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Publication Date

2022-08-17

Data Availability

The data associated with this publication are within the manuscript.

Peer reviewed

A Fox in the Henhouse: China, Normative Change, and the United Nations Human Rights Council

Alexander Dukalskis

Abstract

Decades of social science research on human rights norms has mapped the conditions under which states sign and ratify treaties, abide by their conditions, and promote or criticize human rights in other states. Some norms contained in the core human rights treaties, particularly civil and political rights, are seen by authoritarian states as politically threatening. Autocracies can parry human rights norms by deflecting their substance while simulating compliance. They can also contest them through existing international institutions and seek to change their content over time. This paper investigates China's engagement in the United Nations Human Rights Council, focusing on both the content and practices of the PRC's approach. In terms of content, it examines China's proposed resolutions and voting record to determine the issues it prioritizes. In terms of practices, it identifies four modes China has used to pursue normative change: mobilizing like-minded countries, implied coercion, tactical deception, and repression of critical voices. These modes capture a range of activity in and around multilateral institutions, some of which usually do not draw scholarly attention in studies of normative change. The findings provide insights into the future of human rights norms both in the UN and in the global human rights system more generally.

Keywords: human rights; democracy; authoritarianism; United Nations; China; Human Rights Council

This paper was published by the *Journal of Human Rights* and can be found [here](#).

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Suggested Citation

Dukalskis, Alexander. 2022. *A Fox in the Henhouse: China, Normative Change, the United Nations Human Rights Council*. IGCC Working Paper No 6. escholarship.org/uc/item/3f04q4q5

Introduction

As many observers have noted, the international human rights system is characterized by commitment and adherence to norms that are not directly enforceable. This means that the content of the norms ultimately relies on a degree of consensus to be effective in improving rights protections. The content of that consensus is malleable. States, activist groups, or other actors can advance new norms, elevate some norms over others, or reconfigure our understanding of existing norms. Early literature focused on techniques of persuasion or norm activism on the assumption that rights-violating states were in a defensive crouch (e.g., Keck and Sikkink 1998; Risse et al. 1999). However, with rising levels of authoritarianism globally (Lührmann and Lindberg 2019), newly powerful and assertive authoritarian states can work to counter human rights norms, particularly those that pertain to democracy, or even advance alternative authoritarian-friendly norms (Cooley 2015).

Formal international organizations like the United Nations are important venues in which states pursue their preferred versions of human rights in part because they help codify and inculcate international norms (e.g., Greenhill 2010; Hafner-Burton 2012; Hug 2016). Their imprimatur can help legitimate human rights among the wider public (Gruffydd-Jones 2019; Anjum et al. 2021). China's engagement with the United Nations Human Rights Council (UNHRC) provides a useful case to understand the "whats" and "hows" of promoting human rights counter-norms from within an international organization. China (or the People's Republic of China, PRC) is the most powerful authoritarian state in the world and has taken a renewed interest in reshaping the global human rights architecture in recent years (Chen and Hsu 2021). While China's actions at the UNHRC are an example of how "autocratic leaders have exploited international organizations as cover for human rights violations" (Vreeland 2019, 217), the case reveals even more by showing the methods autocracies can use to seek change and dilute the content of "human rights." Persuasion is not the only tool available to norm entrepreneurs as they have co-optation, coercion, deception, repression, and other strategies also available to them.

By situating the analysis in the social science literature on human rights and international organizations, the paper identifies two broad strategies for achieving human rights change: an "exit" strategy and a "from within" strategy. This paper focuses on the latter. After discussing China's engagement with the UN system, it will outline what norms China advances at the UNHRC and how it does so. In terms of the "whats" the paper finds that the PRC keeps its own record on civil and political rights out of the spotlight, is hesitant to vote for resolutions that target one country, advances norms

associated with development and multilateralism, and works against norms associated with liberal democracy. In terms of the “hows” the findings outline four modes the PRC uses at the UNHRC to advance its vision: mobilizing like-minded states, real or implied coercion against states that may disagree, tactical deception involving laundering PRC viewpoints through nongovernmental organization (NGO) submissions, and repressing critical voices including from the NGO and human rights victim communities.

Human Rights Change and International Organizations

The global human rights system is built around norms, understood as “standard[s] of appropriate behavior for actors with a given identity” (Finnemore and Sikkink 1998, 891). In the case of international human rights, the “actors” are generally states while the standards usually focus on how the state engages with its citizens. In the second half of the twentieth century, states committed to human rights norms at high rates, as measured by ratifying relevant treaties, and these norms spread globally (Wotipka and Tsutsui 2008). States also adopted human rights norms that were prevalent in the international system into their domestic constitutions, suggesting that the ideas were viewed as appropriate by a wide swathe of states (Elkins, Ginsburg, and Simmons 2013). At the local level, ideas about human rights were filtered through NGOs, civil society organizations, and other intermediaries to help shape popular consciousness (Engle Merry 2006; Davis, Murdie, and Garnett Steinmetz 2012; Ron and Crow 2015), with international organizations playing a particularly important legitimating role (Anjum et al. 2021).

Furthermore, there is some evidence that human rights norms do have the capacity to encourage changes in state behavior under certain conditions. This is remarkable given that there is no supranational authority that can enforce compliance with them. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), for example, has been shown to improve women’s rights in ratifying states (Simmons 2009, 202–255; Hill 2010; Englehart and Miller 2014). Certain conditions make CEDAW compliance more likely, such as when the state is secular, when civil society can mobilize, or when the judiciary is more independent (Simmons 2009, 202–255). Decisions by human rights courts, such as the European Court of Human Rights, are complied with by member states at a surprisingly high rate even though there are few formal penalties for noncompliance (Hillebrecht 2014). From a macro-perspective, there is encouraging evidence that human rights performance has improved globally since the advent of its international normative architecture (Fariss 2014).

However, alongside these findings, there is now abundant skepticism that human rights norms have the power to influence behavior in “difficult” cases. In highly authoritarian states, ratifying human rights treaties does not usually result in compliance, even after many years during which human rights “socialization” has had time to do its work (Hafner-Burton and Tsutsui 2007). It is likely that authoritarian states know that they face little prospect of domestic enforcement or civil society mobilization after ratifying a human rights treaty (Hathaway 2002). Ratifying the treaty thus becomes a cheap commitment designed to improve the state’s image without changing the substance of its rule. Out of an abundance of caution states may commit to a human rights treaty but stipulate expansive reservations, for example making clear that the treaty’s provisions are subject to domestic law (Davies 2014; Zvobgo et al. 2020).

In addition to not complying with certain human rights norms or carving out reservations, states may wish to challenge the content of the human rights system itself. Dissatisfied with the existing normative architecture that they perceive limits their sovereignty, authoritarian states may reject large parts of the system and respond to criticism by highlighting the abuses of vocal proponents of human rights to undermine the entire system as hypocritical (Fahy 2019). In tandem with devaluing the status of human rights, they can promote their own sets of norms designed to undermine democratic rights, such as absolutist conceptions of state sovereignty or civilizational relativism that erodes the universality of human rights (Cooley 2015). While there has traditionally been much focus on the diffusion of liberal norms in the human rights literature, illiberal norms and innovations designed to entrench authoritarianism can also spread (Hall and Ambrosio 2017; Gilbert and Mohseni 2018; Glasius, Schalk, and de Lenge 2020).

Indeed, recent years have seen a global trend of autocratization and democratic regress (Lührmann and Lindberg 2019; Haggard and Kaufman 2021), which raises questions about the resilience of global human rights norms. After all, many of the core human rights prioritized in the system, such as civil and political rights, are themselves constitutive of democracy (von Stein 2015). As autocratization occurs domestically it is likely that authoritarian norms would be reflected in a state’s foreign policy preferences. An upsurge of authoritarianism globally puts human rights in a precarious position because “the rise of authoritarian powers and the relative decline of their democratic counterparts to set global standards could create conditions in which the relative appropriateness of democracy and autocracy would shift more toward the latter” (Ambrosio 2010, 380), or put differently “as the legitimacy of authoritarianism increases, it is more likely that autocratic norms and practices will spread throughout the international system.” (Ambrosio 2010, 377). In the human rights realm, this

includes downplaying rights associated with political democracy and “coordination rights” like freedom of assembly (de Mesquita and Smith 2010). More generally, Ginsburg (2020, 221) has raised the possibility of “authoritarian international law” in which powerful authoritarian states build an international legal architecture “designed to extend authoritarian rule across time and space.”

Broadly, there are two main approaches available to states wishing to advance pro-authoritarian “human rights” norms through international organizations. First, they can do so by bolstering organizations that are already supportive of pro-authoritarian norms or by creating new entities. Although regional international organizations can promote democratic norms under certain conditions (Donno 2010), regional international organizations comprised of or led by authoritarian states can bolster norms and practices conducive to authoritarian rule (e.g. Ambrosio 2008; Jackson 2010, 112–114; Cooley 2015; Obydenkova and Libman 2019; Kneuer et al. 2019; Debre 2021). By cooperating with one another through regional organizations dominated by non-democratic members, authoritarian leaders can pool their resources, harmonize policies, and legitimize pro-authoritarian norms all to make their neighborhoods more hostile to democratic human rights (Cottiero and Haggard 2021, 8–9). This strategy helps authoritarian states insulate themselves from the effects of human rights norms, but the regional nature of this approach means that it has geographic limits and a defensive quality; it can be seen as part of a “democracy prevention” strategy (von Soest 2015). In essence, this strategy sees authoritarian states seize on “exit” vehicles to change human rights norms from the mainstream human rights institutional architecture (see Cooley and Nexon 2020).

A second strategy is to achieve change from within the mainstream human rights system, with the United Nations as the primary venue (Forsythe 2018, 77–116; Alston and Mégret 2020). The UN human rights system works on an intergovernmental basis, producing a tension between states pursuing their political interests in the system and the professed commitment to universal values of human rights (Alston and Mégret 2020, 36). States are selective in which norms they prioritize and which actors they target for criticism in the UN system (Terman and Voeten 2018; Terman and Byun 2022). While the organization promotes democratic human rights norms, this sits uneasily with the heterogeneity of its members’ regime types, some of which view democracy as a threat (Joyner 1999; Rushton 2008). As UN membership comprises states governed by all regime types, the organization is a vehicle available to authoritarian states to promote norms conducive to authoritarianism. This strategy sees them work within the existing system in specific issue areas (in this case, human rights) to move the system closer to their preferences.

China and Human Rights at the United Nations

China is the contemporary non-democratic state with the most power to erode existing human rights norms and advance alternative ones. It is the world's second-largest economy, a permanent member of the United Nations Security Council, by far the world's most powerful non-democratic state, and is growing by most measures of relative power. In addition to its capability to do so, the PRC has displayed the willingness to influence the normative content of the international human rights system (Chen and Hsu 2021; Inboden 2021a). When it comes to international order, the party "has opposed the elevation of individual political rights and has regarded civil society organizations and transnational nongovernmental organizations and activists with suspicion, fearing that they might challenge the CCP's [Chinese Communist Party's] domestic rule" (Weiss and Wallace 2021, 640). When it comes to international human rights issues, China is "hypervigilant and diplomatically active" in advancing its points of view (Shambaugh 2013, 9). The PRC has increased its focus on shaping the international human rights system in recent years (Pu 2019, 48; Chen and Hsu 2021; Economy 2022, 189–191). In ad hoc coalitions and in more formalized fora that it has set up with several regions of the world, such as the Forum on China-Africa Cooperation, it seeks consensus for its objectives by including relativistic language about human rights and justification for its relevant policies (Doshi 2021, 283–284). It finds followers for these views in other states that may themselves have been the subject of criticism for their human rights records (Martin 2021, 160–161).

The United Nations is a particularly important institution for China when it comes to normative issues and changing patterns of global governance (Foot 2014; Foot 2020, 40–43; Fung and Lam 2021, 1153). Because of the UN's institutional structure, the PRC can use its permanent seat on the Security Council to fulfill its leadership role as a great power and the General Assembly to highlight its self-identity as a developing country (Foot 2020, 42). The former can be used to veto resolutions that condemn states for human rights violations and shield its own record from condemnation (Foot 2020, 113–114). The latter can be used as a venue for China's leadership of the developing world, the "natural base" of the PRC's global leadership (Doshi 2021, 291; Eisenman and Heginbotham 2019; on the UNGA in particular see also Primiano and Xiang 2016; on human rights, China, and the developing world see Inboden 2021a, 67–69). Abundant evidence on UN General Assembly voting suggests that China is using its increased economic and diplomatic leverage to win over votes for its normative positions in this mostly non-binding forum (Flores-Macías and Kreps 2013; Strüver 2014; Strüver 2016; Brazys and Dukalskis 2017). In sum, when it comes to human rights in the UN system, "over time, Beijing has become less reticent and more confident in putting forward its world view about what best promotes human rights" (Foot 2020, 192).

The UN Human Rights Council is a key venue for this purpose. China was involved in the debates about the establishment of the UNHRC, which began its work in 2006, and sought to advance institutional designs that would shield it from criticism (Foot and Inboden 2014; Foot 2020, 192, 202–204). It advances its conceptions of human rights in the forum, and in 2017 began drafting resolutions with its preferred formulations (Foot 2020, 193). It has used the UNHRC to proffer rights that it views as more appropriate for developing countries, and to attempt to shield aligned or strategically important states for the PRC, such as North Korea, from censure (Freedman 2020, 208, 233; He 2021).

While there is scholarship on the institutional and normative changes the PRC has pursued at the UNHRC (e.g., Foot and Inboden 2014; Renouard 2020; He 2021), there is less attention to the tactics by which it is aiming to reshape human rights norms (for notable exceptions see Inboden 2021a, 67–75; Inboden 2021b). Attention to the language of resolutions and voting patterns is a good first step but does not speak to the tactics that China uses to advance its viewpoints. The “what” of counter-norm advocacy can be mapped in examining the content of proposed resolutions and voting patterns. The “how” can only be accessed by analyzing what happens outside the text and official voting records. This can be characterized not only by persuasion or coercion of other states, but also by tactical deception and repression of critical voices. Both the “what” and the “how” are important, and the next section aims to discuss China’s multidimensional approach to pursuing normative change at the UNHRC.

The “What” and “How” of Pursuing Normative Change in the UNHRC

This section has two main aims. First, it will discuss the content of normative change that China is pursuing in the UNHRC. It will do so primarily by examining the texts of important resolutions, China’s voting patterns, and the resolutions that it proffers. Second, it will turn to examining the tactics that the PRC uses to advance its agenda. In so doing it identifies four modes of pursuing normative change: mobilizing like-mindedness, implied coercion, tactical deception, and repression of critical voices. These tactics are not necessarily unique to the workings of international organizations, but they do apply in ways that are sometimes underappreciated in the workings of international organizations.

The “What”: An Overview of China’s Voting Issues

This section discusses patterns in China’s official behavior at the UNHRC (see also Kinzelbach 2012; Ahl 2015). The Council’s 47 seats are distributed among global regions to secure broad representation of UN members, and states are selected by a secret

ballot vote in the General Assembly. There are no human rights performance standards required to become a member (on the UNHRC generally, see Freedman 2020). The PRC has been an active member of the Council and has been in membership several times: from 2006–2009, 2010–2012, 2014–2016, 2017–2019, and 2021–2023. China was elected with 139 votes in for the 2021–23 term, which was significantly lower than the 180 it received for the 2017–2019 term.

Like any state, the PRC works to advance the norms that are important to it in the UNHRC. By analyzing the textual record from 2006 to 2021, at least four patterns related to China’s human rights approach in the UNHRC emerge: China’s own record is elided, it generally opposes country-specific resolutions, formulations pertinent to development and multilateralism are supported, and resolutions supporting rights that would oppose Chinese policies even though China is not mentioned specifically are opposed or abstained from. These constitute the preferred normative output from the PRC’s standpoint. This is the “what” that China would like to advance: a vision in which China is immune from criticism, individual rights protections do not trump sovereignty, the international order has a diminished role for liberal democratic powers and binding rules of human rights conduct, and China’s policies are seen as consistent with human rights law. Each will be discussed in turn before moving to how the PRC promotes this vision in the next section.

First, and most obviously, China’s own human rights record is kept off the agenda of resolutions (this was the case in the previous UN Human Rights Commission also, see Forsythe 2018, 102; and more generally Inboden 2021a, 225–228). In resolutions passed during UNHRC sessions, the PRC is able to keep criticism of China’s policies or practices from being voted on directly. In some cases, resolutions that sit at odds with China’s policies, such as resolutions on the death penalty, are on the agenda, but these do not target China or any other country by name. This success in keeping the PRC’s record off the agenda comes despite the fact that its membership on the committee has coincided with draconian repression of the Uyghurs, Tibetans, and other ethnic minority groups, lack of civil and political rights protections, and frequent use of the death penalty, for example.

Second, China generally votes NO on resolutions that specifically target the human rights situation in a particular country. Of the 63 country-specific resolutions that have been adopted during all UNHRC sessions in which the PRC was a member, China abstained twice, voted NO 44 times, and voted YES 15 times. Nearly all of those YES votes were about resolutions on human rights in Palestine or other areas occupied by Israel. China’s opposition to country-specific resolutions is well-documented and likely stems from a combination of its own professed preference for the principle of non-interference in the internal affairs of other states and its fear of its own human rights being the subject of a resolution. The latter appears unlikely given China’s global power

and support at the UN, although the UN High Commissioner for Human Rights Michelle Bachelet expressed concern about China's Hong Kong National Security Law and pushed for a visit to Xinjiang in her statements before the Council in June 2021.¹ The visit, which took place in May 2022, was widely criticized internationally because Bachelet did not gain full access and in her public statements echoed PRC formulations, which were in turn instrumentalized by China's domestic propaganda system (Ramzy 2022). As of this writing, a UN human rights report on the matter is pending.

Third, China prefers to advance rights that revolve around development and multilateralism (on China and development norms in the HRC, see Terman and Búzás 2021). This is consistent with the PRC's identity as a leader of the developing world/Global South (Eisenman and Heginbotham 2019; Foot 2020, 42; Doshi 2021, 291; Inboden 2021a, 67–69). For example, a 2021 resolution entitled "Promotion and Protection of all Human Rights, Civil, Political, Economic, Social and Cultural Rights, Including the Right to Development" argued for the need "for a comprehensive approach to the promotion and protection of all human rights and the importance of integrating a right to development perspective in a more systemic way into all relevant aspects of the work of the United Nations system." It then stresses "the primary responsibility of States for the creation of national and international conditions favorable to the realization of the right to development." Development as a collective, state-led right from this point of view can be read as reducing the focus on individual civil and political rights and elevating state-led development.

In terms of promoting norms of multilateralism, the PRC has consistently voted in favor of annual resolutions in the General Assembly and in the UNHRC on the "Promotion of a Democratic and Equitable International Order." It voted YES in the HRC in 2012, 2016, 2019, and 2021. The most recent text advances a case for the interconnectedness of social and economic rights with democratic rights, emphasizing that "that democracy is not only a political concept, but that it also has economic and social dimensions." It also advances a strong conception of national sovereignty, noting China's (and many other states') preferred formulations of non-intervention and non-interference in the internal affairs of other states, and underlining explicitly "that attempts to overthrow legitimate Governments by force or other illegal means disrupt the democratic and constitutional order, the legitimate exercise of power and the full enjoyment of human rights." Furthermore, it reproduces conceptions of democracy as revolving around the wills of people to determine their own political systems, which is often a euphemism used to relativize democratic standards because it implies that non-democratic systems

¹ Full statement here: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=27178&LangID=E>

can be democratic. Surprisingly, though, the resolution does specifically note that “the will of the people, as expressed through periodic and genuine elections, shall be the basis of government authority.” The resolution calls for “renewed multilateralism” and “that the responsibility for managing worldwide economic and social issues and threats to international peace and security must be shared among the nations of the world and should be exercised multilaterally.”

A further successful resolution that was sponsored by China called “Promoting Mutually Beneficial Cooperation in the Field of Human Rights” goes further. It advances a conception of human rights that is built around “dialogue” instead of standards and calls on “all States to uphold multilateralism and to work together to promote mutually beneficial cooperation in the field of human rights.” In its submission to the UNHRC's Advisory Committee on the issue, the PRC made clear its view that human rights criticism constituted internal interference and that instead “mutually beneficial cooperation” and “dialogue” should prevail:

“The trend of politicization of human rights is rising and double standards prevail. Some countries engage in open confrontation and ‘name calling and shaming’. They use human rights issues to attack others and interfere in the internal affairs of other countries, thus poisoning the global atmosphere of human rights governance....The international community should stand at the height of all mankind, firmly establish the concept of mutually beneficial cooperation, strengthen dialogue and cooperation on the basis of equality and mutual respect, and jointly promote the cause of international human rights.”²

Many of the terms that appear in the resolution and submission are common Chinese foreign policy concepts. Key terms like “multilateralism,” “mutual benefit,” and “cooperation” have particular meanings for Chinese foreign policymakers. Rudyak (2021a, 39) notes that China’s conception of multilateralism implies opposition to binding rules for cooperation, stressing, in Xi Jinping’s words “dialogue without confrontation,” which in the human rights field implies not publicizing human rights abuses. “Cooperation” and “mutual benefit” connote finding shared interests and political reciprocity (Rudyak 2021b, 11). In the human rights area it is easy to see how it is mutually beneficial for two states to ignore or downplay one another’s human rights abuses. “Mutual respect” implies acceptance of China’s non-democratic political system as legitimate.

² Full submission here: https://www.ohchr.org/Documents/HRBodies/HRCouncil/AdvisoryCom/TechnicalAssistance/China_English.pdf

Fourth and finally, the PRC tends to vote NO or ABSTAIN on certain categories of resolutions that have been adopted by the Council. In addition to country-specific resolutions noted above, in recent years the PRC has voted NO on resolutions that relate to protecting human rights defenders, the death penalty, civil society space, and gender identity and sexual orientation. These are rights that the Chinese authorities domestically generally do not recognize as legitimate. Civil society, for example, is generally not politically independent in the PRC, the death penalty is frequently used, and so on. China has voted ABSTAIN 12 times during its time on the UNHRC. These include resolutions on torture and inhuman punishment, human rights and the internet, digital technology, climate change, HIV and AIDS, and human rights when countering terrorism. The latter is particularly relevant given that its “Strike Hard” campaign against Uyghurs in Xinjiang was justified in anti-terrorism language.

In sum, the normative vision that the PRC pursues at the UNHRC is characterized most obviously by keeping China above reproach and avoiding country-specific resolutions except in certain cases. Digging deeper, the PRC advances the right to development and an approach to human rights that is less standards-based and more in line with China’s preferred foreign policy concepts. Finally, it objects to or abstains from resolutions that advance rights more closely associated with liberal democracy, opposing the death penalty, and gender, all issues on which Beijing is vulnerable to criticism.

The “Hows”: Four Modes of Pursuing Normative Change

While the previous section mapped out the content that the PRC prefers to advance in the UNHRC, this section turns to the tactics that it uses to do so. Two of these are familiar and are well-noted in the literature on normative change: like-mindedness and (implied) coercion. Two are far less studied by those trying to understand how norms are advanced or impeded: tactical deception and repression to silence critics. Each of these four modalities will be discussed in turn as they pertain to China at the UNHRC.

Mobilizing Like-Minded States. Perhaps the most straightforward way in which China advances its preferred norms and deflects criticism of its own human rights record in the HRC is through mobilizing like-minded states. This tactic sees the PRC mobilize and amplify support from states, often those from among the “Like Minded Group” of about 50 states, most of which are non-democratic, on issues important to Beijing (see Inboden 2021b, 128–129; Inboden 2021a, 73–75). Persuasion has long been identified as a mechanism of human rights commitment as arguments articulated in acceptable terms are more likely to appeal to states (Risse 1999; Hawkins 2004). But persuasion

also can be used to oppose human rights norms, mobilizing at the international level what Cardenas (2004, 221) has called at the domestic level “pro-violation constituencies.” Duelling letters before the UNHRC about China’s repression of ethnic minorities in its Xinjiang region are illustrative of these dynamics.

On July 8, 2019, twenty-two permanent representatives to the UN signed a letter to the UN High Commissioner for Human Rights and UNHRC President. The letter expressed the signatories’ concern about “credible reports of arbitrary detention in large-scale places of detention, as well as widespread surveillance and restrictions, particularly targeting Uighurs [sic] and other minorities in Xinjiang, China.”³ The letter further called on China to uphold its commitments to fundamental rights and freedoms. The signatories represented 18 European states plus Japan, Australia, New Zealand, and Canada. All were liberal democracies.

Four days later, on July 12, 2019, the permanent representatives of 37 countries sent a response letter to the UN High Commissioner for Human Rights. This letter opposed “relevant countries’ practice of politicizing human rights issues, by naming and shaming, and publicly exerting pressures on other countries.”⁴ The letter commended “China’s remarkable achievements in the field of human rights by adhering to the people-centered development philosophy and protecting and promoting human rights through development.” It furthermore claimed that the PRC’s policies in Xinjiang were actually successful counter-terrorism operations and that “human rights are respected and protected in China in the process of counter-terrorism and deradicalization.”⁵ The 37 states that signed came from Africa, the Middle East, and Southeast Asia, along with Russia, Belarus, and Serbia. Of the 37 states, only 1 (Nepal) was above the median score on the Liberal Democracy Index of the V-Dem project for 2019 (Lührmann et al. 2020). Indeed, of the bottom 10 countries in that index (excluding China), 9 were signatories of the letter. The only country in the bottom 10 (excluding China) that wasn’t was Nicaragua, which did not have diplomatic ties with the PRC at that time.

It is not clear how much behind-the-scenes persuasion went into securing signatures for the letter. Perhaps some of the countries on the list with trade or aid vulnerabilities with regard to China needed to be reminded that signing the letter would be beneficial. But

³ Full letter available here: https://www.hrw.org/sites/default/files/supporting_resources/190708_joint_statement_xinjiang.pdf

⁴ Full letter available here: https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwico_itzSD2AhUWAXAIHWYTBBy0QFnoECAYQAQ&url=https%3A%2F%2Fap.ohchr.org%2Fdocuments%2FE%2FHRC%2Fc_gov%2FA_HRC_41_G_17.DOCX&usg=AOvVaw3Jyhr_paC8ThtlaQDTIYX2

⁵ In fact, there is by now abundant evidence of severe human rights abuses in Xinjiang after the start of the government’s 2014 “Strike Hard” campaign. See, for example, Byler 2021; Tobin 2020; Smith-Finley 2019; and Zenz 2019.

given how many staunchly non-democratic states feature in the letter, a likely possibility is that active persuasion was not necessary. These are states with consolidated authoritarian political systems, skepticism of the human rights system in general, and self-interest in keeping criticisms of states' human rights records off the international agenda. The group was largely constituted ready to be mobilized and organized (see Inboden 2021b, 128–129). Doing so allows China to argue that more countries support its Xinjiang policies than oppose them, thus reinforcing its criticism of the existing human rights regime as not being universal and as being too Western-centric. The Xinjiang letter is just one example of this tactic. For example, Worden (2020, 45) notes that “during China’s UPR [Universal Periodic Review] in November 2018, the party-state engaged in procedural maneuvers to flood the list of speakers with representatives from friendly countries.”

Implied coercion. However, the line between mobilizing like-mindedness and implied coercion is difficult to identify (Kastner and Pearson 2021, 26). It is possible that some of the signatories to China’s Xinjiang counter-letter or who support it in the UPR were motivated by avoiding trade or aid penalties from China, but without access to off-stage discussions it is not possible to discern motivations because the behavioral outcome is the same (see Kastner and Pearson 2021, 24). When it comes to PRC foreign policy, cross-national evidence suggests that as states move closer to China in trade and diplomatic terms, normative convergence often results (Flores-Macías and Kreps 2013; Strüver 2014; Strüver 2016; Brazys and Dukalskis 2017), but behind-the-scenes pressure is difficult to observe given that China’s political system does not allow a free press that might investigate its foreign policy or critically interview decision-makers. Furthermore, the CCP International Department gives Beijing a channel for the party to advance its viewpoints with interlocutors outside official diplomatic settings (Hackenesch and Bader 2020).

Nonetheless, some voting patterns are likely attributable to general outputs associated with PRC economic statecraft. As Norris (2016, 61) observes, “As China’s economic clout has grown, it is increasingly finding itself able to leverage its economic power to pursue its foreign policy goals.” This includes arranging the incentives for commercial-oriented Chinese companies to advance PRC foreign policy priorities (Reilly 2021, 36). Economic statecraft strategies can over the long term generate pro-PRC constituencies in the partner state or shift public opinion to be more amenable to China’s interests (Kastner and Pearson 2021, 28–30).

Sometimes evidence of real and implied coercion is publicly available. Yang and Liang (2019, 382) argue that “China’s growing confidence in economic statecraft is also seen in its more frequent and blatant use of negative sanction tools such as boycott and trade barriers against countries with whom it had political or territorial disputes, mostly in Asia.” Beyond Asia, China has leveraged market access to penalize or threaten

penalties on states for, among other offenses, awards given (by non-state entities) to Liu Xiaobo (Norway; Reilly 2021, 50) and Gui Minhai (Sweden; Olsson 2019), meetings with the Dalai Lama (e.g. Baltic states; Reilly 2021, 106–108), sister city agreements with Taipei (Czechia; Nuttal 2020), elevating ties with Taiwan but stopping short of recognition (Lithuania; Bermingham 2022) and calling for an inquiry into the origins of Covid-19 (Australia; Hurst 2020).

While it is difficult to observe implied coercion, China has threatened coercion in relation to HRC proceedings (Worden 2020, 44). The most public example came in March 2019. In response to a side event about repression in Xinjiang, China’s permanent representative sent a letter to other delegations that opposed the event. It stipulated:

“In the interest of our bilateral relations and continued multilateral cooperation, I hereby kindly request your delegation, bearing in mind the political motivation behind the above-mentioned side event, not to co-sponsor, participate in or be present at this side event.”⁶

The event itself went ahead as it was a side event organized by the United States and thus relatively immune to pressure of this sort. The attendance list is not publicized on the U.S. Mission to Geneva’s website.⁷ However the subsequent UNHRC meeting was characterized by other alleged implied coercion by China. Human Rights Watch (2019) claims to have found evidence of the PRC “[a]pproaching delegations that criticized China’s rights record to warn of negative consequences to their bilateral relationship” and “[u]rging delegations to sign up for the UPR to praise China’s rights record.”

Tactical deception. The UNHRC gives nongovernment organizations and National Human Rights Institutions (NHRIs) opportunities to comment on resolutions or situations. NGOs can register to attend and observe in the UNHRC meetings and are able to make written submissions to the Council. For the Council, NGOs are conceived of as independent of the government, as part of “civil society,” while the NHRIs are state-organized bodies that advise on human rights policies, draft reports, research legislation, and so on. Indeed, the introduction of the *Working with the United Nations Human Rights Programme: A Handbook for Civil Society* stresses the difference, noting that:

A strong and autonomous civil society, able to operate freely, and knowledgeable and skilled with regard to human rights, is a key element

⁶ Full letter available here: https://www.hrw.org/sites/default/files/supporting_resources/hrcletterchina20190329.pdf

⁷ <https://geneva.usmission.gov/2019/03/13/u-s-hosted-event-on-protecting-fundamental-freedoms-in-xinjiang-china/>

in securing sustainable human rights protection at the national level. Civil society actors are therefore essential partners in the United Nations human rights system (pg. viii).⁸

The Chinese NGO that most frequently engages with the UNHRC is the China Society for Human Rights Studies (CSHRS). It is listed as a “non-governmental organization in special consultative status.” However, the CSHRS is not meaningfully nongovernmental. Indeed, Chen and Hsu (2021, 232) call it an “integral component of the party-state’s external propaganda system” and use its texts in their analysis of China’s human rights discourse as representing the CCP’s official viewpoints. The organization’s website⁹ features no content that is critical of China’s own human rights record and links to only official PRC outlets like *China Daily* or *Xinhua*. The “In Focus – Politics” section¹⁰ features state-produced content laudatory of China’s human rights record, reports critical of the United States, and justifications for the PRC’s repressive policies of Uyghur and other ethnic minorities groups in Xinjiang. Indeed, it even features a link to a hagiographic subsite called “Xi’s Time” housed at *Xinhua*.¹¹

The reason for this congruence between CSHRS and the official Chinese government line is because of the close links between the two and the apparent lack of autonomy of the former from the latter. The leadership of the organization has always been in the hands of current or former party-state officials. The current president (since 2016) is Qiangba Puncog. He is a CCP member who long served on the powerful party Central Committee, and was Vice-President of the Standing Committee of the National People’s Congress (NPC) and Vice-Chairman of the Tibet Autonomous Region Government. The current vice-president of the CSHRC is Xu Xianming, a former member of the NPC’s Constitution and Law Committee who has held various high-level positions in the party-state. The CSHRS president from 2007 to 2016 was Luo Haocai, formerly Vice-President of the National Committee of the Political Consultative Conference. The founding president, Zhu Muzhi, who headed the CSHRS from 1993 to 2007 was formerly the Deputy Head of the CCP Propaganda Department and head of *Xinhua* and the State Council Information Office (SCIO), both key parts of China’s official propaganda system (Brady 2015; Tsai 2017; Brazys and Dukalskis 2020). Noting this political oversight, Chen (2019, 11)

⁸ Handbook available here: https://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf

⁹ <http://www.chinahumanrights.org>

¹⁰ <http://www.chinahumanrights.org/html/INFOCUS/POLITICS/>

¹¹ <http://www.xinhuanet.com/english/cnleaders/xistime/index.htm>

observes that the CSHRS can be seen as a direct front for the Human Rights Bureau of SCIO given that they share the same staff and office space. SCIO is supervised by the CCP Propaganda Department and describes itself on its website as the “chief information office of the Chinese government” with the mission to “to promote the communication, understanding and trust between China and countries across the world.”¹²

Indeed, Xi Jinping himself in 2022 in an article about China’s international human rights seemed to acknowledge the connection and importance of the CSHRS in China’s human rights strategy, saying: “It is necessary to give full play to the roles of the China Society for Human Rights Studies and the China Human Rights Development Foundation, and to increase its influence on multilateral human rights institutions such as the United Nations.”¹³ Notably in light of the tactical deception argument being advanced here, this directive appeared only in the Chinese language remarks, not the English language summary.

Predictably given this set-up, the content the CSHRS submits to the UNHRC faithfully reflects the PRC’s preferred line which counters liberal democratic human rights norms (Chen 2019; Chen and Hsu 2021). Between 2018 and March 2022, CSHRS submitted 19 reports to the Council. All 19 advanced the PRC’s view on key issues. More than half of the submissions were about how there were no human rights abuses in Xinjiang (6) or Tibet (4) and that the Chinese government’s policies in those places were appropriate. Some submissions tout China’s human rights generally. A 2021 submission called “Realize Human Rights Through Unity and Struggle” lauded the wisdom of Xi Jinping and the PRC’s experience in realizing human rights. A 2019 piece called “China is a Normative Power in International Human Rights Regime” telegraphed the PRC’s interest in acting as a human rights model. The piece is worth quoting at length:

“1. ...China has taken an active part in international human rights protection and become a normative power in the international human rights regime.

2. We notice China is a backbone power of the development of international human rights cause. China's great achievements in domestic human rights protection and tremendous contributions to the international human rights are increasingly showing strong positive externalities.

...

¹² <http://english.scio.gov.cn/aboutscio/index.htm>

¹³ Statement available here: http://www.qstheory.cn/dukan/qs/2022-06/15/c_1128739416.htm; English summary http://en.qstheory.cn/2022-06/15/c_771084.htm (both accessed June 17, 2022).

5. We notice China is a driving power for the development of international human rights norms. China has been a model of rule-abiding and a contributor to the development of rules in international human rights system.

...

9. We notice China is a leading power for reform of the international human rights system. Since the reform and opening up, while actively promoting the improvement of international human rights mechanisms, China has also actively put forward ideas and propositions that reflect the voice of developing countries, leading the new direction of the international human rights system.”

The upshot of CSHRS contributions like this is that tactical deception can be used to support state-led normative change via an international organization. CSHRS is effectively a cheerleader for the PRC’s causes on the council and China’s human rights record, meaning that government viewpoints are laundered via the CSHRS’ NGO status into UNHRC deliberations. To be sure it is not clear how much influence these statements have, and it is unlikely that they fool seasoned diplomats, but they at minimum provide political cover for like-minded partners. Tactical deception is not well accounted for in existing theories of normative change, which tend to see states doing things and NGOs doing things but often miss the deception of the former laundering content through the latter.

Repression to silence critics. Finally, China works to keep critical voices off the agenda at Council meetings. As discussed above, this can apply to side events as well. Theories of human rights and normative change sometimes account for censorship domestically (e.g., Gruffydd-Jones 2019), but extraterritorial censorship or transnational repression is usually not mentioned. Transnational repression is a common tactic to keep critics who might damage the reputation of authoritarian states out of the public eye (Dukalskis 2021). Raising the costs of criticizing the government abroad means that fewer will do so and those that do will have to use more time and energy for each intervention or appearance.

The UN Secretary-General files a report annually which documents cases in which reprisals were brought on people for engaging with the UN human rights system. The 2021 report¹⁴ documents cases in which Chinese nationals were detained domestically for writing open letters to the UN High Commissioner for Human Rights and for participating in a webinar with experts from the Working Group on Enforced or

¹⁴ “Cooperation with the United Nations, its representatives and mechanisms in the field of human rights”; UN document A/HRC/48/28; available at: <https://www.ohchr.org/en/repisals/annual-reports-reprisals-cooperation-un> (accessed June 16, 2022).

Involuntary Disappearances (10). Hong Kong activists received formal police inquiries for writing to the High Commissioner, while other groups reported that they were halting their engagement with the UN human rights machinery for fear of repression (10). The report also documents fourteen long-running or repeat cases in which Chinese nationals were punished for and/or prevented from contributing to human rights work at the UN (51–53).

One way in which activists can contribute their views to the UNHRC's proceedings is to travel to Geneva to give testimony. In the first instance, the PRC attempts to prevent domestic critics from doing so by not allowing them to leave the country (Wee and Nebehay 2015). If they are able to leave and make the journey, they are surveilled and intimidated (Wee and Nebehay 2015). UN staff have allegedly leaked names of Chinese nationals due to appear at the committee to PRC government officials, which facilitates transnational repression (see MacCormaic 2021). UN officials have told journalists that the PRC regularly tries to block activists or officials like the Dalai Lama and Uyghur leaders like Dolkun Isa from speaking with the HRC, alleging that they are terrorists or criminals (Wee and Nebehay 2015). In 2014, the PRC representatives used procedural maneuvers to prevent an NGO from using its speaking time to offer a moment of silence during an HRC meeting to commemorate Chinese human rights activist Cao Shunli, who died in detention after having been prevented from leaving China to participate in the PRC's Universal Period Review in Geneva (Freedman 2020, 200).

A less violent and more subtle institutionalized form of silencing comes with the PRC's efforts to keep critical NGOs from gaining accreditation status at the UN. Inboden (2021b; see also Worden 2018) documents how the PRC uses its almost continual seat on the UN Economic and Social Council (ECOSOC) Committee on Nongovernmental Organizations to block applications from NGOs that focus on human rights of China or some of its authoritarian allies. Consultative status, like that which the CSHRS possesses, allows NGOs to inject their viewpoints and priorities into the UN, so being blocked from this status keeps particular issues and cases off the agenda of the HRC. In addition to Taiwan, Tibet, and Xinjiang issues, human rights NGOs draw particular scrutiny from the PRC (Inboden 2021b, 127). NGOs in the PRC's crosshairs face procedural hurdles that can drag on for years, with some interview evidence suggesting that China pressures other states to oppose particular NGOs (Inboden 2021b, 131). The upshot is that while the CSHRS can contribute PRC viewpoints on China's human rights into proceedings, many more critical NGOs cannot, or can only do so after long delays and procedural hurdles.

Conclusion

Focusing on the UNHRC, this paper has outlined what norms China advances at the Council and how it does so. It found that the PRC keeps its own record out of the spotlight, is hesitant to vote for resolutions that target one country, advances norms associated with development and multilateralism, and works against norms associated with liberal democracy. It argued that the “hows” are characterized by four modes of action: mobilizing like-minded states, real or implied coercion, tactical deception, and repression of critical voices.

Understanding these modes is important because they illustrate underappreciated ways in which China is working to change collective understandings of human rights. The PRC has worked to make human rights less standards-based and more subject to behind-closed-doors “dialogue,” in the process downplaying rights associated with democracy and advancing more collective, state-led rights. To do so it relies not only on familiar modes of normative change like persuasion and mobilizing like-minded actors, but also less discussed methods like transnational repression and tactical deception. To be sure, the PRC does not always achieve its aims or does so only modestly (Fung and Lam 2021), but the intention and methods to alter the human rights system is clearly present. The normative landscape around human rights is changing as a result.

The existing international human rights architecture is multilateral (Alston and Mégret 2020, 36). This means that in addition to “exit” options, authoritarian states have a venue to push for normative changes from “within” the system. This study of China’s preferences and tactics at the UNHRC is a reminder that the human rights system is malleable and that there is nothing fixed about the status of particular rights. The rise of an authoritarian great power like China with a clear interest in shaping the content of global human rights raises the possibility that international human rights may move closer to Ginsburg’s notion of “authoritarian international law.”

This raises the question of what should be done to avoid human rights being re-shaped to be more pro-authoritarian. Assuming that the PRC continues to pursue change in this fashion, the locus for action is with the UN itself and pro-democratic states. The UN should review its NGO selection and observation standards to ensure that only truly independent entities are permitted to make submissions and participate (see Inboden 2021b, 133). Institutional sanctions for states that prevent dissidents from engaging with the committee could be strengthened. Beyond the UN as an institution, pro-democratic states should continue to push for robust human rights protections for civil and political rights and reject formulations that dilute or relativize them. To do so requires being at the table, so the United States’ re-engagement with the United Nations after the Trump presidency is a positive move from this standpoint.

Given that UNHRC seats are elected with no human rights standards requirement, more thinking might go into how to reduce the support in the UNGA for authoritarian states joining the HRC. Short of this, though, authoritarian states are a part of the UN human rights system for the foreseeable future, so democratic states ought to work to prevent pro-authoritarian norms from being advanced through the system.

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