The UN and Human Rights* in Mahoney 2007: 57). Louis Henkin writes: "Human rights are rooted in a conception of human dignity; indeed, for the human rights movement, human dignity implies human rights. Human dignity determines and defines rights; human dignity requires that human rights be recognized and realized" (Henkin 1998: 309). Pheng Cheah draws a line between the UDHR concept of human dignity and Kant's categorical imperative, which presents human dignity, or worth, as an end in itself, and not just as a means (Cheah 2006: 154). In the same way as rights do, the categorical imperative justifies ethical laws based on the reason and dignity inherent in the human being. Kant claimed that everything either has a price or a worth. What is raised above all price, and has no equivalent, has an inner worth; being dignity (Cheah 2006: 155). Cheah writes: "[...] human rights are the enterprise by which reason persistently affirms human dignity. We are entitled to them because we are born with dignity but also, more important, because we possess the rational capacity needed to reaffirm dignity" (Cheah 2006: 153-154). A rational human being, then, which has an inherent dignity and worth, has the right to protection of this dignity and worth. In other words, the human being has the right to human rights. Using Kant's logic, Cheah argues that "[...] dignity is an objective end because it is of absolute or intrinsic worth. Hence, respect for dignity can serve as a universal law for moral action" (Cheah 2006: 154). We can specify the difference between an intrinsic dignity and an extrinsic dignity. An intrinsic dignity lies

inherent and is equal in all human beings, whereas an extrinsic dignity depends “upon one’s behaviour or status in society (Svensson 2002: 34).

Kant’s reasoning is thus the basis on which the philosophical justification of the United Nations Universal Declaration of Human Rights is built. Proving whether this is a valid justification for the existence of universal human rights or not, is not something that will be attempted in this paper. What we can establish, however, is that the UN mainly applies two levels of justification for proving their existence and their universality. Firstly, the philosophical level, being the Kantian concept of human dignity. Secondly, the pragmatic level, justifying the existence and universality of human rights by referring to the global human rights consensus, the need to protect individuals in modern society, and so on.

3.4.2 China’s Assessment of Human Rights

Let us now take a look at the Chinese arguments on human rights. It is the CCP that has the final say in China’s official view on human rights, and the Party’s view and reasoning will therefore be the one examined in this point. This view, as we will see, lies closer to a particularist approach than the UN’s more universalistic approach. The Chinese view may have changed over the years. Still, only the contemporary view is interesting for our purposes in this paper. Twiss explains that

Particularists [...] tend either to deemphasize the legal status of human rights norms or to stress their roots in Western moral ideology (e.g., liberal individualism) as well as resisting the supposed legitimacy and persuasiveness of moral epistemology traced to and linked with the seventeenth- and eighteenth-century Enlightenment period in the West. In the latter case, they see moral norms and modes of reasoning as more significantly conditioned by historical and cultural context than may be admitted by universalists. Particularists also tend (1) to emphasize, in order to resist, the ideological individualism supposedly associated with civil-political human rights, and (2) to contrast the communitarian moral visions of non-Western societies and cultures with this ideological individualism. (Twiss 1998: 38-39)

White Papers are official papers given out by the State Council Information Office of China (SCIOC) to present official views and facts relating to different issues. There have been 8 White Papers on human rights until now (Xinhua 2008). The White Papers, although not always giving a precise presentation of the human rights situation in China, are excellent sources for identifying the Chinese official position on human rights. The first White Paper on human rights was published in 1991. It was given as a response to heavy human rights

criticism from abroad, triggered by the June 4th incident in Tiananmen in 1989.⁶ The foreword of the 2004 White Paper on human rights gives us a hint as to how the Chinese authorities view the development of human rights in China. It starts by quoting the Chinese Constitution saying that “the state respects and safeguards human rights” (Chinese Constitution in SCIOC 2005: Foreword). Further it holds that in 2004 “[...] China’s human rights conditions were continuously improved and developed in all fields” (SCIOC 2005: Foreword). It ends stating that “China has all along been supportive to and actively participated in activities in the field of human rights sponsored by the United Nations” (SCIOC 2005: ch.VII), and “[t]ogether with the international community, China will, as always, make persistent efforts in promoting continuous progress of human rights in China and healthy development of international human rights” (ibid). The SCIOC White Paper presents the areas where human rights have seemingly made positive progress. Other areas, such as freedom of speech and liberty of the press are mentioned, but the descriptions of the progress in these areas are rather vague. By reading between the lines, we can assume that there are no considerable results to show for in these areas. Under freedom of the press, for example, we only learn that “the state enacted a series of laws and regulations to further improve China’s press system and ensure that citizens can better exercise their right of freedom of the press” (SCIOC 2005: ch.II). Similarly vague descriptions occur frequently in this paper, and some relevant issues are not addressed at all. Parts of the information presented can also be argued. When describing freedom of religion in China, for example, the Paper states that religions are “actively engaged in exchanges and communication with religious organizations in other countries” (ibid). On the contrary, however, contact between Chinese and foreign religious congregations are known to have clear restrictions, as has also been my personal experience.

We will now look into the matter of the CCP’s view on human rights regarding universality. Reading through different White Papers on human rights, we find that statements on the universality of human rights are rare. In the 1991 White Paper, for example, we find a statement relating to ‘universal respect’: “[China] appreciates and supports the efforts of the UN in promoting universal respect for human rights [...]” (SCIOC 1991: ch.X). Universal respect, however, is very different from acknowledging universal human rights per se. The White Paper on human rights from the year 2000 does, however, include a reference to the Sino-Africa Cooperative Forum Beijing Declaration, saying that “the principle of universality of human rights and basic freedoms should be respected” (SCIOC 2001: ch.VII). According

⁶ For more information on the Democracy movement in the 1980’s and the Tiananmen Square crackdown in 1989 see Svensson 2002: 261-265

to this referral to the “principle of universality” (ibid), it would seem that China to some degree does support the notion of human rights as universal, by referring to the “principle of universality” (ibid). Moreover, by studying the Bangkok Declaration, formulated by Asian nations gathered in Bangkok in 1993 in preparation for the UN World Human Rights Conference in Vienna, one can find a similar statement. In the first chapter the participating Asian nations “stress the universality, objectivity and non-selectivity of all human rights [...]” (Bangkok Declaration 1993: 4). Again, the universality of human rights is emphasized. In both instances, however, additions are made to the statements. If one goes back to the White Paper of 2000 it says further:

the diversity of the world [should be respected] and the principle of seeking common ground while reserving differences must be safeguarded; that each country has the right to choose different ways and modes of promoting and protecting human rights domestically; and that politicalizing the issue of human rights and attaching human rights conditions to economic aid are themselves violations of human rights, and therefore should be firmly opposed. (SCIO 2001: part VII)

Also in the Bangkok Declaration, one can read that although “[...] human rights are universal in nature [...]” (Bangkok Declaration 1993: 5), one must bear in mind “[...] the significance of national and regional particularities and various historical, cultural and religious backgrounds” (ibid). And, in the 1991 White Paper, it is stated:

Owing to tremendous differences in historical background, social system, cultural tradition and economic development, countries differ in their understanding and practice of human rights. From their different situations, they have taken different attitudes towards the relevant UN conventions. Despite its international aspect, the issue of human rights falls by and large within the sovereignty of each country. Therefore, a country's human rights situation should not be judged in total disregard of its history and national conditions, nor can it be evaluated according to a preconceived model or the conditions of another country or region. (SCIO 1991: Preface)

The 1991 and 2004 White Papers are hardly mentioning universality at all, whereas the two examples of Asian and Sino-African discourses both end with declarations acknowledging the universality of human rights with certain reservations. From this one can establish, at least, that the universality of human rights is not emphasized to the same extent in China as in Western countries. “Universal human rights” are most often not mentioned, and in the event that they are mentioned, their importance is not emphasized. When reading the reservations added to the statements of universal human rights, one finds an explanation for de-emphasizing the universal aspect. Here the focus is put on the distinct regional differences, suggesting that different regions and traditions in the world have different ways of promoting

and protecting human rights, due to historical, cultural and religious backgrounds. We will go more into these arguments and the issues of the justification of China's view on human rights in the concluding chapter. From these arguments, one could draw the conclusion that China's view on human rights is clearly more particularistic than universalistic. Svensson concludes that in the Chinese human rights discourse, rights are thought to be universal on one level, at the same time as they are particularist on another (Svensson 2002: 272). On a philosophical level, at least, it is clear that the Chinese view on human rights cannot be said to be universal. China endorses, however, the instrumental value of human rights, having at least this in common with the UN's view.

Svensson claims that although historical and cultural backgrounds are used as arguments against the UN's interpretation of human rights by many Asian states, this is not China's main argument. Emphasis is rather put on the economic and developmental situation of the country (Svensson 2002: 61), and the right to subsistence (SCIO 1991: ch.I). This puts an evolutionary character on rights, which requires that some rights must be implemented before other rights can be realized. By stating rights are evolutionary, one simultaneously implies that they cannot be absolute. Rights are, according to China, a historical product of the West, and countries with a different history will reach different understandings of rights (Conner 1998: 179). In this way China can refuse to accept the "concepts" of other countries (Angle 2002: 1). According to the logic of evolutionary rights, China, with its seemingly lower level of development cannot be subject to the same demands for human rights levels as the more developed countries. China argues that civil and political rights may be realized in China in the future, when the economic situation is satisfactory and the country will be strong enough to implement such rights. This approach can be traced back to Liang Qichao, who during the end of the 19th century and the beginning of the 20th century studied the connection between national and individual rights. One of his conclusions was that civil rights would eventually replace monarchial rights. Yet, for the sake of the country's development, civil rights had to be sacrificed until the country was strong enough (Zhao 2004: 122-126). Collective rights and concerns for the country's development may thus be put above, or before, individual rights. The cultural relativist approach which Asian countries generally promote is not emphasized to the same extent by China. The focus is rather put on the rights China has as a state and the rights of the Chinese people to development and subsistence. That is, the individual's rights to having their basic needs covered, and having the guarantee of life and security (Angle 2002: 244). Hence, the right to development and subsistence, i.e. collective rights, are put forward as the most important human rights, without which, it is

argued, the establishment of other rights cannot be reached. As the 1991 White Paper holds forth: “To solve their human rights problems, the first thing for the Chinese people to do is, for historical reasons, to secure the right to subsistence” (SCIO 1991: ch.I).

Further we see that this approach, by marking the United Nations interpretation of human rights as Western, can dismiss criticism coming from the UN, other states or NGO’s on human rights violations. It is suggested that economic and social rights are more important or suitable for Asian countries, whilst civil and political rights are Western concepts (Svensson 2002: 54). Nevertheless, China does not totally reject civil and political rights, in the way the United States, for example, rejects economic, social and cultural rights. The 5th declaration of the Bangkok Declaration states that nations should

Emphasize the principles of respect for national sovereignty and territorial integrity as well as non-interference in the internal affairs of States, and the non-use of human rights as an instrument of political pressure. (Bangkok Declaration 1993: 4)

Human rights are thus considered an internal issue, and not something other states or organizations have the right to evaluate and criticize. China further claims that there is a double standard on human rights. Randall Peerenboom shows that China’s size, being one of the largest countries in the world, may be a good reason for all the attention given to its human rights situation (Peerenboom 2007: ch.5). This should come as no surprise. However, states with worse human rights records than China are often let off the hook more easily or not criticized for human rights violations at all. What he finds especially peculiar, is how a country like India, that is similar both geographically and demographically, having worse human rights conditions on many fronts, hardly gets any mentioning in the press or international attention at all, when compared to China. Peerenboom claims that this is due to a Western bias on civil and political rights as the “real” rights, and that India, by having a democratic system avoids the same international focus (ibid). Authoritarian countries, on the other hand, are put under constant pressure due to their non-democratic political systems. He also points out how the media is guilty of highlighting a few horrific cases of human rights breaches in China, while not presenting the full picture. He believes that the full picture reveals that overall, the human rights situation in China is not that bad (ibid). China, as previously mentioned, believing itself to be a victim of colonialism and foreign aggression, argues in the same way as Peerenboom, striving to prove to the world that the human rights situation is, relatively speaking, not that bad.

In sum, we see that China disagrees with the UN on the universality of human rights, propagating instead, a particularist view emphasizing a country's specific background and particularity. Their main argument is that the foremost rights are the rights to development and subsistence, and that before these rights are realized, the other rights cannot be implemented. By this China puts an evolutionary character on rights, although not rejecting human rights per se. China rejects the UN's view on human rights as "Western", and simultaneously points to a double standard on human rights.

4 The Role of Chinese Politics in the Human Rights Process

In this chapter we will assess the impact Chinese politics has on human rights in China. After identifying different groups in Chinese society, we will go on to describe the ideologies and principles of Chinese politics that are relevant for this chapter. Subsequently we will take a look at the role of nationalism, and national stability. Finally we will go into the discussion of beneficial versus threatening rights. Here we will look into the reasoning for why some rights are threatening to the CCP, and discuss possible consequences of this.

4.1 Who is 'China' in the Human Rights Discourse?

In this part we will look at the CCP, the intellectuals, students, farmers and the opposition and their relation to human rights. This may be helpful both in showing that there are alternatives to the official Chinese Communist Party view on human rights, and to show that the CCP has certain groups in society that must be held under control to keep its power monopoly, also in the human rights discourse.

The Chinese Communist Party is by far the most powerful group of actors in the human rights discourse within China. They have the power to control the public human rights discourse, and to limit the influence of other actors. The CCP is responsible for the human rights situation in China, and therefore also the target of foreign criticism in this area. As we saw in the previous chapter, the CCP is eager to prove to the world that developments have been made on human rights, and that they are taking the responsibility seriously (Zakaria 2008: 27). Still, as we will see later, certain rights that may threaten the continued existence of the CCP's dictatorial rule will have a much harder time in being implemented than rights posing no particular threat to the regime. According to Gilley, there are three types of elites in the CCP regime: democrats, moderates and conservatives. Among the democrats, political reforms and human rights have a strong stand. The moderates may lean to either one side, whereas the third group, the conservatives, hold to the traditional Marxist principles and prefer to slow down reforms. Gilley places the current president and premier among the moderates (Gilley 2004: 122-128). We will go more into this below.

Intellectuals in China can be professors, researchers, journalists, lawyers and Party officials. They have historically had great influence in China, with the exception of the period

of the Cultural Revolution. To focus on what is best for China, is also a dominant ideal among intellectuals. This pragmatic approach favors the system or ideology that has the greatest advantages for the development of China, whether being socialism, capitalism, or any other ideology. Such a pragmatic approach can be seen throughout China's policies during the last 30 years. Still, the intellectuals know that no changes can be made without the blessings of the CCP (Zhang 2008a). In other cases, like the concern for how to "bring morality back" to a country where the population seem to lack a common set of values, intellectuals may see the use of old Confucian ideals as an opportunity to restore morality (Gilley 2004: 49; Zhang 2008b).⁷ Intellectuals are constantly trying to affect the public and internal debate in China. They have, moreover, a certain impact on the authorities, which gives them influence in the human rights discourse (Zhang 2008a). The nationalist wave that has swept the nation since the 1990's, has strengthened the nationalist sentiments among intellectuals as well. This also implies, however, that they must make sure that their arguments do not appear as liberal or Western, as they may then be considered unpatriotic (Zhao 2000: 260). The term 'modernization' has therefore become more common, also amongst the authorities, in explaining changes that would before have been characterized as "Westernization". This makes it easier for intellectuals to argue from more a more liberal point of view (Paltiel 1998: 279; 287-288). Nevertheless, most of them appear to argue along the same lines as the official government policy. Thus many intellectuals may consider human rights to be a Western phenomenon, and in so, not necessarily suitable for the Chinese context (Zhang 2008a). Those criticizing the government in any way, or working for a greater focus on human rights, run risks in voicing their opinions (Bell 2006: 2). If they are too bold, they might "step in a minefield and get destroyed" (Norling 2006).

Students have kept a low profile after the Tiananmen incident in 1989. Staying out of political issues, they focused instead on following the "golden road", the road to economic success (Chan 2000: 207; 228). The last few years, however, controversial international issues have led to renewed student involvement and street demonstrations (Shirk 2007: 61), with a focus shift from idealism to pragmatism (Chan 2000: 208). Nationalism is one of the causes for this, showing that students are willing to go very far to protect their nation's honor (Zhao 2004: 8-10; 34). Other underlying factors behind these demonstrations may in fact be frustration over domestic issues. Though, on surface level the students are demonstrating in protest against, for example, the U.S. and Japan, they may also be using these demonstrations

⁷ See also Einwalter 2000: ch.8

as an opportunity to vent frustrations over domestic issues (Shirk 2007: 61). Students are perhaps the most important of the mentioned groups in this point. They are the future leaders of China, they are the first to hit the streets in protest, and it is their beliefs and values that will form the future values of China. Students stood behind the Tiananmen Square protests in 1989, and a similar incident may occur again (Hoem 2008). Still, it seems like the pro-democracy thoughts among students in the 1980's have gone over to nationalist anti-Western sentiments. The Chinese authorities have respect for the power of students, often trying to limit student's expressions but being very careful to avoid pushing restrictions too far (ibid). Among students and perhaps for China in general, the concepts of democracy and human rights are closely related. During the Tiananmen incident in 1989 the concept of human rights was as important as democracy, although one can ask whether the students in essence knew what these concepts were all about. One should also bear in mind, that as was the case with the intellectuals, such concepts may be thought of as unpatriotic. I was told from one of my informants in China, that in general, there is a great pressure to conform in Chinese society, that one should ideally express the same views as everyone else. A minority of students holding alternative views will therefore, in all probability, avoid expressing their views in public. Also, statistics show that students mostly reflect the views of the Chinese population in general (Dowd, Carlson, and Shen 2000: 195). Among the Chinese students I talked to or interviewed in China, feelings towards the country and the view on the CCP varied. Some appeared to be supportive of the government, whereas others expressed a strong affection for China, yet opposed the Party. Others, however, had liberal views and distanced themselves from the nationalistic sentiments that most other students adhered to.

Farmers, industrial workers and others residing in rural areas constitute another group that should be included. There are more than 900 million farmers in China⁸ (Lu 2007), and it is principally these rural areas that they inhabit that have been left out of the great economic rise of China since the 1980's. While urban incomes have sky-rocketed, rural incomes have decreased, often resulting in demonstrations against the local governments (Stavanger Aftenblad 2008; TFD 2006: 4; 6). On average, urban residents make six times the amount that rural residents do (Petersson 2009). Although the notion of human rights may be little known among rural residents, the thought of justice is strong. There is a tendency amongst farmers of increasing intolerance for unfair treatment from police, or corruption among politicians leading to disadvantages for farmers. In their situation, they have little to lose, and

⁸ The figures are from 2001. Other sources, as Premier Wen Jiabao in Zakaria 2008, claim that the number is closer to 800 million.

are therefore not afraid to turn to demonstrations, or violence (Pei 2008; Petersson 2009). In times of financial turmoil, these farmers are often joined in their protests by laid off industrial workers or taxi drivers (Rønneberg 2008). Although their knowledge of human rights may be limited, their protest on matters of justice is most likely a matter of great concern to the authorities. Upsetting more than 900 million of a countries population can certainly make shockwaves in the country. The current Hu and Wen administration seems to be keeping close tabs of the situation, something we will look into below. The question they are asking themselves is whether enough is being done to satisfy poor, rural area residents to prevent a nationwide protest against injustice. This group could on such an occasion well identify with human rights and democracy, if they were to find them helpful for bringing about change in an unjust situation. Paltiel writes: “Rights language is a peculiarly instrumental form of language” (Paltiel 1998: 287), and “common people, those outside positions of power, will tend to employ the language that is most effective in pressing their claims [...]” (ibid).

The last group we will look into here is the opposition. Many of the protesters are young people using the Internet, cell phones, or other forms of communication, to form protests or publicly express their concerns over different negative conditions in the Chinese society. The opposition can also be found within the CCP framework, trying to change the system from within, so-called “constitutionalists” (Gilley 2004: 92), such as senior retired officials and academics in the CCP. They cannot organize themselves formally, yet they take part in the political discourse trying to influence the current leaders to implement democratic reforms and human rights. In most cases dissidents and actors promoting such views are subject to prosecution from the authorities. This group, however, due to their former or current influence, are left alone, that is as long as they do not go too far (Feng 2008). The democrats within the CCP would fit into this group, as would some of the student leaders in charge of the demonstrations on Tiananmen Square in 1989. Others are outside the system, running risks for expressing their challenging views of the political system and human rights (Gilley 2004: 88). In addition, one can mention the Tibetans and Uighurs and their fight for independence, although these are not mainly working for changing the Chinese government, but rather for the removal of the Chinese presence in these regions (TFD 2006: 8). This opposition is probably where democracy and human rights have the strongest position in China. According to Svensson, these dissidents do not usually base their arguments for human rights on Confucianism or Chinese culture, but rather on the UDHR and other “Western” arguments for human rights (Svensson 2002: 56). This rights consciousness in the dissident movement is increasing (Perry and Selden 2000: 20). In the event that China should go into a

national political crisis, one could assume with relative certainty that the opposition would be central in the formation of a possible new political structure.

Some developments point to an increasing level of individual rights awareness amongst the Chinese people in general. This is due to the fact that people have much better access to legal support such as lawyers, thereby giving them greater opportunity to complain about injustices they have suffered (Hoem 2008). Even in local markets, a system has been put in place providing a number one can call to notify the people in charge if one has been badly treated by the vendors. The concept of ‘human rights’, however, is still considered “foreign” by most people.

4.2 Political Ideology and Leading Principles

In an authoritarian state like China, the political system and its ideology have a great impact on how human rights are approached and dealt with. In this point, we will take a look at the political ideology and observe how it is applied today. Subsequently we will take a look at economic, legal and political reforms, followed by a presentation of the political principles, and a look at the positions of President Hu and Premier Wen. Finally we will look at *guanxi* and observe how this affects Chinese politics and human rights. The aim of this section is to observe how political concerns have an impact on the Chinese assessment and implementation of human rights.

4.2.1 Marxism and Leninism

As mentioned above, we will not go into Maoism in this paper. Maoism no longer has the influence it once did in China’s political leadership, and is in general considered a failed project in China, ending with the terrors of the Cultural Revolution. Marxism, or Marxism-Leninism, however, is still the official ideology, and the Chinese perspectives on human rights are also connected with Marxism (Svensson 2002: 268).

Marxism is a political ideology which is thought, upon implementation, to change society in such a way that workers will gain control over the values produced by their labor (Encyclopædia Britannica 2009: “Marxism”). Thus, capitalism is rejected, and workers, the ‘proletariat’ should take on the task of overthrowing political power through class-struggle

and revolution. “Marx made class struggle the central fact of social evolution” (ibid). Marxism was taken one step further in Marxism-Leninism, sometimes only referred to as Leninism. Leninism was based on the Marx and Engels’ thought that communists are “the most advanced and resolute section of the working-class parties of every country, that section which pushes forward all others” (Encyclopædia Britannica 2009: “Leninism”). For Lenin, the Communist Party was supposed to be a highly committed intellectual elite who

(1) had a scientific understanding of history and society in the light of Marxist principles, (2) were committed to ending capitalism and instituting socialism in its place, (3) were bent on forcing through this transition after having achieved political power, and (4) were committed to attaining this power by any means possible, including violence and revolution if necessary. (ibid)

Leninism also based its rule on dictatorship, and the Soviets pragmatic and opportunistic rule turned it into a totalitarian state. The entire society was under the state system’s absolute control, and opposition was completely forbidden. Leninism also implemented a greater use of force than orthodox Marxism. This was due to a doubt that the workers, the proletariat, would by themselves be able to gain a “proper revolutionary and class consciousness” (ibid), that would lead to the desired development of society. The idea was that the state apparatus, with time, would naturally disappear. The result, however, was quite the opposite, leaving the state with power in its hands that led to much terror, disrespect for rights, and a “relativization of the standard of truth, ethics, and justice” (ibid).

Concerning the human being, Marx had a naturalistic view emphasizing its primary needs, such as drink, food, clothing, and development of his “powers” and his “intellectual and artistic abilities” (Encyclopædia Britannica 2009: “Marxism”). The human being, he said, must struggle with nature to satisfy these needs. He argued the absence of a universal human nature, believing that the human becomes a productive being “humanized” through its labor. The human being is a supreme being, making talk of a divine power or metaphysics irrelevant. The spiritual dimension is thus absent, and it is rather the relation the human being has to production and labor that makes it special. Still the human being cannot be truly free until he has control over production and the creation of values (Encyclopædia Britannica 2009: “Marxism”; Sandström 2005: 73; 75).

In relation to human rights, Marx was sceptical. Since there is no universal human nature, there cannot be any valid universal moral norms either (Sandström 2005: 77). Human rights are the rights of a selfish man, he claimed. He proposed a difference between *human* rights and *citizens’* rights, where citizens’ rights were to be exercised within the community.

He denied the existence of natural rights, except for legal rights, outside society. Legal rights, however, will have a class character and only be beneficial for the ruling class. Human rights are therefore irrelevant in a future Communist society, because, in such a society, all people would only think and behave in the interests of the community (Svensson 2002: 23).

Svensson shows that “Marxists in general tend to see rights as instruments to satisfy needs” (ibid). They are not absolute, but relative, since their feasibility depends on the availability of resources. In the interest of economic development, rights can be curtailed, at least in the short term.⁹ Still, overall, rights have not been held in high esteem within Marxism, other than for strategic purposes. To enjoy rights, it is therefore necessary to have the correct political views (Svensson 2002: 24; 199). Without belief in the existence of a universal human nature, it is hard to justify universal human rights (Svensson 2002: 197).

China still counts on the Marxist ideology to lead China forward, although with “Chinese characteristics”. The theory behind the implementation of these ‘Chinese characteristics’ is to conform ideologies imported from foreign countries to be in harmony with Chinese tradition and culture. In practice, however, the concept is used to justify a deviation from Marxist principles when national interests and ideology differs. It is hard to prove, for example, that Marxism mixed with capitalism is a result of Chinese culture. Since the 1970’s until today, elements of the socialistic system have been modified or ignored, opening up for a capitalistic system which promotes free markets and values that are nearly opposite of the Marxist idea. As de Bary and Tu write: “[...] the prevailing pragmatism of the modernization campaign in so many aspects of economic and cultural policy continues steadily to erode doctrinal orthodoxy” (de Bary and Tu 1998: xiv). This is the result of something Leonard calls the “dual-track” approach (Leonard 2008: 24). “The ‘dual-track’ approach embodies the combination of pragmatism and incrementalism that has allowed China’s reformers to work around obstacles rather than confronting them head on” (ibid). Perry and Selden show that the left side in Chinese politics are still trying to alter Chinese policy, attempting to halt reforms that conflict with Marxist principles and regenerate a loyalty towards Marxism (Perry and Selden 2001: 205-206). Although a humanistic version of Marxism does exist, Marxist thought is otherwise used to argue against the UN’s view on human rights, also in China. “The official position is still that there can be no natural and innate rights relevant for all societies at all times [...]” (Svensson 2002: 271). Although some

⁹ There are although more humanistic interpretations of human rights among Marxists, see Svensson 2002: 23-24

parts of the criticism have been modified, there are still some major disagreements in regards to the UN's notion of human rights:

Marxism opposes the view of an idealist historical humanitarianism which [sees] human rights as absolute and abstract, and advocates [the view] that human rights are historical, concrete, and relative; in the final analysis they are conditioned by the socioeconomic level of development. [Marxism] emphasises that since every country's social system, economic conditions, cultural traditions, and values are different, there cannot exist any absolute universal human rights or completely identical human rights standards. (*Sichuan People's Publishing House* in Svensson 2002: 272)

From this, we can draw the conclusion that as long as there are no specific interests that override the concern for following it, Marxism as an ideology supports the current Chinese official stance on human rights. It may indeed contribute to work against the implementation of certain civil and political rights while supporting most economic and social rights.

4.2.2 Reforms

After Mao, Deng Xiaoping eventually came to power in 1977. He started a series of reforms aiming to open up the country to the outside world, shifting the focus from orthodox Marxism-Leninism ideology to more pragmatically oriented politics, an approach still used today. Chan provides the following explanation of pragmatism:

Whether reality fits with the guiding political principles is not the ultimate consideration. Rather, whether the principles can solve existing problems is the main concern. Any principle is conditional. [...] Utility, efficiency, and feasibility are some major considerations of a pragmatic attitude [...]. (Chan 2000: 208)

Economic reforms led to an economic development that is one of the fastest in our time. These reforms have been promoted by reform-friendly leaders ever since Deng came to power, giving room for a new economic policy in China. The economic reforms have been such a success for China that it is unlikely that there will be any essential change in economic policies in the future. Still, the Hu and Wen administration has seen it necessary to make some changes to the economic policies, now giving more concern to the distribution of wealth. The Chinese economy needs to grow by 8% per annum, in order to ensure a sufficient

employment level, and prevent social instability (Hoem 2008).¹⁰ According to Naughton, in 2008, the financial crisis led to an economy reversal. The impressive growth rate of the Chinese economy has halted, and is now going down (Naughton 2009: 1-2). What the longterm consequences for the economy will be, are still unknown. The question is then whether the economy will manage to regain the necessary growth rate.

Legal reforms have been executed rapidly to improve the rule of law. During the Mao period, the legal system was practically absent. With this background there is now a great need for a functioning legal system which can be put into practice. There is now a great need for the implementation of a functioning legal system (Øgrim 2008). The White Paper of 2004 mentions some of the efforts that are made to make the judiciary system more transparent. Some of the formulations, however, are rather vague. Concerning torture, for example, a guiding document is titled “*Opinions* [emphasis mine] on Interrogating Suspects When Handling and Investigating Cases Involving Arrest” (SCIOC 2005: part III). By using non-binding terms like ‘Opinions’, one will lose the effect such a document can have in the process of attempting to put a stop to such practices. Improving the judiciary system nevertheless seems to be a priority for the authorities, although Peerenboom shows that judiciary reforms which pose as a possible threat to the current rule of the CCP are constrained. This slows down the whole process of implementing rule of law (Peerenboom 2007: ch.6). Diamond is of the same opinion, observing that legal reforms have been “limited to ‘politically safe areas, such as commercial and administrative law’” (Diamond 2008).

Political reforms, at least in the narrow understanding of the word, are still practically non-existent. It appears as though implementing such reforms is, by the CCP, considered too great of a risk to carry out. There is a worry that political reforms may result in a collapse of the whole country.¹¹ Officially, it is argued that democracy is not suitable for China in the situation it is currently in. Zhao presents how the CCP Beijing Municipal Committee argues in this matter. They claim that the improvement of socialist democracy

[...] is constrained by the national conditions. For example, direct elections suggest a high level of democracy; however, we have a large population, among which one-sixth are illiterate or semi-illiterate. In particular, the vast rural areas are very backward. In this case, it is hard to conduct direct elections. [...] [Citizens] do not have enough time to participate in public political life. In this case, the broad democratic rights of our people are constrained by our backward economic and cultural levels and the consequent low levels of our citizen’s democratic quality. (CCP Beijing Municipal Committee in Zhao 2004: 226)

¹⁰ There are already frequent demonstrations among rural residents (Hoem 2008), and students finishing their education have problems finding jobs. See also section 4.4.

¹¹ As Gilley (2004) suggests in his book.

Thus, the lack of political reforms is officially dismissed as being a natural consequence of the “low levels” of national development and citizens’ capability of mastering the democratic system. This shows how some of the arguments are used both for rejecting political reforms, and for rejecting the UN’s interpretation of human rights. One major difference from the Mao period is that China today is no longer a totalitarian state. Individual freedom has changed substantially in comparison with the situation under Mao. One also finds a connection between the economic and political reforms. We observed that the CCP is dependent on economic prosperity, and a satisfactory percentage of growth, to ensure social stability. The prospering Chinese economy, as a result of the economic reforms, removes the need for, or rather the demand for, political reforms.

4.2.3 Present Leadership and Principles

In this section we will take a closer look at the Chinese Communist Party’s system, the principles followed by the Chinese leaders, and the two persons in charge, President Hu Jintao and Premier Wen Jiabao.

Susan Shirk gives a good presentation of the political system and the power balance (Shirk 2007: ch.3). The Chinese Communist Party and the government are the main powerholders. There are 8 other parties that are legal. These, however, have no political power, and remain under the CCP’s control (Hoem 2008). The National People’s Congress, the NPC, has less influence than the CCP and the government. Gilley goes so far as to argue that it has no influence at all (Gilley 2004: 28-29). He claims that the NPC has “[...] never rejected a single piece of legislation nor a candidate for a cabinet position” (Gilley 2004: 28). However, according to the 2004 White Paper, SCIOC claims that of 33 laws suggested, only 25 were accepted by the NPC (SCIOC 2005: ch.2). Whether the 8 others were rejected by the NPC or not is unclear. The government consists of the president, the premier and the State Council (Shirk 2007: 40-42). Yet, it is the Communist Party that has the most substantial amount of power. Within the Party itself, we have the General Secretary, the Politburo Standing Committee (PBSC), and the Political Bureau (PB). Together these form the top league. Members of the PBSC and the PB are selected by the Central Committee, which is an

organ under the General Secretary, PBSC, and the PB.¹² The Central Committee, though, is also accountable to the Party leaders (ibid). To be elected a leader, the *guanxi* system, which we will take a look at below, is important, since few are elected for their achievements (Gilley 2004: 56). The top shelf of the CCP, the General Secretary, the PBSC and the PB controls the Party departments, including the Propaganda Department, the Organization Department, and Ministries of State Security and Public Security (Shirk 2007: 40-42). Also, it has more influence over the People's Liberation Army than the government does. These 3 Party departments mentioned are responsible for the elections of cadres, control over what information gets published, and matters of public security. In other words, these are the most powerful organs in China (ibid), and the Foreign Ministry cannot do much without their blessing (Shirk 2007: 224). President Hu Jintao has much power within the CCP's system. He holds not only the position of President of China, but also the position of General Secretary of the CCP, and chairman of the Central Military Commission, the latter giving him control over the PLA. These positions, especially the one of General Secretary in the CCP, give Hu great power. That said, he is not an absolute dictator as he is under the surveillance of the other organs in the governing system (Shirk 2007: 40-42).

Many have wondered how President Hu Jintao made it through the Cultural Revolution, where many intellectuals were attacked, killed, or imprisoned, often randomly. From his time as a student, up till the present, he has made surprisingly few enemies (Høydal 2008). Making sure to keep his personal opinions to himself, he has made it hard for experts to identify his true opinions on different matters (Shirk 2007: 47). In the political realm of China, it is essential to stick to the current ideas and the ideology that has gained a consensus within the CCP. This should then be balanced with the public opinion of the people. It is a battle of power between factions within the party, but also a game of knowing the shifting tides at all times. The June 4th incident on Tiananmen Square in 1989 is an example of a power struggle within the Party. The Party cadres that were open for political change had to pay for their opinions after the power struggle ended. Some lost their jobs; others were arrested and forced to quit politics for the rest of their lifetime (Diamond 2008).¹³

China has continued the development and reforms in the tracks laid down by Deng Xiaoping under Hu Jintao, and his premier, Wen Jiabao. President Hu, Party Secretary from 1988 until 1992, in one of the poorest regions, Tibet, was known for his hard crackdowns on

¹² For a figure of the the power division and the political system see Shirk 2007: 41.

¹³ Such as General Secretary of the CCP Zhao Ziyang, who was kept in house arrest until his death in 2005 (Shirk 2007: 35-36).

demonstrations and uprisings (Høydal 2008). As president, he has put great emphasis on fighting corruption. Still, some of the more famous arrests which were made, such as that of former mayor of Shanghai Chen Liangyu, are often suspected to be part of a power struggle, with the aim of getting rid of political rivals (Yang 2007; Øgrim 2008). In addition, he has not given up on socialism. “Like Gorbachev, he appears to be a ‘Leninist romantic’ who believes the CCP could work with better internal management” (Gilley 2004: 124). And, he is attempting to reignite a belief in the socialist system (Leonard 2008: 48). Most Chinese people, also within the CCP, however, have lost their faith in the socialist system. Shirk finds it worrisome to see him turning back to behaviors similar to chairman Mao to win support, for example gathering children around himself to gain popularity among the Chinese people. This, in addition to his restrictions on the press, and signs indicating that he does not even trust the people in the Party that are closest to him, are all indicators that he feels insecure, she argues. She believes that he will tighten control to stay safe of possible threats (Shirk 2007: 47-48).

What is often repeated from the president is the slogan of “Harmonious Society”. Supposed to lead the country towards this “harmonious society” is the Scientific Development Concept. This is part of President Hu’s plan to treat economic development not just as a benefit for the Chinese economy, but also as a benefit for the people. In other words, he wants to “put people first” (Yang 2007). In Kantian manner, Hu stated: “Economic development is not an end, but a means to benefit the people. We should ensure that development is for the people, by the people and with the people sharing in its fruits” (ibid). Also, the plan is to include the rural parts of the country in the development, while at the same time protecting the resources and the environment (Fewsmith 2004). The president wants China to “pursue a scientific outlook on development that makes economic and social development people-oriented, comprehensive, balanced and sustainable” (Hu in Luan 2006). It appears that the president and the Party in general are concerned about the differences in the quality of life between rural and urban areas. The Scientific Development Concept is a measure intended for reducing simultaneously both economic differences, and social unrest. The moral foundation for creating a harmonious society is based on the “socialist core value system” (Yan 2006). According to the Party, this value system should “[...] consist of Marxism, Socialism with Chinese characteristics, patriotism, the spirit of reform and innovation and the socialist sense of honor and disgrace” (ibid). In other words, it must be based on a balance between Marxism and pragmatism, as mentioned above. As a result, “ba rong ba chi”, “the Eight Honors and the Eight Disgraces” (ibid), is presented as follows:

- Love the country; do it no harm
- Serve the people; never betray them
- Follow science; discard superstition
- Be diligent; not indolent
- Be united, help each other; make no gains at other's expense
- Be honest and trustworthy; do not sacrifice ethics for profit
- Be disciplined and law-abiding; not chaotic and lawless
- Live plainly, work hard; do not wallow in luxuries and pleasures. (ibid)

Critics claim it is simply a method to silence farmers and make them adjust to Party policy (Fan 2006; Xinhua 2006).

Premier Wen Jiabao is known as a man of the people. He grew up in rural China, and has spent much of his career working in the poor regions of China (Shirk 2007: 68). During the earthquake in Sichuan, where tens of thousands of people died, he visited the disaster area to show his sympathies. This action made him very popular among the Chinese people (Zakaria 2008). Traditionally, accidents and catastrophes were either attempted hidden, or downplayed, by Chinese authorities (Ching 2008: 49). In interviews with Western media the premier seems very positive towards human rights and democratization, admitting that the country has problems in some of these areas. He also spends time travelling around to poor provinces, and doing unannounced visits to factories to reveal poor working conditions. What the premier does for the Chinese people, in contrast to some of the previous CCP leaders, gives reason to believe that he is genuinely trying to improve the situation in the country (Shirk 2007: 68; Zakaria 2008). After the Olympics in 2008, Premier Wen has been pushed by other Party cadres to resign, allegedly due to an article Wen published, where he stated that “science, democracy, rule of law, freedom, human rights” are universal values (Wen in Gao 2008: 11). It seems possible that Wen Jiabao is trying to influence the Party from within, towards a more liberal interpretation of human rights, and towards political reforms, as long as they do not threaten the stability of the country (China Daily 2003). Still, he remains loyal to the Chinese human rights view in emphasizing the rights to development and subsistence above civil and political rights (ibid). Gilley compares Wen with Gorbachev, referring to a “secret speech” at Qinghua University where the premier suggested a free float of information as a measure to hold the government responsible and thus prevent social instability (Gilley 2004: 250).

From what we have seen, a leftist moderate Hu and a liberal moderate Wen probably have differences of opinions when it comes to these matters. There are, not surprisingly perhaps, no signs showing that any obvious disagreements exist between them. Yet, as one of my informants reminded me, it is Hu Jintao that has the power, not Wen Jiabao. Wen, however, may well do more to influence the Party towards more liberal policies. Shirk shows how China wishes to present itself to the outside world as a responsible power, who thinks not only of its own interests, but also of morality (Shirk 2007: ch.5). In this way, the responsible and popular Wen can be used in China's favor to ease domestic unrest and gain international respect. He is therefore an important asset for the Party, one which cannot easily be removed from his position by displeased conservatives. Shirk draws the conclusion that his liberal approach to these issues indeed has advantages for the reputation of the country. Yet, they are also the personal aims of the premier (Shirk 2007: 68). Premier Wen's outspokenness on controversial issues like human rights and democracy is evidence of this.

4.2.4 关系 – Guanxi

家 – *jia*, or in English family, is an important part of Chinese society. In China, strong expectations exist in regards to the fulfilment of obligations towards one's family, stronger than in most Western countries. Grown children are expected to take care of their parents when they grow old, both physically and financially. If any kind of problem occurs, the whole family is expected to contribute in order to solve the problem. One can, in other words, trust one's family in everything.

关系 – *guanxi*, is also an important feature in Chinese society. Guanxi can be translated to relation or relationship, and its meaning lies close to the English concepts of networking or factionalism. One of my informants in China explained how guanxi functions in nearly the same way as a Chinese family does, with the same importance and meaning for its members. The guanxi can in some cases even be of more importance than rules and regulations. For example, a person having broken the law might go free if the judge belongs to the same guanxi as him, or if he knows someone in the same guanxi. So, although there are some similarities to the Western way of networking, this bond is much stronger and more influential in Chinese society.

Without a network you will have great problems being successful in Chinese politics, future jobs, and other parts of life. The example we mentioned earlier, in section 3.2.2 concerning the former mayor of Shanghai and Premier Wen, is an example of the rivalism in Chinese politics between different factions. If former president Jiang Zemin had more political power at that time, the charges against the mayor could have been dropped, or not been promoted at all. Promotion within the CCP system is also often based on *guanxi*, and there is even a Chinese term for cadres that spend more time on building up their *guanxi* than they spend governing (Gilley 2004: 55-56). This shows us in part how the political system with factionalism works. Rosemont jr. proposes that

[...] *guanxi* is the universal lubricant for the machinery of all China, and those without much of it suffer. *Guanxi* is so pervasive in China, and has led to so much corruption, that the very word 'corruption' seems to be too weak to describe the way the country operates today. (Rosemont jr. 1998: 63)

This is a fairly negative assessment of *guanxi*. Rosemont jr. suggests that *guanxi* should be replaced with "the rule of impersonal law" (ibid). It does not, however, seem unfeasible to combine *guanxi* and the rule of law. Although the system of *guanxi* currently promotes corruption and nepotism, improving legal institutions can ensure that *guanxi* and the rule of law can successfully co-exist in the future.

More importantly, *guanxi* can play an important role in the implementation of human rights, and the future of the political system. As we saw in 4.1, the top level of the CCP has different competing factions. Some factions are more positive to human rights than others. If democrats and moderates within the Party were to get a substantial amount of power compared to the conservatives, the situation could change, as some groups that we mentioned in 4.1 may support political reforms (Gilley 2004: 122-128). Still, for now, the conservatives seem to have the necessary influence to retain the particularistic approach on human rights.

4.3 The Wave of Nationalism

In this section we will look at the nationalist wave that swept the nation after the Tiananmen incident in 1989, and some of the consequences that follow.

Nationalism is a force that binds people together more strongly than either socialism, democracy or any other ideologies. Zhao shows how nationalism can be constructive on the

one side, and destructive on the other. It can be constructive, in the sense that it can liberate nations under colonial or alien rule, and function as a doctrine in which people with common goals can establish a common identity. Or it can be destructive, in the sense that it may lead to racist arrogance and ignorance, often leading to destructive warfare, as happened in the former Yugoslavia and the Balkans (Zhao 2004: 3-6).

A nationalist wave swept China after 1989. This was not the first period of nationalist sentiments in China. Nationalism started in China in the 19th century and became central in Chinese politics in the 20th century (Zhao 2000b: 254; Zhao 2004: 3). According to Zhao, the national decline of confidence in Marxism-Leninism, led to a need to find another force that would bind the Chinese people together (Zhao 2000b: 253). In the early 1980's, the "three spiritual crises" (Zhao 2000b: 255) occurred. These were "[...] a 'crisis of faith' in socialism; a crisis of confidence in the future of the country; and a crisis of trust in the party" (ibid). These had to be dealt with somehow. A renewed focus on nationalistic sentiments turned out to be the answer. Hence, the CCP launched an education campaign, "[...] appealing to nationalism in the name of patriotism to ensure loyalty in a population that was otherwise subject to many domestic discontents" (Zhao 2004: 9). The campaign had several goals:

[...] to rejuvenate China's national spirit, to strengthen the unity of the Chinese people of different ethnic groups, to reconstruct a sense of national esteem and dignity, and to build the broadest possible coalition under the leadership of the CCP. (ibid)

In this way, no differentiation was made between patriotism, nationalism, socialism and communism (ibid). Hence, any sort of attack against the CCP could also be deemed as unpatriotic. The issues focused on in the campaign were "Chinese tradition and history, territorial integrity, and national unity" (ibid). The campaign has showed itself to be a success. It is often said that an external threat may gather enemies in the fight against a common enemy, and it seems like this is what happened in the 1990's in China. Even liberal Chinese, which before supported political reforms now supported the nationalistic arguments (Zhao 2000b: 260). The campaign portrayed China as a weak, besieged nation in the hands of hegemonistic foreign powers, and led to a greater support of the CCP. The notion that a strong centralized government is needed to keep China stable has received support from the majority of Chinese citizens, on condition that the government is successful in the economic development (Zhao 2000b: 255; 259-260).

Zhao shows the difference between liberal and authoritarian nationalism:

While liberal nationalism may promote democracy with the idea that the state is the property of its citizens, authoritarian nationalism may be a barrier to democracy with the demand that citizens subordinate their individual interests to those of the state. (Zhao 2000b: 253)

According to Zhao, it is the latter form of nationalism that has gained a foothold in China (Zhao 2004: 21-23). Today, the students that demonstrated for political reforms in Tiananmen in 1989 have little support among the people of China. He further argues that Chinese nationalism is not ethnic multi-nationalism, which would include all ethnic groups within China. It is rather Han nationalism, promoting the Chinese language, culture and so forth, leaving out other ethnic groups. Although this has been done ever since the CCP came to power in 1949, it is clear that a new emphasis on nationalism in the 1990's and after, led to greater distinction and alienation between Han and the other ethnic groups. Sun Yat-sen, the founding father of the Chinese Republic, as it was called then, put less emphasis on Han nationalism. He did this to ensure that areas inhabited by non-Han ethnicities would also be included in the Chinese state (ibid). Today, however, Chinese nationalism is the same as Han-nationalism, or "ethnonationalism" (Perry and Selden 2000: 179). This leads to a greater polarisation between Han and other ethnicities, and ignites ethnic nationalism among minority groups in China as well. This may be one of the causes for the riots and terrorist attacks in Tibet and Xinjiang in the last few years (Perry and Selden 2000: 178-180).

Also, although the nationalism campaign was launched by the CCP, the danger exists that this nationalism may take on a life of its own, possibly getting out of hand and turning against the CCP. An example that is often pointed out in this respect is the series of violent demonstrations against Japan and the United States. Here the Chinese government tried to calm down the demonstrators, finally putting an end to them by calling the demonstrations unpatriotic (Zhao 2004: 162-164). Students, angered by the foreign "aggressors", are often the ones demanding that the government take drastic measures to defend China's honor. Many even advocate going to war (ibid). This greatly differs from the CCP's agenda, who wants to show the world that China's "rise" is peaceful (Shirk 2007: 108-109). When the authorities try to subdue nationalism, it may have a backlash effect that may ultimately hurt the CCP, who place themselves in a position in which they can be accused of not doing enough to secure "China's honor" (Zhao 2004: 162-164). These demonstrations may also become a place to express anger over domestic issues, turning from anger towards foreign powers into protest against the CCP. Aware of this danger, the authorities have put in place security measures,

even banning Chinese books containing too strong nationalistic sentiments. Yet such writings are difficult to put an end to in a society where the Internet creates opportunities for a free flow of radical views (ibid).

In sum, the nationalist campaign has resulted in a definite rise of national sentiments in the Chinese population after 1989. It has gathered the support from both liberals and conservatives around basic views on China's past and present situation. In this way, the CCP ensures a certain level of support in the population. However, as we saw above, there is a danger that nationalism may well take on a life of its own, leading to polarisation within the diverse Chinese society, and making ordinary citizens more aggressive to foreign behaviour than the CCP would wish for. In the end, it may backstrike for the CCP, leaving the Party vulnerable for attack whenever public anger escalates.

4.4 *Ensuring Social Stability*

As we have observed above, stability is an important principle for the CCP, something President Hu in particular seems to focus on. In the last section we saw how nationalism creates a challenge for the CCP. Although having promoted nationalistic sentiments through the media and the educational system to ensure support among the people, the result may nevertheless produce the reverse of the desired effect for the CCP if this nationalism should get out of hand. In such, it is also an issue that concerns social stability. Nationalist sentiments today are therefore a priority concern for the CCP who fear that these sentiments might evolve and lead to a national uprising against the CCP.

The fear that China will face a nationwide incident that can lead the country into social and political chaos prevails among many Chinese, whether government officials or ordinary citizens. This could eventually lead to the downfall of the CCP. The groups we identified in the first section of this paper, especially the rural residents, the students, and the opposition may play vital roles in such a situation. In the end, this could leave the country split into several parts, similar to what happened to the USSR two decades ago. There is a fear of once and for all losing the opportunity of a reunion with Taiwan, and also the risk of losing the western provinces of Tibet, Xinjiang, Yunnan, and Inner Mongolia (Zhao 2004: 179). This could easily happen in a scenario with a politically weak China and social chaos. Tibet and Xinjiang have fought for their independence for decades, in recent years resulting in violent riots in Tibet and terrorist attacks in the Xinjiang province (Shirk 2007: 58-59). The

government, therefore, is eager to take steps to assure that this national chaos does not have a chance to occur. According to Zhao, Deng Xiaoping told his successors to prioritize stability above all else. As democracy, under the current Chinese conditions, is considered a source of instability, the Chinese Communist Party is thought to be the only option for upholding the state. One can wonder whether the CCP cadres are most interested in maintaining social stability in the interests of the nation, or if in fact it is their interests for upholding the Party which weigh heaviest. The fact is that many high level officials may also have personal interest in maintaining the current system. As a former Chinese official said:

What are the power holders and rich men in China afraid of? They are afraid of openness, transparency, revelations, journalist interviews, public condemnation, direct elections, legislatures, hearings, testimonies, public trials, the leaking of insider scandals. In a word, the corrupt fear democracy. (Gilley 2004: 57)

So the CCP has great interest in ensuring that the one-party system remains strong (Gao 2008: 9; Zhao 2004: 226). And since social stability is the guarantor for CCP existence, stability is of great concern for the Party (Hoem 2008). Bell is thinking along the same lines when he argues for the many defects of the democratic system, listing examples from countries like Singapore and Taiwan. In Singapore, a country with several minority groups and a large Chinese majority, a purely democratic system would arguably lead to disastrous results. Bell tries to convince the reader that democracy may not in fact work quite as smoothly as many believe. He points out in particular the vulnerability of minorities (Bell 2006: ch.6). Although we should not enter a discussion over systems of governing, Bell is right in pointing out various lacks and failures of democratic systems in democratic or semi-democratic states. However, he also argues that

[...] if the choice is between less-than-democratic political arrangements that provide some benefits to the majority as well as some protection for minority groups and Western-style democracy that may lead to violence and insecurity for minorities, then prodemocracy reformers may need to refocus their energies elsewhere. (Bell 2006: 205)

It is, however, unlikely that a “less-than-democratic political arrangement” has the ability to provide benefits to the majority as well as protection for minority groups in the same way as a well-developed liberal democracy can. Bell seems to be forgetting, in his eager effort to criticize the Western confidence in democracy, the problematic features of an authoritarian political system. Gilley, on the other hand, considers the CCP itself to be “[...] the biggest

generator of political instability in China” (Gilley 2004: 35), thus blaming most domestic problems on the Party. In any case, turning to liberal democracy is not considered an option for the CCP.

The key then to keeping the CCP strong and maintaining legitimacy in the eyes of Chinese citizens is economic growth (Zhao 2004: 226). Gao shows that economic prosperity is “the primary device by which the Party maintains its legitimacy” (Gao 2008: 8). As we established above, the current Hu and Wen administration stresses that the economic differences between urban and rural areas must be lessened to make sure that the differences do not lead to unrest. Other measures have been taken as well. Any voice suggesting a deviation from the belief in the one-party system is considered a threat to social stability and the Party. This is one reason for the crackdowns on movements and individuals (Zhao 2000b: 255-256). Actions taken by the government include the banning of the religious movement Falun Gong, censoring of the media, “[...] harassment and imprisonment of those perceived as threatening to party and government authority” (TFD 2006: 9), reeducation-through-labor, and detention of political prisoners (Peerenboom 2007: 112-118; TFD 2006: 9). Such measures, and similar ones, are most likely considered necessary by the CCP to ensure that the position of the Party is not challenged or weakened. However, there is also pressure from abroad, both from states and NGO’s, when suppression of individuals and other forms of state intervention occur. Thus, the CCP is forced to find a balance between allowing certain liberties, as religious expressions, and simultaneously tightening the leash so that a movement does not evolve into a possible threat to the regime. After Falun Gong surrounded the Zhongnanhai in 1999 (Shirk 2007: 215-217), the former president Jiang Zemin reacted with heavy measures to crush the movement. This also led to a harder policy against other religious movements. In recent years, however, religious liberty seems to have improved somewhat. It might come as a surprise for many that religion is considered such a threat towards CCP rule. What must be held in mind is that in China, religion has historically been used as a political instrument, sometimes overthrowing the current power holders (Kindopp and Hamrin 2004: 26-27). Also, religious or political movements have been known to bring down authoritarian governments, such as the case was in South Korea and Taiwan (Shirk 2007: 53). Ching observes: “Ultimately, it all boils down to a matter of control. The Chinese Government is unwilling to share power, even over religious matters” (Ching 2008: 41).

Although China is not a democracy, the CCP is more than ever trying to reflect public opinion in their policies, with the purpose of decreasing civil unrest (Shirk 2007: 100-102). However, not having the advantage of reflecting the public opinion through democratic

institutions, they are not always successful. A three-point formula of political measures has been listed to prevent the Tiananmen incident in 1989 from occurring again (Shirk 2007: 39). Firstly, to avoid public leadership splits, secondly, to prevent large-scale social unrest, and thirdly, to keep the military on the side of the Party. A political split inside the party can strongly weaken the CCP and thus have fatal consequences for the Party. Moreover, 74 000 mass incidents or demonstrations occurred during 2004 (Shirk 2007: 56), and the number is growing every year. There is undoubtedly the chance that a national or international crisis could trigger a domestic threat towards the CCP (Shirk 2007: 52). Diamond mentions that “any kind of crisis - a stock market crash, an environmental disaster, an epidemic badly managed – could trigger new mass protests and an unravelling of the regime” (Diamond 2008). Gao shows that there are four main “de-stabilizing factors” (Gao 2008: 10) that the CCP wishes to deal with, namely, “Xinjiang and Tibetan separatists, Falun Gong practitioners, and proponents for democracy” (ibid). The People’s Liberation Army, however, seems to be under control. The PLA has less power today than in the end of the 1980’s, and has pledged not to interfere in politics (Gilley 2004: 112-113).

Different factors influence these cases, but the main solution for the CCP is to make sure that though China steadily becomes more open, this does not lead to a weakening of CCP power and influence. As Larry Diamond states: “To be sure there is one huge dimension of pluralism that remains off-limits, [...] and that is any challenge, however implicit, to the political hegemony of the Communist Party” (Diamond 2000: xi).

4.5 *Beneficial versus Threatening Rights*

We will now take a more detailed look at how certain rights are affected by China’s politics and political concerns. We will identify different rights, and assess which ones can be considered beneficial and non-threatening, and which would be thought of as threatening for the position of the CCP. Earlier in the paper we have made distinctions between civil and political rights, and economic, social and cultural rights. Now, we will separate rights into even smaller entities. This could give the impression that rights are dividable and can be chosen or rejected as one wish. This is not my intention. This is solely done for research purposes, an attempt at making it easier to identify why China is hesitant towards ratifying the ICCPR. Moreover, it is not my purpose to present certain rights as beneficial and certain rights as threatening per se. It is rather my aim in this point to identify rights that are

perceived beneficial and threatening by the Chinese Communist Party. In this section, again for research purposes, we will reject the presumption that rights are universal or “good in themselves” as Mahoney would have put it. We will view rights as being instrumental, i.e. either having advantages or disadvantages when implemented, in accordance with overriding aims or concerns of the CCP. We could have applied a more lenient term than ‘threatening’ rights. However, this would not adequately describe how the CCP evaluates the consequences of implementing such rights.

To provide a measurable and feasible definition of human rights, we will use the standards offered in the international documents provided by the United Nations. The Universal Declaration of Human Rights is still fairly abstract in character and not legally binding. Hence, it is not a well-suited tool for our purposes in this point. I choose rather to apply the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as they expand upon the content of the UDHR (Ching 2008: 10).¹⁴

We already have a clue of which rights that may be problematic for the CCP, not only through what we have studied this far in the paper, but also by the fact that China has only ratified the ICESCR, not the ICCPR. It is natural then, to expect that most rights within the ICESCR are unproblematic for the CCP, whereas certain rights in the ICCPR, however, can be expected to be problematic somehow. What must also be held in mind is that the legal system in China, despite reforms, still has shortcomings and major challenges. Even if the law is clear, society may in practice ignore these laws. Thus, the implementation of the ICESCR does not necessarily mean that the ESC rights are protected in practice. The ratification of the ICESCR should nevertheless have a great impact on Chinese society, making it easier both for government institutions and civil society to work towards securing such rights. If it were the case that the CCP only ratified the ICESCR to ease the pressure from foreign countries and NGO’s, this would not explain why they hesitate to ratify the ICCPR.

Let us take a closer look at the ICESCR. Part I of this covenant deals with the rights to economic, social and cultural development in general. Part II treats the right that China puts first, that “in no case may a people be deprived of its own means of subsistence” (ICESCR 1966: part I). In part III, the specific rights are presented. In short, the rights from article 6 to article 15, concern the right to work, workers rights, trade unions, social security, family rights, standard of living, health, education, and cultural rights. I will not go through all the

¹⁴ China has also signed a number of other UN conventions that will not be put under scrutiny here. For a list see Bayefski 2009.

articles in detail, but focus on some articles that could be unproblematic, and some that might be problematic in the eyes of the CCP.

Firstly, article 6 concerns the right to work. It guarantees the right to have the opportunity to freely accept or choose any job. What may limit this right in China, something China has also been criticized for,¹⁵ is the restrictions on migration. It is difficult to apply for a job in a rich region if one belongs to a poorer one. One must apply to be allowed to move (TFD 2006: 11), and many people move without permission and live illegally in another province. This is probably a measure for keeping inner migration under control; to prevent huge amounts of people from moving into the richer regions, creating new social challenges. Yet, it is not certain that the restrictions on migration are a major problem with concern to implementing the Covenant. Although it might create social problems, it should not necessarily lead to problems for the Party's position. Article 7 is an article on worker's rights. It lists fair wages, equal pay for equal work, safe working conditions, the right to rest, leisure, and the like. A major issue in China is the unsafe working conditions. Many people are killed every year due to accidents in mines that were supposedly closed, or in other work-related accidents. Often the accidents are a result of corruption, when local officials are bribed to ignore the bad conditions at hand. Still, it seems that the authorities are taking this issue seriously. Premier Wen has several times travelled himself to visit factories on unannounced visits to expose conditions that are dangerous for laborers. Also, corrupt officials have been severely punished for covering up such cases. The United Nations Economic and Social Council, which evaluates the implementation of the ICESCR, has acknowledged the efforts made by the CCP to improve worker's rights (UN Economic and Social Council 2005: ch.1, B). Article 7 is therefore unproblematic for the CCP. It poses no direct threat to its power position. Rather, dealing with this issue should be beneficial, possibly enhancing the Party's popularity. Without presenting each article in detail, I would say that improving the rights in articles 9 through 14, relating to social security, family rights, standard of living, health, and education, would have similar positive consequences for the CCP, and not pose any threat to its power position.

Two articles that might be problematic are article 8, on trade unions, and article 15, concerning cultural rights. First we will look at article 15. What might be problematic for the authorities here is point 1c, which states that everyone has the right to "benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic

¹⁵ See the UN Economic and Social Council 2005: ch.1 point 15.

production of which he is the author” (ICESCR 1966: art.15). It is known that controversial books and articles may risk being censored and banned, and the author might be prosecuted. The CCP avoids the publishing of productions critical towards the CCP. Nonetheless, China has made no reservation against this clause. In addition, the United Nations Economic and Social Council made no comments in their report concerning this clause. This article has probably been interpreted as the protection of the author’s right to to the economic and legal claims on the production, not protection from prosecution. Protection of the author would rather come under the ICCPR article 19, the right to freedom of expression (ICCPR 1966: art.19). Thus, the CCP has seen no need to make a reservation on this article.

Let us now turn to article 8. According to this article, everyone has the right to form or join independent trade unions (ICESCR 1966: art.8). However, in China there is only one legal trade union, or labor union, namely the All-China Federation of Trade Unions (ACFTU). All trade unions under the ACFTU are controlled by the organization. China Labor Watch claims that the ACFTU is “far from being an organization that stands for workers’ interest” (China Labor Watch 2004). The UN Economic and Social Council also “[...] regrets the State party’s prohibition of the right to organize and join independent trade unions in the State party” (UN Economic and Social Council 2005: ch.1, pt.26). According to an online survey in China, “[...] more than 82% of respondents believed the unions failed to safeguard labor rights [...]” (Zeng 2006). Metcalf and Li comment that as the CCP sees that failure to safeguard labor rights may lead to social instability, it has taken some measures to improve the individual worker’s rights (Metcalf and Li 2006: 24). Why then are the CCP hesitant to allow independent labor unions? The most likely answer is that independent labor unions with several million members would eventually have great power, and could possibly be a threat to the CCP if the unions were to turn against the Party. It should therefore come as no surprise that when ratifying the ICESCR, China made a reservation against article 8 clause 1a claiming it would not be reconcilable with its constitution (China Labour Bulletin 2000).

Apart from article 8, securing the rights of the ICESCR should be beneficial for the CCP and serve their interests. It would eventually secure the Chinese people’s right to subsistence, and in such indirectly lessen possible discontentment with the Party. They do not pose a threat to the political power or influence of the CCP in Chinese society. Let us turn to the International Covenant on Civil and Political Rights, which has not been ratified by China, but which is under consideration according to the 2004 White Paper on human rights (SCIOC 2005: 21).

Part I of the ICCPR is identical to part I in the ICESCR. Part III, concerning the specific rights that are to be protected, ranges from article 6 to article 27. We will first identify some of the ICCPR articles that do not appear to pose any explicit threat against the CCP. Article 6 concerns the “right to life” (ICCPR 1966: art.6). Although it mentions the death penalty, it does not demand an end to capital punishment. Thus it is not problematic for China, known for being the country having the highest number of executions in the world. Article 7, on the prohibition of torture, should be unproblematic as well. It is known that abuse of prisoners and torture occurs in Chinese prisons. There are, however, no reasons involving security concerns for the Party that would, in a cynical sense, justify a continuation of this practice. Another evidence of this is the ratification China made in 1988 on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (UNHCHR 2004). An implementation of article 8, concerning forced labor, would most likely mean that China’s labor- and re-education camps had to be closed. One could argue that the removal of the re-education programs would remove an important ideological weapon used on dissidents. Most likely, however, such a change would not have any impact on the position of the CCP. It can be discussed whether article 9 is problematic or not. As we have seen occur in a guanxi system, the law is sometimes ignored. This means that innocent people can be convicted because of their enemies rather than for crimes they have committed. So, individuals within the Party can potentially use the guanxi system to hurt political opponents or other enemies. Whether or not the CCP uses such methods to protect the Party is another issue. If that were the case, an implementation of such an article would force the CCP to change to methods in line with the rule of law. Still, we have no evidence for such methods being used by the authorities. The same should go for article 10, 11, and 13 through 16, 20, 23, 24, and 27. They include rights dealing with arrestations, laws of deportation, family and children rights, and the cultural rights of minorities. None of these should pose any threat towards the CCP, although they would perhaps require a change from the situation in China today. Some of them would on the contrary be beneficial for the CCP.

Below we will look at some articles that can be considered threatening. Let us start by looking at article 12, clause 1. It states that “everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence” (ICCPR 1966: art.12 cl.1). As we discussed above, in article 6 of the ICESCR, internal migration is a problem in China today. It is not a political threat to the CCP, although it indirectly can be a source of instability. This issue would be a challenge for any authority, also a democratic one. Clause 3 of the article can nevertheless be used as a defense for the

restrictions on internal migration in China, naming the protection of public order as a condition for not implementing the article. It is unlikely, however, that fear of demonstrations and overpopulated cities are sufficient grounds for having restrictions on this article.

Article 18 states that “everyone shall have the right to freedom of thought, conscience and religion” (ICCPR 1966: art.1 cl.1). This may partly be problematic for the CCP. The concern is that, as with the Falun Gong, religion may be used against the authorities (Diamond 2008).¹⁶ As with trade unions, any organization with millions of members may pose a threat towards the rule of the CCP. Therefore the authorities are eager to keep religion under control, and on tight leash. Still, the 5 religions that are allowed¹⁷ are normally tolerated, as long as they register and agree to be under state control. To move away from the security of controlling religions in China would be too risky for the Party to accept.

Article 19, concerning freedom of expression and information is similarly risky. Giving up control on this area would bring an uncertain future to the CCP, and respecting such rights would therefore not be accepted. The right to peaceful assembly, article 21, would also go under this categorization. Demonstrations as in Tiananmen Square in 1989, and the fear of the consequences such demonstrations may have, make it impossible granting such a right to citizens. Article 22 is problematic because freedom of association, as we saw earlier with trade unions, could gather millions of member in organizations, giving them the power to possibly challenge the Party. The CCP can therefore not implement such a right.

Article 25 is perhaps the biggest challenge to a ratification of the ICCPR in China. Free elections on a national level would undoubtedly mean the end of the CCP’s position as the sole party in power, although, on a village level, democratic elections have been held since the 1980’s. Article 26, granting freedom from discrimination due to “race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status” (ICCPR 1966: art.26), would indirectly, by not making alternative political opinions punishable, allow people the liberty to criticize the Party. This, of course, would weaken the Party’s position and can therefore not be accepted. Hence, the articles that we can consider threatening for the CCP in the ICCPR are articles 18, 19, 21, 22, 25, and 26.

Several of these articles pose a threat towards the authorities because it gives individuals the power to change society. As Peerenboom writes, “[...] it is always difficult to see how the actions or words of a particular individual could possibly constitute a threat to the

¹⁶ Falun Gong has circulated a publication called “the nine criticisms”, a critique against the Communist Party (Diamond 2008).

¹⁷ Islam, Protestantism, Catholicism, Buddhism, and Daoism.

more powerful state or have much of an impact on a society of 1.4 billion people” (Peerenboom 2007: 121). This far we can ascertain that the CCP believes individuals to have the possibility to constitute a threat towards the authorities. This is also proven by the CCP’s sometimes harsh reactions towards dissidents. From this we can conclude that although China only has reservations on some of the articles, it is highly unlikely that the CCP would choose to ratify and implement the ICCPR.

The level of threat from the different articles in the ICCPR is different though. Certain articles would require a change of the entire political system, as well as pose a direct threat to the position of the CCP as the sole legal party in power in China. The freedom to vote, for example, will clearly undermine the power position of the CCP, as they would be forced to allow other parties to run for elections and surely lose the monopoly of rule they have today. That would be in opposition to their claim that only the CCP is able to run the country successfully. Other rights we have considered to be a threat, like freedom of thought, conscience and religion, only have the potential of becoming a threat in the long run. Although religions may organize millions of people, I would argue that few of them would be interested in challenging the authorities politically. There are some exceptions, as the sect Falun Gong, who has clearly voiced their negative views towards the CCP, is an example of. Whatever level of threat these rights may potentially pose, the CCP does not allow itself to underestimate the potential danger. Peerenboom also finds that restrictions, although possibly having “[...] a legitimate purpose on their face, such as national security, public order, and morality”, in some cases, “[...] appear only to serve the interests of the ruling party or to protect the reputation of particular officials rather than to protect national security or the interests of the nation” (Peerenboom 2007: 123).¹⁸ We can establish by this that the main reason for certain rights being threatening, is that they are threatening for the Party’s interests, and the interests of the nation. In other words, the fear is that rights may lead to an unstable China, not only threatening the power position of the CCP, but also posing a threat in the event of nationwide mass demonstrations. Peerenboom claims that “[...] allowing freedom of the press and civil liberties decreases the regime’s chance of survival by 15-20%” (Peerenboom 2007: 128). Considering the consequences of implementing such liberties as we have observed in this section, one might agree with Peerenboom that the regime’s chance of survival is very low.

¹⁸ For a discussion of when restrictions on rights are considered legitimate, see Peerenboom 2007: 120-126.

In this section we have demonstrated how certain rights are threatening for the authorities, whereas other rights can benefit and consolidate the position of the Chinese Communist Party and other interests of China.

5 Concluding Remarks

In this concluding chapter, we will summarize briefly our findings thus far, after which we will proceed to discuss the findings from chapter 3 and 4.

The aim of this paper was to compare the views of the UN and China on human rights, in order to get a better understanding of the Chinese view, for so to see what the causes may be for China's problems with accepting certain human rights. After discussing the concept of 'East and West', we looked into the evolution of human rights, from the beginning of the concept of a natural law, to its final expression in the Universal Declaration of Human Rights. We saw Confucianism's relationship to human rights, and the importance of face in China, as well as how the human rights concept is translated into Chinese. In the next section we discussed how the United Nations and China assess human rights, respectively. The United Nations presents human rights as universal, shown in the Kantian reasoning of an existing inherent dignity in the human being. This, consequently, justifies the need for upholding universal human rights by an international ethical system. China, however, disagrees with the UN on the universality of human rights. China argues that human rights should be subject to each individual country's historical and cultural situation, and especially to the level of development. This reasoning concludes that rights are evolutionary and collective, not universal and individualistic. The most important rights are the rights to subsistence and development, China argues, which must be fulfilled before other rights can come into question. Also, different countries have different concepts of human rights, and no country can therefore be held responsible by other countries on their human rights standard. China by no means rejects human rights per se. The difference between the two views lies in the philosophical interpretation of the essence of human rights. We also observed how the Universal Declaration of Human Rights presents human rights as universal in two different ways. Firstly, the UDHR implies that human rights are philosophically universal, in line with Kantian ethics. Secondly, the UDHR is universal on a pragmatic level, supported by a global consensus over the necessity of the protection of human rights.

Chapter 4 deals with the influence of Chinese politics on the human rights situation in China. Both Marxism-Leninism and new principles introduced by the current president have affected the direction China has taken. The CCP has great influence, and is strongly hesitant to allow political reforms, as they fear for the Party's political position. President Hu and Premier Wen have emphasized the necessity for "social harmony", usually referring to social

stability. Stability is an overriding concern, not only because China runs risks of division within the country if nationwide demonstrations were to occur, but also because instability may threaten the power position of the Party. Therefore guiding principles, such as the 8 Honors and the 8 Disgraces, along with the Scientific Development Concept, have been promoted by the government. This is also to ensure a continued economic development. The ICESCR has been ratified, with one reservation on one rights article that was considered threatening. Securing the other articles of rights in the ICESCR, however, could actually be an advantage for the Party. The ICCPR will most likely not be ratified, as there are too many rights articles included in this covenant that would be threatening for the Party.

The Universal Declaration of Human Rights was written in accordance with the consensus, which was reached by states from many different traditions. Yet, the UN must make sure that the consensus does not lose support to continue to uphold the influence of an international human rights system. This could be a challenge for two reasons. Firstly, because China, having one fifth of the world's population, having a different view on human rights, there is a risk that they may become the leading country among other developing countries looking for an alternative interpretation of human rights.¹⁹ This could weaken the so-called consensus; and the consensus would possibly no longer be counted as a global consensus at all, at least not as a consensus over the universality of human rights. Secondly, although human rights are promoted as universal and most countries agree to respect them; this perception could change over time. Even the United States, who in their own eyes have at times considered themselves the world's "champion" in human rights (Svensson 2002: 273 note 54), have, at times, arguably due to security reasons, used controversial practices. The treatment of prisoners at Guantanamo Bay is an example of this. These practices may seem from an Asian perspective, to be in conflict with The United States' own values (Bell 2006: 60 note 20). Similarly, we also see signs in Great Britain that electronic surveillance and other measures to ensure the nation's safety, may consequently threaten the privacy of law-abiding citizens. In this way, an external or internal threat of, say, terrorism, may give enough ground for anxious politicians, and others, to overrule certain principles intended to protect individuals. This attitude found in Great Britain and the United States, may contribute to the justification of the use of controversial measures, which are in violation with human rights, as well as strengthening the views of universal human rights opponents. It is unlikely, however, that the idea of a common

¹⁹ Leonard argues that China soon has the same amount of influence on the UN today as the United States (Leonard 2008: 130).

human dignity will be weakened. The broad global consensus agreeing to the existence of an inherent human dignity, and thus agreeing that it should be respected will probably remain unchallenged, especially as the rights consciousness among citizens around the world appears to be increasing. Still, there is disagreement as to what can be constituted as a violation of human dignity. The practice of using the UDHR to protect human rights may similarly be questioned by states holding alternative views. Nevertheless, the idea of a necessity for human rights and the UDHR do have great support in most of the world. China, being an increasingly influential global citizen, also agrees on most principles in the UDHR, although emphasizing some rights over others. It seems that as long as China agrees that human rights exist in general, the validity of the global consensus on human rights will remain unthreatened.

By taking a different road than many declarations of independence, for example the French and American, the UDHR has had to justify the existence and validity of universal human rights, without referring to a divinity. Instead, the UDHR was based on the concept of human dignity in all men. Having its philosophical grounds in Kant's reasoning on human dignity a more or less global consensus was ensured. Svensson argues that all societies have concepts or ideas on dignity and justice. Yet, she is careful to point out that the concept of human rights as we know it is a modern construction, and not equivalent to human dignity (Svensson 2002: 32-34). The distinction between human dignity and human rights, however, is not necessarily problematic. It can be argued that the UDHR is a modern expression of human dignity, although this does not prove that the UDHR is the best way of protecting human dignity. As we have touched upon earlier, the concept of human rights has, in itself, the possibility to be defended through many different cultural traditions and value systems. This leaves the opportunity open for different nations to ethically or philosophically substantiate the UDHR according to their own traditions, religions and value systems. This is definitely an advantage for the UDHR, and as we have seen, many use Confucianism to show that human rights can be accepted by Chinese culture. Some traditions, however, as Confucianism, may not cover all of the rights articles or use the same concepts that are used in the UDHR. Still, such traditions can be useful instruments in the identification of a human dignity or a moral responsibility, which again may indirectly lead to the acknowledgment of human rights. Thus, the UDHR can be seen as a valuable expression of human dignity through many different traditions, or one way of protecting this dignity in a constantly globalizing world. This idea cannot be realized, however, without the goodwill and support of the people and the authorities of the respective states.

There is a clear difference between the human rights view of China and of the UN, at least on the philosophical level. It is not surprising that countries with different traditions have different perceptions of human rights. Cultural elements, political systems, and other historical influences may have an impact on the understanding of human rights or on the rights concept per se. One should, however, also bear in mind the possibility that historical incidents during the colonial age, have led to a feeling of humiliation in China. China wants to extricate itself from what it perceives to be Western hegemony and influence. China lost face, and will do what it takes to regain respect and its reputation as a historical superpower. It is, therefore, likely that their refusal of the foreign, and especially “Western”, human rights concept is China’s way of taking a stand. China wishes to make the point that it no longer has to tolerate being humiliated by the West, and that they can develop the country by themselves. Renquan, the Chinese translation of human rights, gives connotations closer to human ‘power’ than human ‘rights.’ This could serve to explain why individual rights did not appear as appealing in China when faced with pressure from abroad to improve the human rights situation. Presently, however, the concept of rights appears to be apprehended in a more positive manner in the Party.

The UN attaches great importance to the concept of human dignity, based on the ability to reason that all human beings possess. China argues that their particular culture, historical background, social system, and economic development, are problematic relating to human rights, and are not willing to alter their position in this area. These arguments are not always easy to evaluate, since the Chinese statements do not go into detail on these issues. Despite this, an effort will be made here to discuss these aspects. “Chinese culture”, is most often referred to as Confucianism. As we have observed above, Confucianism’s relation to human rights is a question of interpretation. Thus, Confucianism should not be a great hindrance if China would permit free discourse, allowing alternative Chinese voices on human rights, as the groups identified in 4.1, to be heard. Other East Asian countries, like Japan, the Korean Republic and Taiwan, have seemingly managed to implement human rights without insurmountable difficulties. These countries have stronger Confucian influences than in China today. Bell argues that “since the UDHR was formulated without significant input from East Asia, it is not always clear to East Asians why the UDHR should constitute ‘our’ [Western] human rights norms [...]” (Bell 2006: 68). Bell is incorrect, however, in claiming that there was no significant input from East Asia. In the forming of the UDHR, Neo-Confucians worked to influence the Declaration to make it compatible with Confucianism (Twiss 1998: 41). One of the contributors to the Universal Declaration of Human Rights, Dr

Charles Malik, emphasized how the Declaration was produced by many states, not only Western ones: “For two years all the United Nations participated in this work, or had a full chance to participate, and every point of view was expressed and thoroughly debated, so that the document is a genuine international product” (Malik in Mahoney 2007: 51). It is therefore difficult to claim that Confucianism is incompatible with the UDHR. Although Confucian texts and teachings do not touch upon the issue of human rights per se; the content of Confucianism may have inherent values that are compatible with the UDHR, as Bloom showed above when comparing the thoughts of Mencius with the concept of human dignity. Although no inherent tension seems to exist between the UDHR and Confucianism, it seems that elements of Confucianism can be used to support both an authoritarian view, as well as a liberal one (Henkin 1998: 313).

The meaning of “historical background” is not clear. It is possible that China is referring to the treatment it had by Western powers during the colonial times and in the beginning of the 20th century. Or it could perhaps refer to the “low” level of development in the country. It is true that one should consider these aspects when evaluating a country’s rights situation, but one should keep in mind the differences between implementing CP rights and ESC rights. Also in the West, it is in general agreed that the ESC rights level must be relative according to a country’s level of development. CP rights, however, as absolute and not evolutionary in character, should have no challenges in being implemented related to a states’s level of development. We have also mentioned that socialist countries, China being no exception, place more emphasis on ESC rights than is done in the West. In theory one would think that as long as a country acknowledges both CP rights and ESC rights as human rights, which China does (although not having ratified the ICCPR), one can argue that placing ESC rights over CP rights is not a big problem. After all, other countries place greater value on CP rights than ESC rights. One must remember, however, that as we saw above, these rights are different in character. The CP rights, being negative rights,²⁰ are absolute in nature. These rights are either protected, or not, either the state grants the individual a right, or removes it. One cannot be partly free when it comes to civil and political rights. ESC rights however, are positive, and therefore require a state intervention to initiate a development that will eventually lead to a better situation. In this sense, China is correct in stating that positive rights are evolutionary. This logic is also agreed to in the West (Henkin 1998: 309). Negative

²⁰The term ‘negative rights’ mean that a state has a duty not to intervene in a person’s sphere (passive duty) while ‘positive rights’ mean the opposite, the state has a duty of intervening (Høstmælingen 2005: 82-84).

rights, however, are absolute, and cannot, therefore, be subject to the same interpretation. It seems like this aspect on negative rights is less emphasized in China.

Concerning the social system, Marxism, there are greater difficulties. Mainstream Marxist or Leninist ideology has traditionally not been much in favor of human rights, especially CP rights. This is because of the low status of the idea of individualism has received within Marxism (Sandström 2005: 77). Still, Marxist ideology has been unproblematic when implementing the economic reforms. It is therefore more likely that the negative sentiments towards certain human rights are the result of the Party's interests in maintaining power. Some scholars would claim that in countries below a certain level of development, rights will simply serve as a hinder for this development (Peerenboom 2007: 7-8). Gilley, of course, disagrees, claiming that the authoritarian system is the hindrance for economic growth (Gilley 2004: 32-50). Obviously, by ratifying the ICESCR, ESC rights have not been considered a hinder for development by China. Angle goes so far as to argue that without political rights the rights to subsistence and development, i.e. collective rights, will face greater challenges in being realized (Angle 2002: 249). The focus on collective rights over individual right, is most likely a result of both Marxism and Confucianism.

Svensson, although warning against cultural pluralism in the human rights issue, finds that also in the West, among previously cultural relativistic scholars, the universality of human rights is acknowledged, without leaving out the impact of cultural differences (Svensson 2002: 50). Angle comments that each nation's human rights discourse is distinctive (Angle 2002: 254). So even if China may be right in emphasizing the distinctiveness of the interpretation and implementation of human rights from nation to nation, totally rejecting its universality would be considered, by many scholars, as going too far. The philosophical challenge is to reach agreement between these two views and find answers to the following questions. To what extent are the human rights universal? To what extent are they particularistic? What then are the consequences for the implementation of human rights? There must be balance between two aspects. One the one hand, seeing how far one can go in interpreting rights before the rights in themselves get weakened and lose their meaning, and, on the other hand, making sure that specific Chinese cultural aspects are taken into account. As Mahoney writes, "Clearly both human rights and diverse cultures have to be respected, but only when they are compatible" (Mahoney 2007: 170). He goes on to state that

The need in a globalized world is surely, therefore, to promote a culture of universal human rights based on a common humanity which at the same time respects different traditions where it is possible to allow moral space for them. (Mahoney 2007: 172)

In this way, one can ensure that paying respect to cultural differences does not lead to a weakening of the impact of rights.

Stability is one of the major concerns for China. The CCP, fearing that the country might fall into social chaos, and possibly be split like the Soviet Union was, has taken different measures. Students and rural residents play an important role here. Rural residents are not satisfied with their situation, something that is proven by tens of thousands of demonstrations and riots each year. Students, however, seem to be caught in the nationalist wave, not currently posing any immediate danger of creating instability, as in 1989. Launching an educational campaign to promote nationalist sentiments was one of the most important measures that the CCP used for ensuring support. The campaign was successful, and through blurring the line between China and the CCP, socialism and patriotism, the CCP made sure to strengthen the wavering support among Chinese citizens toward the Party. In addition, it is the CCP's hope that economic growth will serve to appease the people that would otherwise demand political reforms. It seems that an 8% growth per year is needed to ensure enough jobs and economic security for Chinese citizens. This is another reason why economic growth in the poor rural areas is now emphasized. 900 million rural residents will not accept that only some parts of China have economic prosperity. The opposition can also be a source of instability. Still, this group is probably too small to make significant impact, and in the last few years emphasis has rather been made on changing the system from within, rather than through revolutionary methods. Most intellectuals seem to follow official Party policies, either because they agree to them, or because of the negative consequences that may occur in the event that alternative views are promoted.

China signed and ratified the ICESCR, with one reservation. Most of these rights should not pose a threat to the hegemony of the CCP. On the contrary these rights could be a big advantage for the CCP, ensuring support and prosperity among the population. The ICCPR, on the other hand, is different. The implementation of the ICCPR without too many reservations would signal a decision from China to start on the long and bumpy road towards democracy. This would open up the possibility for attainment of the full protection of human rights. In my view, political reforms or a change in China's assessment of human rights, are highly unlikely to happen anytime soon. Among most of the leadership in the CCP, the fear of

a threat against the position of the CCP is the above-lying reason for the lack of acceptance of certain civil and political rights. As long as the CCP holds on to the socialist one-party political system, it is unlikely that the ICCPR will be accepted in the near future. Any rights posing a threat, including freedom of the press, freedom of speech, independent labor unions, freedom to vote, and similar rights, will not be implemented. Likewise, the CCP should have no problems accepting non-threatening and beneficial rights, as they showed when ratifying the ICESCR. Implementing such rights may improve living standards, economic and social rights, and may ultimately lead to fewer discontentments and thus ensure social stability. If my assumption is right, these rights are the ones that have the possibility of being realized, also under the CCP dictatorship in China.

We can see certain improvements in regards to these rights in China today. Even foreign organizations are allowed to work for the improvement of certain rights. Daniel Bell calls them the “collaborators” (Bell 2006: 103). An example of two foundations that have gained the permission to work on the rights we have identified as non-threatening to the CCP, are the Ford Foundation and the Danish Institute for Human Rights (DIHR). These are NGOs who work to promote human rights in countries like China, whilst avoiding critical statements towards the government. The Ford Foundation focuses on “judicial reforms, legal aid, and constitutional law research” (ibid). The DIHR supports projects concerning prevention of torture and ill treatment by the police, and projects on law, legal aid, and a death penalty study (Bell 2006: 104). All of these are in the non-threatening, beneficial group of rights. He writes further that the DIHR considers that

It would be a mistake [...] always to view less-than-democratic governments as evil perpetrators of human rights abuses. Sometimes, government officials are sincerely committed to improving the rights situation in selected areas. Where human rights violations do occur, this may be ‘due to institutional inertia rather than to active state-willed perpetration of violations.’ It could also be due to lack of technical skills and know-how [...]. (ibid)

Indeed, state officials may well be sincere in improving the human rights situation, as may be the case with Premier Wen Jiabao. Moreover, “institutional inertia” or lack of knowledge can also be a reason for certain weaknesses in Chinese society. These can be improved through the assistance of foreign expertise. Still, none of the rights these two organizations are working on are considered threatening for the CCP. They would not be allowed to work on rights we have identified as threatening. We can take another example from Norlings’s article, “Talking Human Rights in China” (Norling 2006). Li Datong, a journalist that was fired for a

controversial article in his newspaper, explains that whereas the media was before used as an ideological tool, today “[...] the only standard the government uses is what is good or bad for government power” (Li in Norling 2006). And, “press freedom is closely connected with the political system. There will never be press freedom in a country with a one-party dictatorship” (ibid). This would threaten the Party’s position. Gilley points out that in other dictatorships, as the Guomindang party in Taiwan, a “phased transition” from a dictatorship to democracy, has been successfully carried out without the result of an immediate loss in power (Gilley 2004: 98-101). This approach gradually incorporated democratic institutions without any breakdown of the GMD, or the country, avoiding social chaos. This, however, Gilley claims, would not be possible in China. The GMD stayed in power for 14 years after the transition started, but the CCP is not powerful enough to survive the political reforms. “[...] the reforms would likely take on a life of their own” (Gilley 2004: 100), Gilley comments, as was the case in the USSR. Thus, for the CCP, the choice is either to “[...] perform or be overthrown” (Gilley 2004: 99). Gao writes: “[...] the leaders [of China] are reluctant to make radical systemic changes because they know full well that if the Party boat were to overturn, those in power will drown. This mentality forms the political ecology of the Chinese officialdom” (Gao 2008: 9).

China’s main problems with the West’s perception of human rights are not the historical, political and cultural concerns. Neither are they due to cultural and developmental challenges in implementing them, although such elements do indeed provide challenges. As long as the CCP’s power monopoly and the security interests of China are threatened by the implementation of certain civil and political rights, China will not accept the UN’s view on human rights or agree to the statement that human rights are universal. That being said, the debate may nevertheless be very useful, leading to a Chinese human rights discourse that may involve scholars, officials and journalists. In addition, universalists both in and outside China, would be challenged and forced to put their own views under scrutiny. We have identified other actors as well, that hold different or opposite views on human rights. These could provide valuable contributions to the discourse if they were just allowed to voice their opinion. The UN’s and China’s views are not that divergent, although the philosophical disagreements remain. China only accepts the universality of human rights on one level, the pragmatic one. Debates with China on human rights issues will never be a constructive discussion before the above-lying political concerns of the CCP stop influencing the debate. Then, a real discussion on the meeting of Chinese culture and human rights can be held. Now,

attempting to reach a full respect for human rights in China without also implementing democracy can be compared to trying to get a chicken out of an egg without breaking the shell.

From what we have seen in this paper, there are, in China, greater opportunities for improving rights that are considered non-threatening, especially those which I have chosen to call beneficial rights. This is something one should be aware of when working for promoting human rights in China. The question of which rights would be deemed as threatening, however, must be solved in another manner. One must bear in mind the Chinese authorities' nervousness and fear for what might happen if such rights were to be realized. Consequences of an overthrow or weakening of the Chinese Communist Party could, in fact, lead to an unstable nuclear power having to deal with social chaos and possible civil war in several of the outer provinces. In other words, it is not only the CCP that should fear an unstable China.

Thus, my assumption when evaluating the impact of the ICESCR appears to have been correct. For the one article considered threatening, China made a reservation. For the ICCPR, however, evidence cannot be provided in the same way, as we do not have specific evidence on which rights China would have made reservations against and not. Only a ratification of the ICCPR with an opportunity to make reservations against the articles that are unwanted would provide such evidence. Still, the findings of this paper should be adequate for providing a fairly reliable evaluation of the CCP's assessment of threatening and non-threatening rights. We have also found that political concerns are the greatest factor in the assessment and implementation of human rights. Stability is also a great concern, although the fear of instability appears to be due to a concern for the possible outcomes such instability will create for the Party. Nevertheless, there are people both inside and outside the Party working to promote a more liberal approach to human rights and reforms. However, a change in official policy does not seem likely any time soon. Most likely, the Party will cling to power as long as it can, knowing that there are many challenges that must be won over to ensure its continued existence. One great mistake can easily be the Party's downfall. It appears as though the implementation of human rights, civil and political rights in particular, must wait until the political climate changes. Most ESC rights, on the other hand, along with other rights which we have identified as non-threatening, or even beneficial, have a better chance of implementation. Over time, these may well be realized and protected even with the CCP as the sole political power in China.

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