China and the United States are the two most important actors in world politics today. Despite the claims of U.S. decline after the 2008 financial crisis, the United States maintains its global influence in various issue areas including global economy, military, and culture.¹ At the same time, the rise of China is another evident reality. China is showing more assertive and challenging stance in diplomacy, especially in economic and military affairs in the region. The creation of the Asian Infrastructure Investment Bank (AIIB) and several incidents of sabre rattling in the South China Sea indicates that China has a potential and political will to challenge the U.S.-led global order.² It is highly likely that the international order in the 21st century is going to be heavily affected by the China-U.S. relations.

Many important scholarly and popular research have been conducted and published. Most works, however, tend to focus on military and strategic aspects or economic and financial relations. In other words, the China-U.S. relations has been dominated by scholars interested in power, security, strategy, and economy. However, the dispute and competition around ideas and norms existed since China’s first encounter with the modern European international society.³ It is getting more and more important and a few scholars recently started to emphasize the role of soft powers and international norms in the China-U.S.

Despite not being a direct conflict between China and the United States, a recent event between China and the Philippines is illuminating. This case is still relevant since China is making a claim that the United States is behind the Philippines in recent events. Since the 2012 Scarborough Shoal standoff, a high level tension between two countries over the resource-rich South China Sea continued, involving apprehension of fishing vessels and the use of water cannons. Another layer of new tension emerged when the Philippines decided to bring the case to an arbitration panel under the United Nations Convention on the Law of the Sea (UNCLOS) in 2013. Despite strong objection from China and her decision not to participate in the process, the court in Hague in 2015 decided that it has jurisdiction in the case and held several hearings. The decision will be out in a few weeks and regardless of the ruling, the dispute between two countries is expected to intensify in the future. Moreover, if the ruling is in favor of the Philippines, other countries in the region who have similar territorial dispute with China, such as Vietnam, are likely to follow the legal path. This case shows that not only military and security concerns but international laws and norms must be considered.

It is expected that international norms will become more important in the future. In 2010, China’s economy has already overtaken Japan, which ranks second in global economy, and is increasingly challenging the United States. In military, China became a significant competitor to the United States in the East Asian region and some scholars cautiously predicts that this challenge might occur at the global level by year 2035. The current trend show that China and the Unites States will reach parity in the degree of power in the near

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future – first, in economic power, and second, in military power at least in the region.\textsuperscript{6} The logical step for the next fierce competition is an area of so-called soft-power and international norms. Some suggest that it will depend on whether China will explicitly challenge international order but, even if China will not, it is highly likely that the structure of competition will inevitably drive both countries to compete and contest over international norms, standards, order, and law.

The purpose of this paper is to fill the gap in the current studies by addressing insights from constructivist research program of studying international norms. It certainly is a challenge because the traditional understanding of the China-U.S. relations ignore the role of ideas, values, norms, and principles while the constructivist perspective recognizes the importance of these ideational variables and further suggests their ‘autonomous’ effects. Among diverse areas of international norms, I argue that international human rights issue area is a critical venue where we can observe the role of international norm on the China-U.S. relations. In this paper, I wedded the traditional understanding of power politics between China and the United States with the study and insight of constructivist norm research on international human rights.

This paper consists of four parts. In the first part, I define international norms and introduce different approaches to the study of international norms. Here I argue that the study of international norms is not simply a study of new topics but also is an approach and a theory-building process. Second, I overview the existing studies on the politics of international norms between China and the United States and point out the limitations of the current important research. Here, I argue why examining international human rights norms is important and timely and briefly overview the overall development of international human

rights norms. In the third section, I explore the historical and recent cases of competition and cooperation over international human rights norms between China and the United States. Here, I combine the existing perspectives of international norm dynamics with what is happening between two countries.

I. Politics of International Norms

International norm is “collective expectation for the proper behavior with a given identity.”7 Norms arise when actors categorize behavior as right or wrong, legitimate or illegitimate, or desirable or undesirable. Normative concerns include ideas about whether states should or should not do something. This intrinsic ‘sense of ought-ness’ or ‘logic of appropriateness’ is often made explicit in their codification, legalization or institutionalization. Norms can explicitly be detected when it is codified in law, treaties, or preambles of international organizations. However, international norms also can be identified, firstly, by examining states practice of compliance or violations. Other times, norms can be detected by examining noncomplying states’ justifications of its noncompliance. Examples are plenty such as the norm of sovereignty, the norm of just war, the norm against nuclear weapon, the norm against slavery, the norm against apartheid, the norm against colonization, and the norm of human rights.

Most studies of international norms emphasize and explore the norm that has already been legalized and institutionalized. It is mainly because institutionalization is a clear and explicit indicator of the existence of international norms. However, this is only a part of the story. Most important works on normative change or practices focus on the behavior/practice or examine the justification process. Only by approaching in these ways, studies of norm can

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avoid of being a post hoc analysis where only existing norms are studies. By studying discourses and practices, we can have a clear and more precise picture of the possible change in the international norm structure between China and the United States.

International norms has been a central focus in constructivist research. There are three positions in understanding the study of international norms – (1) a study of norm as a research topic, (2) a study of norm as an approach, and (3) a study of norm as a theory or theory-building process. Most scholars engage with international norms with the first position but are less familiar with the latter two positions. However, the study of international norm is in the stage between being an approach and a theory. Many interesting and important theorization has been and is being conducted in the field.8

In the first position, norms are treated as research topics. By focusing on these topics, various IR theories such as realism and liberalism could be applied to new issue areas and tested. It is understood as one of important contributions of constructivism that scholar have engaged and thus enlarged the area of studies in IR. Various topics such as human rights, environment, corruption, which had traditionally not been a core topic of IR, is now widely studied. However, studying international norms as a research topic inevitably entails adopting a few key assumptions of the topic itself, such as the autonomy of ideational factors or the belief in the social and historical construction of international reality. This is the second position, which understands the study of norm as an approach. Approach tend to have one distinct shared assumption in a research program, such as an assumption of a rational and egoistic individual in rational choice approach. Scholars who studies international norms as an approach also tend to believe in the independent effect of international norms and relative importance of ideational factors over material element in understanding world politics.

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However, I find the last position most illuminating, which sees the study of norms as a theory or a theory-making process. From this perspective, scholars are interested in the role of international norms in making and unmaking of international order(s). Thus, the emphasis is put on the process of norm dynamics including norm creation, diffusion, and internalization. The most widely employed constructivist account of norm dynamics is the norm life cycle.\(^9\) International norms are said to arise in three phases: norm emergence, norm cascade, and internalization. A central element of this framework is the tipping point, which distinguishes the emergence phase from the diffusion phase. Norms spread slowly in the earlier phase, mainly through persuasion by norm entrepreneurs – i.e. individual activists and their organizational platforms –, but then diffuse rapidly after the tipping point. The role of norm entrepreneurs and pressure from like-minded states is central. The final stage is when the norm is taken for granted and produces rule-consistent behavior.

Many studies have examined the spread of international norms, diffusion dynamics and their impact in domestic politics. The norm life cycle theory has been the most influential theoretical framework in empirical constructivist research. The original paper is the most cited constructivist article.\(^10\) *Activists Beyond Borders* and *The Power of Human Rights* further elaborate this thesis; the former is the single most cited constructivist work of any kind ever.\(^11\) More recently, *The Justice Cascade* further explores the origins, diffusion and effect of domestic and international human rights prosecutions. Although the norm life cycle theory is not the only constructivist account of this phenomenon, it provides a fundamental frame of reference for current constructivist research.

Given the number of scholars working in this vein, evidence here must necessarily be

\(^10\) http://journals.cambridge.org/action/displayJournal?jid=INO (accessed on 28 August 2012)
\(^11\) According to Google Scholar (accessed on 28 August 2012), *Activists Beyond Borders* has been cited 6,257 times, compared with 3,909 for Wendt’s *Social Theory of International Politics* or 5,930 for *After Hegemony*, Keohane’s most cited work.
selective rather than exhaustive. Risse’s work on logic of arguing certainly prioritizes actors like domestic and transnational advocacy networks. Clark finds a “critical role” of the Amnesty International in the development of international legal norms on torture, disappearance, and extrajudicial execution. Bob, although introducing important questions of why some norm become more prominent than others, relies his explanation on “the strategic action by local-level human rights victims.” Thomas’s work on the end of the Cold War concludes the causal effect of ideas and norms “depends on political agency.” Kelley’s recent study of international election monitoring norm is based on the norm life cycle theory. Acharya, despite introducing important “localization” process but still puts a greater emphasis on “local agents.” In addition, writing on the Eastwards expansion of the EU, Schimmelfennig argues for the centrality of rhetorical action: “the strategic use of norm-based action.” Even Bukovansky’s work, which parallels our treatment of world culture in many respects, holds that constructivists “need to pay more explicit attention to the instrumental use of ideas.”

II. International Norms and the China-U.S. Relations

Existing Research and Limitations

The current literature linking the politics of norm with the China-U.S. relations falls under two camps. First, there is ever increasing literature on the China-U.S. relations in a particular issue areas of international norms. This works existed for a long time but has resurfaced with the rise of China. Since 2007, dominant research themes associated with liberal IR theory such as soft power, peaceful change, and multilateralism have become popular in China. This liberal turn reflects Chinese foreign policy concerns as it seeks to project an identity of a

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responsible great power embarking on a peaceful rise to world power status. Similarly, with the rise of China and her important standing in global politics, many old and new issue areas such as finance regulation, trade liberalization, international aid, U.N. peacekeeping operations, resource diplomacy, and public diplomacy are now on the topic.\(^{13}\)

However, what is more interesting is the second group of scholars who focus on the overarching implication of the rise of politics around international norms. These scholars tend to focus the general trend rather than detailed relations between the two states over a particular issue. Scholars are more interested in mapping the terrain of conflicts between China and the United States over nontraditional issue areas. There are three distinct works. It was Foot and Walter (2010) who initially took this approach but increasingly China specialists such as Shambaugh (2013) and Nathan (2015) joined the trend.

First, Foot and Walter’s book *China, the United States, and Global Order* is a path-breaking work.\(^{14}\) This is the first research which approached the China-U.S. relations with an emphasis on international norms. Authors ask why China and the United States comply with existing international norms. By examining five areas – the use of force, macroeconomic policy, nuclear proliferation, climate change, and financial regulation – scholars predict how the conflicts over international norms could affect the future relations. Foot and Walter argues that China’s behaviors toward international norms have been generally improved since the opening and reform era while the United States has selectively conformed to these norms. Furthermore, they argue that international norms rarely play autonomous role in affecting state behavior but works in conjunction with other primary factors such as domestic interests, values, and institutional configurations. Second, Shambaugh recently published *Chiba Goes*

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\(^{14}\) Rosemary Foot and Andrew Walter, China, the United States, and Global Order (Cambridge: Cambridge University Press, 2010)
Global. The purpose of this book is to study China’s global impact by examining the changing dynamics of the Chinese global identity. Shambaugh examines five areas – diplomacy, global governance, economy, culture, and security – and concludes that the China’s global impact will be modest. Nathan, in his 2015 unpublished manuscript, studies the likelihood of China seeking to overthrow global norms. Similar to Shambaugh, Nathan suggests that it is less likely because China so far has been complying with international order and have joined many international conventions.

I find these studies problematic in three points. First, these studies tend to treat international norms as simply a research topic, not as an approach or a theory. Thus, there is a limitation that these studies emphasize less on the power of international norms themselves. At most, scholars focus on the power of norms in changing the behavior of states by changing the payoff associated with their cost-benefit analysis. What is more interesting and should be focused is the constitutive effect of international norms which influences the change of state identity, value and perception.

Second, these studies emphasize international norms that have already gone through institutionalization or legalization. Scholars are less interested in the process of social and historical construction of international norms. Thus, it has an innate difficulty to see how China and the United State have interacted in creating, operating, and applying international norms in the long term. In order to understand the future competition and contestation of international norms, the past history of social construction must be simultaneously examined.

Finally, most studies suffer from status quo bias, especially in understanding China’s reaction to the existing order. It is a dangerous wishful thinking to assume that China is not going to challenge international order and international norms only because she has so far

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16 Andrew Nathan. “China’s Rise and International Regimes: Does China Seek to Overthrow Global Norms?”
been generally complying with international norms. When the second and third limitations are combined, existing studies tend to focus on the challenges that are currently occurring at this point and assume that the rules of the current games will be steadily maintained in the future. However, this is a hypothesis which should be empirically tested rather than assumed a priori.

**Why International Human Rights Norms?**

The purpose of this paper is to overcome these limitations by closely examining one particular area of international norms – international human rights norms – in detail with an insight from a constructivist research program. There are three reasons why international human rights norms is the best case to explore the politics of norms between China and the United States.

First, it is timely to examine international human rights norms because scholars recently claim that the development of human rights is dependent upon the power of the states in Europe and North America. It therefore follows that their relative decline of the power of the United States will bring about a corresponding decline for international human rights.\(^{17}\) Moreover, a few China experts also claim that human rights is no longer an issue between China and the United States because both countries have reached an agreement to a certain level and the contestation between two countries is in a stalemate.\(^{18}\) If human rights, which is understood as an international norm with declining importance, is proven to be still effective, it has an important implication for other emerging and more important international norms.

Second, human rights has been contested between China and the United State both in

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the 20th and 21st century. There are various issue areas of international norms where China and the United States have been in conflict. Certainly, the relations between China and the United States could go back to the 19th century but the current relations depend on the era after the creation of the People’s Republic of China in 1949. In the 20th century, norms such as human rights, nonintervention, development, nationalism, and national determination were important in domestic politics while norms such as nonalignment, humanitarian intervention, international aid, new international economic order, and nuclear nonproliferation were important in international realm. In the 21st century, norms such as human rights, democracy, anti-corruption, macroeconomic policies, financial and trade liberalization, and ethnic separatism are in contestation in domestic realm while norms like the Responsibility to Protect (RtoP), U.N. Security Council reform, developmental assistance, climate change, anti-terrorism, and global governance are getting more important in international arena. Human rights is one of norms that have a continued significance both in the 20th and in the 21st century and for that reason, we can examine the history of norm contestation between China and the United States.

Finally, human rights is a fast evolving norm which incorporates and interacts with many other international norms. For example, human rights is closely related to the principle of sovereignty. A distinctive feature of today’s global international society is that, in addition to upholding principles of sovereign equality and territorial integrity, we have seen an ever-increasing codification of universal human rights. Indeed, it is this conjunction of sovereignty and human rights that makes today’s international society so unique. An example of this conjoined relationship between sovereignty and human rights can be seen in the declaration by the European Community (currently, European Union) in December 1991 on the Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union. Among five general conditions required for new states, the first one is the respect for the UN
Charter, the Helsinki Final Acts, and the Charter of Paris, “especially with regard to the rule of law, democracy, and human rights” and the second is the guarantee rights for ethnic and national groups and minorities. Both the United States and European countries have been using these principles to recognize the statehood. This is a prime example of the way in which the principle of sovereignty and universal human rights have become co-constituted in the current international society.\(^{19}\) Human rights norms are also tightly linked to norms such as democracy, development, RtoP, and global governance. Thus, we can explore the nexus between international human rights norms and other newly emerging norms.

**The Development of International Human Rights Norms**

Universal human rights have experienced a dramatic increase in the post-World War II period, starting with the 1948 Universal Declaration of Human Rights (UDHR). States were expected to ratify human rights conventions and many governments regarded human rights treaties as a normative prescriptions constituting the legitimate identity of modern nation-states. The principle of human rights is now inscribed in the constitution of most countries even though many regard them as being Western in origin. The idea of universal human rights has also been institutionalized in the form of independent and permanent human rights commissions or newly established branches of government organizations. Over time, human rights have expanded throughout the globe and have become more effective in directing the choices that states make.

IR scholars have conducted intensive research on the globalization of universal human rights.\(^{20}\) Not only the structure of international human rights law and institutions but

\(^{19}\) The current era certainly is not the first time when the consideration of individual’s rights has been wedded to statehood. The principle of national self-determination, represented in Wilson’s Fourteen Points is another example but this principle immediately after the World War I did not have a geographic scope and universal application as of today.

also the actual process of historical developments has been closely examined. Originally, the idea of humanitarianism developed through intense conflicts and contestations with the norm of sovereignty. Distinguished from human rights laws, humanitarian law originated and is still heavily based on the treatment of protected individual persons during wartime. States and non-state actors worked to expand the definition and application not only of ‘protected persons’ but also of ‘wartime’ through a series of developments in the Hague Convention of 1900 and 1910 and the Geneva Convention of 1864, 1929, and 1949.

A full-scale development of human rights, however, occurred only after the end of WWII when the whole world witnessed the Holocaust by Nazi Germany. The struggle began with the process of including the human rights clause in the United Nations Charter, and the subsequent development of the UDHR in 1948. The institutionalization of human rights was further accelerated with the adoption of special treaties, such as the Genocide Convention and Refugee Convention, the International Covenant on Civil and Political Rights (ICCPR), Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and International Covenant on Economic, Social and Cultural Rights (ICESCR). The current U.N. human rights system is a good example of how universal human rights have now been institutionalized over the last sixty years.

The U.N. human rights system currently consists of three major bodies: the General Assembly, the Human Rights Council, and the Security Council. The General Assembly was and still is the place where the major declarations, resolutions, and various human rights conventions are being created, such as the UDHR, ICCPR, ICESCR, and diverse specialized treaties. Treaty bodies, which are monitoring bodies for major human rights conventions, are

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also located within the General Assembly, receiving and reviewing the state party’s self-report on the implementation and progress of the conventions. The Human Rights Council, composed of 47 elected U.N. member states, is the most active body within the U.N. human rights system. The most important function of the Council is to make major decisions on human rights situations around the globe in its 10-week regular session. The Security Council makes the important decisions regarding serious and grave human rights violations threatening the peace and security. The Council has various compulsory measures it could use, such as imposing economic sanction, referring the case to the International Criminal Court (ICC), creating the *ad hoc* international criminal tribunals, and authorizing the use of force as the last resort.

**III. Cooperation, Competition, and Contestations**

How did China and the United States interact in the course of the development of international human rights norms through cooperation, competition, and contestations? How did international human rights norms affect the relationship between China and the United States? What are the predictions of constructivist norm theories and how their recent findings on various aspects of international norms could be applied and linked to the China-U.S. relations? These are questions I try to answer in this section by linking the findings and theories of international norms literature with the China-U.S. relations. Here I focus on the following aspects of international norms – (1) historical construction of international norms; (2) independent and long-term effect of international norms; (3) consistency, persistence and resilience of international norms; (4) the effect of international norms on the level of satisfaction between two countries.

*Historical Construction of International Norms*
China and the United States have long history of interactions around international human rights norms. When the long span of history is examined we can find interesting and somewhat surprising facts about the detailed and more complicated relations between China and the United States over international human rights norms.

The first example is the U.N. Charter and the UDHR. Despite the time span of this paper is limited to the post-1949 era, what happened between the United States and China under the rule of the Kuomintang Party in 1948 in the course of negotiating the U.N. Charter and the UDHR is illuminating. Prominent scholars of the negotiation process of the UDHR discovered that Chinese and Latin American delegations played a critical role at the San Francisco meeting where the U.N. Charter was first drafted.24 At the Dumbarton Oaks meeting, the U.S. delegation was instructed to avoid any detailed discussion of human rights, since it would undermine national sovereignty. Surprisingly, it was Latin American countries and China who pressed for the inclusion of human rights language into the U.N. Charter. The U.S. delegates were in favor of the principle of sovereignty while representatives from China were active in pursuing the cause of racial equality. Without the inclusion of the human rights language in the U.N. Charter, the subsequent creation of the UDHR might have been extremely difficult. This example alone shows that an examination of history of international norm politics provides us with new information and surprises.

Secondly, when we look at the long-term dynamics of international norms, we could reach a conclusion that human rights, which are generally understood and criticized of being a Western construct imposed by Western great powers, is a global construct with inputs from both Western and non-Western states such as China. Recent scholarship also has discovered that human rights is not as Western as previously assumed. These studies show that

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international human rights laws and institutions were not imposed on the ‘South’ by the United States and other Western European countries. Scholars recently come up with similar findings on other norms such as development, foreign aid, and multilateralism. They emphasize the role of non-Western countries in creating the ideas and principles and leading the global diffusion of norms, such as in case of transitional justice.

A historical observation of norm politics suggests that there is an important contribution of China in the process of current international norm formation. In the issue area of human rights, there were two critical debates where China played an important role – first, the so-called, ‘three generations’ of human rights debates, and second, the cultural relativism debates. Both debates are important in shaping the current terrain of international human rights discourse. With respect to the ‘three generations’ of rights. The first is civil and political rights, which emerged during the revolutionary era in Europe and the United States, such as the right to life or the right to free speech and thought. This is what most scholars think as the core of human rights. The second is economic and social rights, which became important during the Cold War by the Soviet Union, and even after, by China and other developing countries. Vincent captured this nicely when he argued that the history of East-West relations was ‘in an important sense the history of a dispute about human rights’.

Third, collective rights that emerged from the decolonization struggle but continued through the post-colonial period in Africa through the importance attached to the right to self-determination, the right to economic development, the right to peace, and the right to a sustainable environment.

The other contestation is the debate between universalism and relativism. This is a fundamental challenge to the idea of the universality of human rights.\textsuperscript{29} This debate is intense, not at the level of legalization or legislation but at the level of implementation and enforcement. The most significant challenge to the idea of universalism in human rights was the Bangkok declaration from the 1993 World Conference on Human Rights. Representatives at the conference reached a declaration, claiming that human rights must be approached from a pluralistic perspective that respects differences in culture, region, religion and history. This further caused the debate over ‘Asian values’ in other areas such as democracy.\textsuperscript{30}

Furthermore, cultural relativism recently became an international issue when the African Union expressed its united position against criminal proceedings at the International Criminal Court targeting only Africa leaders among those who remained in office. Here, the role of China is important and in various U.N. human rights agencies, China plays a leading role in opposing the Western style imposition of human rights and emphasizing individual countries’ capacity building.

The current contestation around the cultural relativism and the generations of rights can be simultaneously demonstrated by the case of the Chinese government’s recent counterattack to U.S. human rights reports whereby the Chinese issued their version of a human rights report on the United States. The Chinese government started to annually release the Human Rights Record of the United States, in response to United States’ criticism since 2005. The Chinese report in April 2016, for example, argues that the State Department reports are “since the U.S. government refuses to hold up a mirror to look at itself, it has to be done with other people’s help.”\textsuperscript{31} In this debate, the fault line is not only between the civil


and political rights emphasized by the United States and the economic rights, by the Chinese
government, but also between how the human rights standard should be implemented in each
country with different cultural tradition.

Thirdly, history of interactions tells us more complicated picture of the China-U.S.
relations over human rights. A simple dichotomous perspective or unidirectional criticism of
one country toward the other (usually, from the United States to China) cannot capture the
complexity of the relations. For example, China and the United States contested over the
alleged use of chemical and biological weapons by the United States during the Korean War.
Despite it being now generally known as a fabricated allegation from China, China and the
United States had an intense debate at the International Committee of Red Cross and the U.N.
over the issue based on the principle of human rights and humanitarianism, which could be
understood as a precursor to intense debates that reigned two countries over human rights.
Another interesting case is an interaction between China and the United States over internal
unrest caused by domestic protests claiming for further civil and political rights. Scholars
focused much attention to the 1989 Tiananmen Square protest case and how the United States
reacted to China. What is less studied is the provocation Chairman Mao made during the
Civil Rights Movement in the United States in the 1960s. Mao issued two official statements
in 1963 and 1968 supporting the movement – (1) Statement Supporting the Afro-Americans
in Their Just Struggle Against Racial Discrimination by U.S. Imperialism (August 8, 1963)
and (2) Statement by Comrade Mao Tse-tung, Chairman of the Central Committee of the
Communist Party of China, in Support of the Afro-American Struggle Against Violent
Repression (April 16, 1968). Certainly, this precise precedent triggered George H. W. Bush’s
public statement openly condemning the use of violence by the Chinese government and
explicitly supporting the student protestors in 1989. Without understanding the longer-term
history, a snapshot of relations – either of one event that happened in 1960s or the other in 1989 – has a full potential to mislead our understanding.

Independent and Long-Term Effect of International Norms

For realists in IR, international norms are mere epiphenomena that “reflect state calculations of self-interest based on primarily on the international distribution of power.” Skeptics either argue that international human rights were overall ineffective in transforming the world. Skeptics also predict that it will become ineffective due to its confusing ends and means. Despite the criticism, however, the effectiveness of human rights has also been proven in various ways. For example, many scholars provided a very powerful explanation that international human rights have contributed to change or transform the sovereign state system. For example, Thomas, by exploring the process and impact of signing the 1975 Helsinki Accord, explored the possible impact of the principle of human rights could have on the systemic change in international order. The signing of the Helsinki Accord, for most of Eastern bloc countries, opened up the floodgate for liberalization and democratization by providing both domestic mobilization and transnational groups to work together. Reus-Smit recently argued that there had been a far more intertwined relationship between the two developments, stating that the struggle for human rights has had a significant impact on the international system’s globalization. As a single legitimate political organization – the sovereign state – prevails in the world, so there has also been a similar – although much contested – prevalence of human rights. Human rights norms provided “moral resource for

32 Mearsheimer 1994/5, 339.
the delegitimation of colonialism and the subsequent proliferation of new sovereign states.”37

Following the Finnemore and Sikkink’s norm life cycle theory, many scholars demonstrated how international norms, through the works of norm entrepreneurs and their organizational platforms, changed state behaviors and preferences.

More specifically, there has also been a criticism against specific mechanisms devised to protect and promote human rights. Human rights prosecutions, which have dramatically increased over the last twenty years, are a good example. Some scholars argued that demand for human rights may cause more harm and human rights trials after conflict resolution are detrimental to nascent peace.38 Goldsmith and Krasner contend that “a universal jurisdiction prosecution may cause more harm than the original crime it purports to address”.39 They argue that states that reject amnesty and insist on criminal prosecution can prolong conflict, resulting in more deaths. Snyder and Vinjamuri also argue that human rights trials themselves can increase the likelihood of future atrocities, exacerbate conflict, and undermine efforts to create democracy. They claim that “the prosecution of perpetrators according to universal standards – risks causing more atrocities than it would prevent”.40

Nevertheless, looking at this individual accountability model as one of the enforcement mechanisms of human rights is significant. Holding former or incumbent leaders individually accountable marks an important change, challenging the very nature of sovereignty and sovereign immunity. Previously, dictators were free to abuse and steal from their own populations with no fear of international legal consequences. Currently they can be arrested and indicted for human rights offences committed at home in third countries, and even have their overseas wealth seized. Before 1990, only a handful of former heads of state

had been indicted for such crimes, but since then 67 heads of state from 43 countries have been indicted and the number is increasing.\textsuperscript{41} The move toward holding state leaders accountable for human rights transgressions has rapidly occurred and was unforeseen and unexpected by many prominent scholars and policy makers.\textsuperscript{42} In collaboration with Kathryn Sikkink, I have found some empirical evidence that human rights prosecution actually deter the future violations of human rights.\textsuperscript{43}

Tackling the question of whether international human rights norms had an independent and autonomous effect over the China-U.S. relations is not a simple task. However, events in history suggests the possibility of an independent effect of international norms in the longer term. The Tiananmen Square protest in 1989 and what happened afterwards is understood as the most important political event between China and the United States. Upon the criticism from President George H. W. Bush, the United States took a strongest measures possible against the Chinese government such as suspending military sales, cancelling high-level visits and regular meetings between two countries, and requesting the stoppage of any new loans from the International Monetary Fund and World Bank. The next contestation between China and the United States was the issue of revoking China’s most favored nation (MFN) status and continuously liking the issue of human rights with international trade. This debate officially ended with the decision of the Clinton administration not to link two issues in 1994. Some scholar claim that this is a clear sign of primacy of economic considerations over human rights issues.\textsuperscript{44} However, by examining the long term history and surveying a wider spectrum of the human rights issue area, I found this

understanding not only problematic but also shortsighted because this understanding disregards the diplomatic measures the United States adopted to respond to the issues of human rights violations in China in various levels. Since the Tiananmen event, the conflicts and contestations between two countries have been moved to other venue, especially the U.N. bodies.

The battle over human rights took place not only in bilateral relations but also in multilateral relations. Bilaterally, the United States continued to press China for human rights issues, especially from the Congress. One key important example is the public hearing on the Tiananmen Square in the Subcommittee on International Operations and Human Rights of the Committee on International Relations, House of Representatives in December 18, 1996. In addition to this onetime measure, the Congress also passed the bill to extend student visas for Chinese students with an overwhelming support from both the House of Representative and the Senate. Although the passed bill was vetoed by the president, the government accepted many students and dissident activists through various asylum and immigration policies.45 The United States criticize the practice of human rights violations in China using its abovementioned annual human rights report and a separate report on religious freedom. In these reports, the conditions of religious freedom, the suppression of ethnic minorities in Tibet and Xinjiang, of the repression of Falun gong followers had been addressed. At the level of multilateral relations, important moves took place in the politics of adopting resolutions in the U.N. Human Rights Council and General Assembly. The United States took a lead in the U.N. resolution criticizing the practice of China and requesting the political change in 1995. For about ten years afterwards, it was China’s the top priority to prevent any resolution on the situation of China’s human rights being passed in the U.N.46

46 Sonya Sceat with Shaun Breslin, China and the International Human Rights System (Chatham House, 2012).
Consistency, Persistence and Resilience of International Norms

Robert Jervis, in his classic research on the role of perception and misperception in foreign policy decision-making, finds that the most distinct characteristic of ideational factors such as ideas, beliefs, and values are their tendency toward “consistency or balance”\(^\text{47}\). States tend to believe that “countries we like do things we like, support goals we favor, and oppose countries that we oppose”; similarly, countries tend to think their enemies make proposals that would harm them, work against the interest of their friends, and aid their opponent.\(^\text{48}\) One example of consistency and balance is the China-U.S. relations during the early period of the Cold War. According to Jervis, the United States “thought that China’s intervention in Korea showed that she was aggressive, not that she had legitimate concerns about her security.”\(^\text{49}\)

Jervis further argues the role of antagonism:

> When the state believes that the other know that it is not threatening the other’s legitimate interests, disputes are likely to produce antagonism out of all proportion to the intrinsic importance of the issue at state. Because the state does not think that there is any obvious reasons why the other should oppose it, it will draw inferences of unprovoked hostility from even minor conflicts. Thus the belief that the Open Door policy was in China’s interest as well as in America’s made the United States react strongly to a Chinese regime that disagreed. If, on the other hand, each side recognizes that its policies threaten some of the other’s values, it will not interpret the other’s reaction as indicating aggressive intent or total hostility and so will be better able to keep their conflict limited.\(^\text{50}\)

Moreover, he argues that the role of emotion is important in producing misperception.\(^\text{51}\) The role of expectation is also important. Expectations “create predispositions that lead actors to notice certain things and to neglect others, to immediately and often unconsciously draw certain inferences from what is noticed, and to find it difficult


\(^{49}\) Jervis. *Perception and Misperception in International Politics*, p. 72.

\(^{50}\) Jervis. *Perception and Misperception in International Politics*, p. 72.

to consider alternative." This further led to his following observation:

This means not only that when a statesman has developed a certain image of another country he will maintain that view in the face of large amounts of discrepant information, but also that the general expectations and rules entertained by the statesman about the links between other states’ situations and characteristics on the one hand and their foreign policy intentions on the other hand influence the image of others that he will come to hold.

For example, statesman in democracy will be more likely to see leaders in authoritarianism more aggressive than leaders in democracy. For this reason, Jervis provide an interesting observation that “if you are waiting for one, it will come along.” In other words, “if an actor expects a phenomenon to appear, he is likely to perceive ambiguous stimuli as being that phenomenon,” which is a critical condition for the phenomenon called self-fulfilling prophecy.

Similarly, scholars of international norms have identified a few characteristics of ideational factors such as ideas, principles, and international norms. The most important characteristic of international norms is their persistency and resilience. Ideas and value are hard to change. It is not impossible but it is very difficult to change them and usually takes long time to change. There are some qualities of international norms that is less likely to change, such as intrinsic quality of norms or those norms promoted by transnational advocacy networks. The norm life cycle account cautiously claims an independent causal role for ideas with some reservation, represented by “world time-context” according to which ideas associated with the losing side of the global war or economic failure are at risk of being discredited.

What is interesting is the ideas, norms, and values both China and the United States

52 Jervis. Perception and Misperception in International Politics, p. 145.
53 Jervis. Perception and Misperception in International Politics, p. 146.
56 Finnemore and Sikkink. 1998, 909.
are promoting have a similar characteristics to these ideational factors. As China rapidly moves to center stage in world politics, the question of China’s international purpose and foreign policy is becoming more important than ever.\textsuperscript{57} After surveying the recent literature on the rise of China, Zhang further argues that there is ‘China anxiety’ among scholars in the United States and other Western European countries. Interestingly, what causes China anxiety is not the material aspects of power that China recently projects toward the world but rather a challenge the rise of China makes to the fundamental philosophical assumptions and political beliefs of these countries.\textsuperscript{58}

If we judge the words and deeds of China in the area of human rights so far, China certainly is not a “passive norm-taker.”\textsuperscript{59} The importance of the struggle can be examined in various fronts. First, the Ministry of Foreign Affairs has already started to emphasize the soft power and public diplomacy. The rise of Confucius Institutes around the world and 2014 appointment of Luo Shugang, the top deputy chief of the Communist Party's Publicity Department, as a head of the Ministry of Culture are clear examples. Moreover, a new team of experts on international law was newly instituted in the Ministry of Foreign Affairs to deal with the issues of territorial concern and many cases of extradition cases in related to corruption drive and other anti-government cases.\textsuperscript{60} Another evidence can be found in Chinese domestic situation. The 2004 document of the Central Committee of the communist party, which defines Marxism as “an indispensable element of any innovative reformulation of IR theory by Chinese academia” is a clear evidence.\textsuperscript{61} In 2013, the New York Times releases the party’s document warning seven subversive ideas of the West,\textsuperscript{62} and in July

\textsuperscript{58} Ibid.
\textsuperscript{59} Ibid.
\textsuperscript{60} Teddy Ng, “China Eyes International Law Expertise to Help Return Fugitives and Ease Territorial Disputes, \textit{South China Morning Post} (April 30, 2015).
\textsuperscript{61} Noesselt, ‘Revisiting the Debate on Constructing a Theory of International Relations with Chinese Characteristics,’ p. 4.
2015, a new national security law was passed, which defines security as broadly as to include culture, education, and cyberspace.\textsuperscript{63} Recent crackdown of human rights lawyers in regional government also demonstrates that the Chinese government has begun an important works in defending itself from the Western norms and idea.

\textit{Level of Satisfaction}

Finally, the politics around international norm affects the level of satisfaction between China and the United States. The China-U.S. relations is often understood as the relationship between the challenging power and the dominant power in power transition theory.\textsuperscript{64} Scholars in this tradition understand international system as a hierarchy, where dominant power, great powers, middle powers, and small powers exist in a pyramid order.\textsuperscript{65} Conflicts and wars are explained using two key variables: (1) the relative power difference between the hegemon and the challenger and (2) the level of satisfaction with the current international order. Thus, the degree of power and the degree of satisfaction is the two most important factors in this theory. War is most likely when the challenger is not satisfied with the \textit{status quo} but at the same time believes that she has enough power to challenge and change the existing order led by the hegemon.

Power is measured by the size of population, the level of production represented by GDP, and political capacity.\textsuperscript{66} Of these three factors, population and production is more important because these factors can easily be “metamorphosed” into military power.\textsuperscript{67}

Organski in his first edition of *World Politics* in 1958, identified China as a potential and significant challenger to the international system once it success in industrialization.\(^68\) For the same reason, he pointed out India will be another crucial challenger, and with the rise of these two new challengers in the Asian region, the United States and Western Europe will inevitably decline in the future.\(^69\)

However, scholars are relatively silent on another important variable in power transition theory – the level of satisfaction, which Kugler and Tammen refers to as “the major determinant of conflict.”\(^70\) Scholars further claims:

> The key question from a parity perspective is not whether China will be the dominant nation in world politics by the end of the century, but whether a dominant China would openly challenge the existing international regime or join and lead the pre-existing international community… The key to stability is the challenger’s satisfaction with the *status quo*.\(^71\)

Despite the importance of the level of satisfaction, “little is known about what causes changes in satisfaction” and “little consensus exists regarding factors determining variation in satisfaction or dissatisfaction.”\(^72\) Some uses the similarity of alliance portfolio to measure the satisfaction with the status quo but it is difficult to use this measure in cases of the China-U.S. relations.\(^73\) Others use measures such as military buildups, economic and security coordination, domestic structure, or trust. But as Tammen summarizes, “what constitutes a satisfied or dissatisfied nation is prone to multiple answers.”\(^74\)

Tammen and Kugler suggest five predictors of the level of satisfaction between China and the United States: (1) territorial disputes, (2) military buildups, (3) China’s dissatisfaction

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\(^68\) Organski, World Politics, p. 321.  
\(^69\) Tammen, “The Organski Legacy: A Fifty-Year Research Program.”  
\(^70\) Kugler and Tammen, “Regional Challenge: China’s Rise to Power.”  
\(^73\) Tammen and Kugler, “Power Transition and China-US Conflict.”  
with the current international rules, (4) ideological disputes, and (5) binding patterns of trade and cooperation. Scholars of security studies tend to focus on the first two factors – territorial disputes and military buildups – and reach a pessimistic conclusion while scholars of international political economy tend to focus on the last predictor – economic cooperation and interdependence – and reach an optimistic conclusion. Compared to these material predictors, however, the third and fourth predictors, which are more ideational, are under-researched. A lack of research on these areas of relationship could lead to a biased analysis of the China-U.S. relations. Understanding the politics of international norms between China and the United States is an important missing part.

Recent cases of contestation around domestic human rights issues could be one place where we can observe the increasing level of dissatisfaction between China and the United States. This struggle is often placed in the middle of the Universal Periodic Review (UPR) process and it was observable through expressed recommendations in the process. Since 2006 the Council has followed the UPR process where all the U.N. member states are obliged to go through the review process of their human rights records. The UPR process is the first human rights mechanism that ensures every U.N. member state should be equally represented and scrutinized over its human rights situation every four years. The first cycle of the UPR started in 2008 and ended in 2015 and the second cycle started in 2012 and is scheduled to end in 2016.

For example, in light of the periodic review of the United States in the 30th Session in 2015, China “highlighted the deep-rooted human rights problems of the United States.” China had several recommendations for United States to carry out. China recommended that United States ratify the International Economic, Social and Cultural Rights, the Convention on the Elimination of All forms of Discrimination against Women, the Convention on the

Furthermore, China recommended that United States “correctly address the root causes of racial discrimination and eliminate the frequently occurred excessive use of force by law enforcement against of African Americans and other ethnic minorities”; “fully disclose the abuse of torture by its Intelligence Agency, ensure the accountability of the persons responsible, and agree to unrestricted visit by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to Guantanamo facilities”; “stop massive surveillance activities both inside and outside its territory to avoid violating the right to privacy of its citizens and those of other countries” and “respect indigenous peoples and ethnic minorities rights and interests; fully consult with them on their land, autonomy, environment, language and other issues; correct the historical injustice and offer compensation.”

IV. Conclusion

Scholars have found that the United States is trying to “wrap a web of international obligations, relationships, and common understandings” around China.76 This strategy was successful in the 1990s when the United States “socialized” China into the norms and rule of the World Trade Organization. However, whether this will succeed again in the 21st century is a big puzzle we have to solve. The China-U.S. relations, when examined from the perspective of norm politics, is not optimistic. Norms, principle, values, and rules that China is projecting have a long history and are closely linked to domestic politics.

I am not suggesting that it is impossible for both countries to arrive at shared values and norms. It is, however, difficult and takes long time.77 Norms are constructed for a long

77 Foot and Walter, China, the United States, and Global Order.
time and it is created not by a few significant events but also by social, economic, and cultural factors that are deeply rooted in history. The change is not easy and once change occurs, it also takes a long time to internalize the value and principle. For example, in case of human rights, democracy and development, these norms are not simply internationally projected norms but norms that are practices in the domestic setting every day. Norms such as nonalignment, nonintervention, and RtoP have gone through long historical time and practices and become consolidated and difficult to change its course. It is highly unlikely that either countries will suddenly swerve their course of their idea promotion. Norms that China and the United States is promoting has also been historically consistent, which is an important element for legitimacy.

It took almost 200 years to make the norm first started in 1777 The United States to externalize and become popular. For this reason, it is highly likely that the current dynamics of conflicts between China and the United States will sustain in the future. China also known for considering long time span when changing its direction in policy. Reform and opening of Mao in 1979 had a long term goal of looking into 2050 and Xi’s China Dream is also aimed at two one hundred year goals. The level of dissatisfaction could be increased as scholars such as Hopgood claims that in the realm of human rights norms, “great power politics” will return:

The rise of China and its power to pursue an independent foreign policy in relation to international norms complements the role of the United States and Russia, all with a strong discourse of national distinctiveness. In terms of R2P, India, Brazil, Russia, and China have all strongly condemned the “neocolonial” nature of the claims made by R2P advocates. Both Brazil and India have made the point that domestic commitment to rights and democracy is very different from accepting the authority of the Global Human Rights Regime to dictate domestic priorities.


Internal and external dynamic of norm politics can be wedded. Interesting case is China’s principle of noninterference in domestic affairs, which is a strong norm for China in protecting itself from external criticism. In order to sustain this position, China also maintained “no string attached” foreign aid or overseas development assistance policy in many Asia and African countries. This policy, however, was in opposite with the current global norm of linking good governance with foreign aid and causing a conflict with Western countries. In sum, when combined, it is expected that China and the United States is likely to find the source of legitimacy for their values and standards, and would be more likely to confront. Moreover, norms are resilient and collective memory has a lasting impact.

There are some scholars who are skeptical about the possibility of conflict in this areas because the United States are not actively responding to the norms, principles, and institutional arrangements that China is proposing throughout the world. However, it is highly doubtful whether the U.S. government will keep remain silent to those efforts to disseminate the norms when there is some parity in economy and military. The China-U.S. relations is ongoing, and the conflict in the areas of international norms are more likely to intensify as the relation in security and economy intensifies. Moreover, norms that is promoted and sustained by China has a strength of its own because it was a norm which many other states agree with and share. It is persuasive because it has a contents and surprisingly China has been consistent in promoting those ideas. It is important to understand this because China has a historical and moral ground to promote the values and principle they believe in. Some further argues that China historically has a moral upper ground in a few norms since China was a challenger to the existing order. One example is the norm around nuclear weapon, where, unlike the United States, China consistently proclaimed “no first use” of nuclear weapons.