The reconfiguration of global spaces: Asymmetries, Contestations and implications of the International Human Rights discourse in an Age of ambiguity

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1. **Introduction**

Human rights in Africa have been explored in great length across a variety of disciplines that have pushed inquiries beyond purely legal analysis. Inquiries have ranged from understanding economic, political, social and cultural variables to interrogations that have focused specifically on the issue of state compliance with International Human Rights Law in the African context. Studies of human rights in Africa have resultantly largely been focused on issues concerning compliance, particularly seeking to understand why non-compliance is commonplace. Resultantly, the basis of much scholarship is to be found in the intersection of International Relations and International Human Rights. This intersection has become the most prominent point of departure in interrogating issues of compliance that move beyond the purely legal. Mostly, these endeavours seek to understand compliance in a complex political, economic and social international system. Such an understanding however is most generally embedded in a number of *a priori* assumptions that are not wholly unproblematic.

Uncovering the complications and limitations embedded in this intersection is useful in problematizing how human rights are researched and thus constructed, particularly in the African context. The implications of this in the African context and an ever-changing global context is similarly necessary to uncover. As a consequence, interrogating the validity\(^1\) of this intersection as far as how challenges to human rights in the African context are framed arises as an important angle. This in turn allows us to more broadly understand how human rights are constructed vis a vis the African context as well as the specific challenges that flow from them.

Importantly, the specificity of studying human rights in ‘Africa’ infers an assumed particularity to the continent and the challenges it faces. While critiques abound in terms of ‘lumping’ together a largely heterogeneous group of states, this contextualized approach (that takes Africa as its focal point) is to be lauded in its recognition of the contextual specificity of factors influencing human rights. These factors ranging from historical, cultural, ideational and developmental, all provide a context-specific milieu through which human rights are to be understood in the African case. While this contextual specificity need not have any bearing on their universality, it does weigh significantly in understanding challenges to human rights. The consideration of contextual factors, however, is of course is not new and has been regularly invoked in research. Such research however tends to be positivist in nature, which rests on certain assumptions. Such research undoubtedly has its merits and place in scholarship however as will be elaborated, limits our understanding of more complex, subjectivities that often renders conventional scholarship superficial in understanding the intersection of IR and IHR as well as the African context. As will be discussed in this paper, if we are to dig deeper into the ‘African’ context as it were, the above-mentioned particularities are crucial in considering for the socially constructed nature of the human rights discourse; the various subjectivities this discourse exudes contains; and the challenges/opportunities this brings. Uncovering the underlying assumptions of conventional scholarship therefore affords us an opportunity to unearth what I contend are the most fundamental challenges to human rights in an ‘Age of Ambiguity’ and in an ‘African’ context. Approaches that have considered for cultural-sensitivity in human rights, specifically in the African context have similarly emerged sporadically over the years\(^2\) and have spurred on the advocacy of culturally sensitive approaches to human rights. While not necessarily specific to Africa, this type of scholarship has undoubtedly come to characterize *an* aspect of studying

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1. Validity here refers to the holistic and reflective nature of scholarship on reality/the complexities around the issue of human rights in Africa.

'human rights in Africa.' Evidently, the notion of human rights in Africa covers a wide spectrum of issues, relating to both particular and more generalizable aspects.

Africa’s position in the conventional study of human rights however is changing and taking on a set of new meanings. With the rise of powers such as China, and the solidification of South-South cooperation in the forms of international constellations such as BRICS, IBSA and FOCAC, our understanding of the role of Africa in particular requires reassessment. While many are interested in the impact of these new constellations on human rights, few analyses have interrogated what such reconfigured global spaces reveal about an array of assumptions and issues such as human rights. I argue that global reconfigurations and the discourses that surround them in fact provide a window into some of the most fundamental assumptions within the international human rights discourse itself. Thus while the tendency has been to view the locus of challenges to human rights as residing in new configurations of power themselves – which define our age as ‘ambiguous’ – rarely has the ambiguity been traced to the current discourse of human rights itself. The ‘age of ambiguity’ is thus taken to refer to the contemporary international context that is experiencing geopolitical shifts as embodied in the ‘rise’ of the global South and what this means for human rights. More often than not however this has focused rather superficially on issues of compliance and state socialization by ‘new’ actors. These ‘new’ actors are frequently framed as presenting increased challenges to human rights themselves, thereby tracing the locus of the challenge to reconfigured global power itself. This has particular implications for how we study human rights in Africa. As will be explored in this paper, such an understanding is problematic for a number of reasons. Moving away from these conventional, one-dimensional interrogations, I argue that in order to understand the contemporary challenges to human rights, and human rights in Africa, a turn towards discourse is both insightful and necessary. Not only does this turn to discourse afford us insight into the power dynamics that underpin human rights knowledge, but moreover, prompts us to question whether it is the age that is in fact ambiguous or human rights - as espoused by the dominant discourse - that presents a challenge in moving forward. How we seek to address this ambiguity therefore rests on where we see this ambiguity lying. This in turn relates to how we seek to address human rights specifically in Africa.

2. IR and Human Rights Scholarship

As a field closely related to the concerns of human rights, International Relations has taken up relatively a prominent position in research on human rights, particularly in accounting for human rights compliance and/or deference by state actors. In particular, the gradual albeit is limited rise of liberal institutionalism and conventional constructivism as strands of mainstream IR scholarship has resulted in a more prominent position for these perspectives in human rights discussions. For long, however, the convergence of International Relations and International Law remained elusive. As Hathaway observes, “Legal scholars examined and explicated the rules of state international behaviour, generally taking as a given that the rules would have impact. International relations scholars, for their part, had little interest in international law.” Generally speaking, International legal scholars paid relatively little attention to the political, economic and social contexts of law making and

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3 Brazil Russia India China and South Africa
4 IBSA Dialogue Forum (India, Brazil, South Africa)
5 Forum on Chinese and African Cooperation

responses to law – particularly the issues of effectiveness and compliance, while for international relations scholars context was the focus in accounting for state behaviour, often resulting in IR scholars ignoring international law scholarship altogether. Only until recently have the two fields both been collaborative in their efforts to understand and make use of one another’s expertise.

Noteworthy is that while IR itself is regarded as an interdisciplinary field that draws upon a range of disciplines for its methodologies, its scholarship rests on seminal theories that are specific to IR. This has rendered it to a field of ‘perspectives’ in which mainstream IR is delineated into three broad categories namely, realism, liberalism and constructivism, (with the latter two - in particular liberal institutionalism - gaining precedence in the post-Cold War era). The oldest and probably most well-known IR theoretical framework is that of realism. Due to the dominance of realism in IR, human rights remained an area of little or no concern for many IR scholars. This is largely because classical realism is focused on the nature of states being inherently a-moral and self-interested. This position has often been juxtaposed with liberalism and constructivism, where the former shares realism’s self-interested point of departure, but sees international institutions as providing order in an otherwise anarchical international system, and the latter is interested in the role of identity and norms in the creation of order. Although liberalism and constructivism are often heralded as deviating from ‘state-centric’ and/or rationalist IR (and are resultantly most applied to human rights questions), both remain interested in how either institutions or norms affect (or in the case of constructivism, constitute) state identity and behavior. In spite of these epistemological differences, the focus often remains on how states either internalize or reject norms, or engage with international institutions by either compliant or non-compliant behavior.

It is not surprising then that when IR has been involved in human rights scholarship, it has been liberal institutionalist and constructivist scholars that have featured most prominently. This has been especially the case in as far accounting for the establishment of a global moral order through which the diffusion of international human rights norms is made possible. The emergence of liberal institutionalism and subsequent constructivist scholarship in particular, has thus largely created a space for IR and HR engagement. Despite apparent differences in emphasis, it could be generally argued that IR’s contribution has remained state-centric. The centrality of the state, irrespective of theoretical framework, is most aptly illustrated in the preoccupation with state compliance. As a result of addressing pertinent questions related to state behaviour and specifically compliance with International Law (human rights law in particular), IR has become indispensable to HR inquiry. Despite the inherent proclivity for theoretical diversity in IR scholarship, IR scholarship has tangible effects not only on how research is conducted but moreover on how such research is subsequently applied at the level of and/or incorporated into state and institutional policy. Understanding IR theory is therefore particularly valuable to any inquiry into the dynamics of international law in practice. Just as legal scholarship informs the law, IR scholarship should not be understated or underestimated in its direct impact and contribution to national, regional and international policy.

Two Types of Relationships

Regarding human rights, International Relations as a field specifically and largely concerned with state behaviour, has squarely positioned itself in providing accounts for state behaviour and

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motivations for state (in)-action regarding human rights obligations. This concern has translated into scholarship that has focused specifically on states’ support for human rights protection. However, an issue that one is immediately struck by is the tension between the state-focused nature of IR and the often-held position of state-aversion in human rights. Broadly speaking, two dominant types of relationship between IR and Human Rights scholarship have emerged. The first is characterized by an uneasy relationship between the two fields, wherein IR research, particularly research espousing realist theoretical frameworks, has negated or rather relegated the importance of norms such as human rights as mere afterthoughts in research. This overly state-centric approach has frequently been characterized as unhelpful for more individual or micro-level human rights approaches, which has resulted in human rights scholars distancing themselves from state-centric approaches. However, it is precisely this very characteristic and focus on the state that has also characterized the positive nexus of IR and human rights scholarship. These latter approaches provide insight into the ideas of compliance as the principal indicator for state support and/or protection of human rights. Other approaches that focus on norm diffusion from the international down to the state are also commonplace, however these analyses still maintain the state remains primary actor through which implementation is mediated.

**Characteristically Uneasy**

Concerning the first type of relationship, namely, ‘uneasy’ a few remarks are worth noting. As mentioned, though initially distinct in their analyses, it has become increasingly commonplace to see legal analyses draw upon theories of IR and vice versa to inform their respective research questions and endeavours. ⁹ Despite the evident social relevance particularly with regards to policy, the nexus of International Relations and Human Rights has not always been viewed positively. The contention has largely arisen from IR’s state-focused analysis of state (in) action vis a vis international human rights law that has concerned itself not only with international law, but also focused on the end user of human rights, namely individuals. IR’s state-focus has in part been argued as inimical to the victim-oriented human rights scholarship rendering the former as dismissive of these concerns. It is noteworthy that critics of the state-centric focus of IR accounts are often either narrowly focused on the law, driven by explicitly normative human rights scholarship – where activism and scholarship converge. While not inherently amiss, I contend that the result has been missed opportunities for engagement, particularly with critical role players. However, IR’s focus on the state should does not automatically translate into a disregard for human rights concerns but simply reflect a disciplinary difference concerning differing units of analysis. Logically, IR scholars are informed by different theoretical backgrounds and subsequently approach human rights in different ways. The result is that some scholarship is evidently more normatively, while others embody more functional or descriptive research. Thus, a further way in which IR has engaged with human rights has been through attempting to understand their role in international politics, ¹⁰ however this too has largely been from a rationalist and thus instrumentalist position. Conversely, conventional constructivism has tended to address human rights in a normative light, treating it as particularly unique vis a vis other forms of international law. Despite this divide it is not enough to deem scholars that do not normatively engage with questions of human rights as not suited to human rights scholarship. Nor can IR scholarship as a whole be deemed as irrelevant to questions of HR purely on this basis. Furthermore, separation/division on these grounds is reductive and over-simplistic, as both fields incorporate issues far beyond these narrow interests.

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inquiry, both IR and human rights scholarship in fact reflect two sides of the same coin, in which the former focuses on the international context of human rights and the latter focuses on the ‘subjects’ or bearers of human rights as it were. On both accounts it is necessary to understand that human rights do not exist in a vacuum but instead are embedded in complex matrices, influenced by an array of factors that as scholars we should seek to understand. This is to be the case irrespective of our convictions or moral positioning vis a vis international human rights. Nevertheless, it is this apparent mismatch of ‘units of analysis’ that has been one of the most notable divergences that has largely kept the two fields in distinct camps.

If one moves away from academia and into the practical this antagonism has been largely detrimental. Particularly in seeking to improve the efficacy, receptability and protection of human rights, such engagement becomes pivotal in seeking solutions to the more normatively driven questions of human rights. The relegation of the state as only functional in its role as primary duty bearer of international human rights has resulted is the vilification of the state as inherently antagonistic to human rights. This is largely due to the state being conceptualized as political power on which limits should be placed through human rights.

Although there remains good reason for this cautionary note, particularly against abuses of power, such approaches have done little to encourage or facilitate the desired compliance with international law that most human rights scholarship seeks to improve. Thus, while human rights are undoubtedly focused on the protection of rights of peoples, and rightly so, the state as a functioning institution of international society cannot be ignored. Of course the changing and perhaps waning centrality of the state in international affairs has also increasingly featured in critiques of IR scholarship relating to human rights.

Despite the often-cited state-centric nature of IR, much more is offered in IR scholarship in the way of analysing global relations on multiple levels (political, economic, historical and even social psychological). The conventional focus of IR as purely concerning state behaviour and international organizations has long since expanded to look at intrastate societal issues as fuelled by the forces of globalization and increased interconnectedness. The apparent ‘mismatch’ of IR and the concerns of human rights is therefore largely false and based on assumptions of what the field of IR constitutes.

**Eventual Synthesis**

Despite these antagonisms, the most enduring intersection of human rights scholarship and International Relations does in fact lie first and foremost with the identification of the state as the primary duty bearers of human rights. As is laid out by the United Nations, “Member States…have

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11 HR scholarship not only focuses on the ‘human’ as the unit of analysis but also tends to be legal in its analysis of the legal framework within which human rights are embedded.


13 Then there are those studies that focus on the role of NGOs and non-state actors in the dissemination of human rights norms that form part of IR scholarship, although mistakenly these are often not viewed as falling within IR scholarship – however it is important to recognize that IR does in fact look past the state and looks at multiple relations across borders (transnational, transregional etc.) IR does not simply focus on the Weberian state, but can be described as a discipline that engages with multiple levels of the international realm. LEVELS OF ANALYSIS beyond the state – far more complex – system level concepts: sovereignty, power, national interest, non-state actors, power blocs interdependence and dependency; UNIT LEVELS: Regime type, revisionism, religion; individual/sub-unit level (psychological factors in IR; Bureaucratic politics, identity; IPE; person to person relations; INSTITUTIONS).
the primary responsibility for protecting human rights of their populations.”14 Similarly, Meckled-Garcia and Cali note “…it is a significant feature of international human rights law (IHRL from now on) that, once ratification of international treaties has been achieved, the process of implementation is state-driven.”15 Thus, states parties to various human rights treaties have the responsibility to ensure they meet their human rights treaty obligations as “International law only recognizes the modern state as the agent of enforcement.”16 This is further supported in the GA resolution 53/144 of 9 December 1998, which confers that “prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State.”17 Taken from a state-centric perspective of international relations, International human rights Law and IR converge on this very point. Noteworthy is that with the emergence of new-actors as well as changing dynamics in the international arena, a sub-field of human rights relating specifically to the responsibility of human rights promotion and protection beyond the confines of the state, has emerged.18

Notably, duties in the context of international human rights are specifically legal, as it relates to the explicit duties imposed on the state by the legally-binding covenants/treaties that form the bedrock of international human rights law. In this regard duties are bound to those stipulated in the international legal framework, and thus refer to a legal understanding of duties. Specifically, if we move beyond the UDHR (as customary international law) to include the Covenants, the questions surrounding state compliance are viewed as legal issues and are subsequently largely legally framed. As Hathaway points out, scholars have increasingly sought to understand how international law potentially shapes state behavior.19 While scholars such as Hathaway seek to address the question of why state commit themselves to human rights treaties in the first place, compliance addresses the question of adherence to international law beyond their signatory commitment to legal treaties. Weiss and Jacobson refers to Compliance as the following:

“Compliance goes beyond implementation. It refers to whether countries in fact adhere to the provisions of the accord and to the implementing measures they have instituted...Measuring compliance is more difficult than measuring implementation. It involves assessing the extent to which governments follow through on the steps that they have taken to implement international accords. In the end, assessing the extent of compliance is a matter of judgment. Compliance has several dimensions. Treaties contain specific obligations, some of which are procedural, such as the requirement to report, and others that are substantive, such as the obligation to cease or control an activity…”20

This intersection of human rights and international relations scholarship is made clear in this very focus on the state, where, “The obvious reason for the state-centred nature of international human rights legal obligations is the states system. International relations are built around a dominant norm,  

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16 ibid: 7
with some significant but marginal exceptions: the international ‘state consent supernorm’21 The result is that human rights law confers responsibility to the state while international relations seeks to understand and account for state behavior in fulfilling (or not) this responsibility. Part of the difficulty however is that the very ‘statist’ nature of international human rights law has ‘paradoxical consequences’22 Thus states are simultaneously the primary agents of upholding IHRL, but similarly often deemed the very obstacle to human rights protection. Therefore the aspect of responsibility is intimately connected to the idea of compliance, which has largely underpinned the intersection of IR and human rights inquiry. Of course from a traditional realist IR position, the lack of compliance is directly related to the ever-elusive central enforcement authority as well as the inherently self-interested nature of states. This is further complicated by the sovereignty of the state, which Delbreuck defines to be “understood as their supreme authority and independence.”23 For Delbreuck it is precisely the supremacy of state sovereignty that “is … identified as the major factor responsible for such a lamentable state of affairs with regard to the internationally controlled implementation of human rights.”24 This notion of ultimate sovereignty has proven a challenge and virtual incompatible with more normative-leaning HR scholarship, the result being the vilifications of the state as inherently problematic.

Following from this, questions related to when, how and why (under what conditions) states comply with international human rights standards have characterized the intersection and have more often invoked ideas concerning norm diffusion, ascription and internalization in the international arena. More qualitative questions related to how best to achieve state compliance states comply have similarly dominated the intersection of IR and IL/HRL scholarship.

The ideas of state socialization that promote tactics of coercive or persuasive methods of influencing state behaviour have remained at the forefront of understandings of state compliance.25 As reiterated by Goodman and Jinks, “prevailing approaches maintain that international law exerts discrete, meaningful influence on recalcitrant states, either by coercing relevant actors to comply with human rights norms or by persuading relevant actors of the validity and propriety of these norms.” Despite the dominance of coercive or persuasive schools of thought on state-compliance, Goodman and Jinks offer an increasingly accepted ‘third’ way, that is, the theory of acculturation. This process denotes the internalization or adoption of particular behaviours and beliefs on a given subject so as to “conform with the behavioural expectations of the wider culture”26 Thus a second more symbiotic category or type of relationship between IR and human rights scholarship emerges and is centred on the importance of norms in the international arena and views human rights as a universal organizing principle, supported by and protected through an international legal regime. This conversion of IR and HR scholarship has been upheld and become the dominant framework for understanding state compliance and human rights. Risse et al are most notable in their seminal ‘spiral model’ wherein they develop a theory of state compliance as it pertains to international human rights norms being bounded by various stages of state socialization.27 For Risse et al it is not enough to understand state human rights behaviour and compliance through the ratification of treaties, but instead what is telling is the

22 ibid: 16
24 ibid
27 Risse et al delineate five stages, namely, repression; denial; tactical concessions; prescriptive status and rule-consistent behavior (Risse et al. (2013). The Persistent Power of Human Rights: From Commitment to Compliance. Cambridge University Press: Cambridge)
process from commitment (i.e. when “actors accept international human rights as valid and binding for themselves”\textsuperscript{28} to compliance, defined as, “sustained behaviour and domestic practices that conform to the international human rights norms, or…rule-consistent behaviour.”\textsuperscript{29}). These theories have become the seminal works underpinning international human rights and international relations scholarship and thus the dominant framework through which the nexus has been understood. These ideas of state socialization have resultantly come to form the fundamental ideas that underpin our understanding of state behaviour. Particularly, this framework has been used as the way through which deviant state behaviour is identified and subsequently addressed. These ideas of compliance and deviance however are in themselves deeply problematic for reasons which I will elaborate upon in the following section (shortcomings).

Despite minor difference, the above-mentioned theories can be categorized as rationalist IR theoretical frameworks, namely, liberal institutionalism, and conventional constructivism and have become quintessentially characteristic of the interaction between IR and human rights scholarship (Note: Realist theories similarly concern themselves with the issues of Human Rights, however these are generally seen as secondary to material self-interest as the driver of state behaviour). While not wholly incorrect, these frameworks suffer a number of serious shortcomings in explaining for and/or understanding human rights from an IR perspective.

**Shortcomings**

Although the above-mentioned approaches undoubtedly hold degrees of value in understanding the nexus of international relations and human rights, they prove both problematic and inadequate in a number of respects. One of the major critiques regarding the dominant approaches is that they heavily rely on instrumental rationalist logics to describe, generalize and essential predict state behaviour. These theories are founded upon rationalist principles that hold states to act according to their interest in a utilitarian manner. Realist and liberalist schools of thought in IR are most notable for invoking such assumptions as fundamental principles in their analyses. Choi 2015,\textsuperscript{30} amongst others\textsuperscript{31} have pointed to the limitations of rationalist approaches in their predication “upon methodological individualism, according to which an individual actor (in this case the state) is ontologically primitive.”\textsuperscript{32} This positivist understanding of the social world renders it “natural, accessible to reason and observation, and describable in impersonal, materialistic, mechanical and mathematical terms”\textsuperscript{33} and has dominated IR scholarship and theorizing,\textsuperscript{34} particularly under the rubric of realism. While there is a distinction between realism and liberalism, liberals (and neo-liberalism/institutionalism) similarly adopt a rationalist point of departure in which economic policy and interests determine state behaviour.\textsuperscript{35} Again here, the unit of analysis, the state, is seen to operate on an egoistic, individual  

level, concerned and driven solely by self-interest relating to power and preservation. Choi points to the limits of such instrumental rationalism –as “the conscious calculation to maximize one’s preferences” aka rational choice theory - in IR theorizing, citing its inability to address non-rational motivation and behaviour (thus behaviour that fall outside of the preservation of material power and self-preservation) as a major factor. For Choi, instrumental rationality is but one of many rationalities. Theories that subordinate factors such as identity, culture and/or history as valuable variables in our understanding of state behaviour therefore miss out on accounting for some of the most pivotal factors central to state behaviour. ‘Reason’ or ‘rationality’ in these approaches is more often than not seen within the confines of a strict Hobbesian state of nature brought about through an anarchical international system absent of any overarching autonomous power. This is not to say that rationalists see no place for norms and ideational factors in state behaviour, but rather that “even though rationalists might believe that ideas and norms can constrain behaviors, in the end their interests and identities are nearly fixed.”

Constructivists on the other hand specifically rely on identity, context, norms and culture to theorize and inform analyses on state behaviour. Moreover, identity as an intersubjective social construct (particularly state or national identity), relates to the “collective self” in which threats and interests are defined according to this very identity. Norms are similarly emphasized as being the embodiment of collective expectations for proper and/or appropriate behaviour. In conventional constructivism, these norms regulate state behaviour and thus give order to an otherwise anarchical international system. Conventional constructivist accounts while cognisant of the importance of ideational variables however, often stop short of interrogating power and the construction of knowledge. Critical constructivism (which will be discussed under discourse) therefore, has sought to deepen our understanding of the complex web of intersubjectivities and dynamics of power that constitute identities, norms and values.

A central concept prevalent in IR (particularly liberalist and constructivist theoretical frameworks) and tied to the idea of norms is that of legitimacy. Jan Hurd’s work on “Legitimacy and Authority on International Politics” is particularly relevant in as far as dominant rational models are concerned. Hurd reiterates that the anarchical international system, with no overarching power presents a significant challenge as to how we account for state behaviour. Looking specifically at the idea of compliance with rules and norms, Hurd argues for the delineation of compliance into three ‘currencies of power,’ namely, coercion, self-interest and legitimacy. Tied to the idea of an anarchic system, these three currencies seek to bring about order to an otherwise anarchic system. For Hurd, compliance is a function of legitimacy of a given norm or rule but remains frequently undervalued as


36 The predominant difference lays in the notion that neo-liberal institutionalists for example view international institutions as providing a mitigating effect of international disorder or anarchy.

37 Choi, J. (2015): 115

38 \textit{ibid}: 114


40 Choi, J. (2015): 114


43 The categories of coercion, self-interest and legitimacy are to be treated as Weberian ‘ideal types’ that do not in reality present themselves as necessarily mutually exclusive.
an essential factor in rationalist frameworks. This position is clearly embedded within a constructivist framework, asserting that dominant accounts of coercion and self-interest are premised on rationalist frameworks that relate to ideas of self-interest, reiterating the idea of the egoistic, individual, rational nature of actors. These rationalist accounts that adopt an instrumental or utilitarian attitude to understanding behaviour however do not square with the ‘logic’ of human rights as it were. As far as compliance is concerned, Hurd views the majority of compliance theories are limited in indicating a qualitative assessment of the protection of human rights. If and when such frameworks are used, compliance then does not confer the presence of legitimacy. For Hurd, Legitimacy on the other hand, is associated with a broader notion of interest as it relates to various goals that need are neither directly or necessarily related to the self in egoistic terms nor bound to material power.

The two camps, however, of rationalist vs constructivist or ideational accounts are not mutually exclusive. Both acknowledge the influence of the other, however the degrees to which they view these factors as driving behaviour differ markedly. A combination of material self-interests, interests beyond the self, and particularly ideational and moral factors relating to norms and identity are instead likely to render a more holistic picture of state behaviour. What is clear nevertheless is that there is a need for more flexible assumptions that enable a multidimensional understanding and approach to human rights particularly in an increasingly complex international space.

While scholars such as Hurd emphasize the importance of language in the construction of politics, there lacks a problematization of the discursive power of language, particularly regarding the discourse of human rights. Thus although the limits of positivist accounts - in their (in)ability to resolve complex multifaceted problems or dilemmas in IR - are acknowledged, interrogation of language as it reflects particular power structures and problematic representations, is often ignored. Unpacking the discourse thus allows us to interrogate underlying assumptions and constructions of the discourse on human rights as well as assess the implications of these constructions for human rights themselves. Broadening our scope and methods of interrogation to include discourse for example affords us the opportunity to gaze into these dynamics. Moreover employing such critical approaches is a necessary albeit underutilized tool in reflecting upon some of the fundamental and/or underlying issues that concern human rights internationally. Such approaches similarly constitute an essential and much needed exercise in reflexive critique whose merits as a complementary tool to existing frameworks will be discussed below.

**Discourse**

While the shortcomings of purely rationalist accounts of human rights have been laid out, the question remains concerning what accounts and modes of inquiry can we turn to in order to garner a more holistic and multidimensional perspective? As mentioned, a frequently overlooked aspect in human rights scholarship (particular in its nexus with International Relations) is the role and place of discourse. While discourse is frequently relegated to the margins of positivist research, understanding the constructed nature of discourse as well as its mutual constituent relationship with ‘reality’ – reality as socially constructed –, I contend, is instrumental if we are to understand and expound on the ambiguities of human rights. These ambiguities are reflected, I argue, in the innate connections between discourse, power and the production of knowledge and fall within critical constructivist theoretical frameworks. Particularly in the study of international relations wherein the very notion of power is central, the interrogation of discourse enables us to uncover hidden dynamics of power.

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(beyond but in part linked to material power) that are embedded in some of the most ‘universal’ or ‘uncontested’ discourses. This is a particularly interesting, illuminating and necessary exercise with regards to the discourse of human rights which I argue to be implicitly asymmetric and ambiguous – and thus problematic.

Moreover, the turn to discourse allows for analyses that seek deep and contextually bound understandings to make sense of various phenomena in the social world, essentially “seeking more complete stories based on a wider range of documentation or a reinterpretations of previous studies.”

Aside from looking at discourse to uncover the dynamics of power ambiguities, a departure from rationalist accounts open the door to embracing critical accounts, that additionally consider for identity, history and context to give meaning to social phenomena. The emphasis on critical approaches is particularly valuable, not only for their consideration of alternative narratives, but also distances this endeavour from conventional accounts that look at identity and norm construction void of power considerations. Whereas conventional accounts do not seek to interrogate the underlying dynamics of power embedded in norm dissemination and state socialization, nor problematize these phenomena, a critical account sees these as indispensable to our understanding and problematization of current ambiguities. [While rationalist accounts undoubtedly focus on power, in particular realist scholarship, these tend to focus exclusively on material, hard power as it were – and exclude the factors of history, identity, and culture as secondary to understanding state behaviour] Power in the constructivist sense goes beyond material power and is framed within the notion that “dominant intersubjective understandings…are characterized as powerful because they constitute people’s identities and interests, as well as frame interpretations of behaviour.”

Discourses are important then, as windows into powerful interpretations. They are maintained as the combination of language and technique that maintain habitual actions that emanate from particular interpretations. In this regard, “power operates through relationships rather than possession of capabilities…actors define who they are and what they want with reference to the dominant rules and ideologies of their time.” Despite their evident expediency, approaches that consider for the construction of identity through discourse and their attending power configurations have been relatively elusive. In arguing for their utility in revealing some of the fundamental ambiguities and/or challenges to human rights, it is necessary to move beyond conventional rational scholarship to inform policy. Where rationalist accounts tend to focus on rather superficial ambiguities – resulting in an oversimplification and thus misdiagnosis of challenges that subsequently inform policy- I contend that discourse has a unique position in giving us insight into the complexities of the social world, thereby revealing potentially hidden ambiguities.

Instead, dominant approaches routinely misdiagnose or oversimplify the ambiguities (challenges) attributed to the contemporary age. These challenges or ambiguities are often simplistically reduced to the confines of compliance and/or norm dissemination and internalization theories, which further perpetuate a dichotomous discourse that delineates states into ‘those who adhere’ from ‘those who do not.’ Human rights violations however, are not reducible to simplistic binary categories, and particularly not so in an age of globalization and unimagined interconnectedness. Thus, while theories of socialization and norm diffusion are admittedly far more intricate than what this analysis has

46 ibid: 10
47 ibid
48 ibid: 11; Dominance is established in “habitual practices and procedures” (Klotz, A and Lynch, C. (2007): 8). As such, “particular meanings become stable over time, creating social orders that constructivists call structures or institutions. Rules and norms set expectations about how the world works, what types of behavior are legitimate and which interests or identities are possible” … Importantly is that meanings are contested. Some practices can dominate others at a particular point in time and stabilize, however these too can change over time.
perhaps given them credit for, they often overlook some of the more underlying and fundamental ambiguities. These ambiguities are not attributable solely to our age, but are similarly present within our understanding of human rights themselves. The existence of multiple actors and forces thus demand a more nuanced and complex understanding of human rights. Within such an understanding, reductive positivist reasoning that ‘isolates’ for variables as the ‘culprits’ for human rights violations are simply insufficient. One such recurrent variable has been culture – as the backward, subordinate and identifiable variable that has contributed to human rights violations. The notion of ‘harmful traditional practices’ is the quintessential case of how the human rights regime has framed certain ‘cultural’ practices. These cultural practices more often than not denote the practices found in the global South, and ignore their broader context of history, social utility, and dynamism. Moreover, liberal modernist concepts and tendencies used to frame the ‘ill or deviant behaviour’ of the global South are not interrogated for their conceptual bias and applicability to contexts outside of the Euro-American experience. Thus the poststructuralist turn in IR have pointed to the limitations of rationality and predictability that dominant scholarship is premised upon, and instead argue that many such concepts are in fact historically and culturally contingent. In order to uncover conceptual incongruence however, we need uncover particularities guised as universals and understand the limitations of certain concepts across various societies. This exercise simultaneously is one that recovers silenced and excluded alternative interpretations and is similar to Shaoguang Wang’s ‘Indigenization.’ Wang warns against, “cutting feet to fit the shoe” that is simplifying a complex and colourful world to fit into [a particular] model. While these methods may seem popular and fashionable, it is precisely these types of models that become a shackle to the researcher, a tinted lens that obstructs his vision.”

Doing this, however, requires a degree of critical self-reflection on the part of scholarship with regards to how we transport concepts from one setting to another. These necessary albeit tough questions reveal a multiplicity of challenges that require reflection and analysis if human rights are to remain relevant, applicable, sustainable and desirable in international society going forward.

Similarly, the discourse of human rights has been overlooked particularly in favour of more tangible, empirical or positivist approaches that are able to ‘make sense’ of human rights in International Relations. These positions, however, miss out on the value of discourse as constituting, framing and informing reality in an intersubjective way. Discourse on the other hand allows us to explore the constructions of human rights and how they are employed by various actors. A good starting definition for discourse is that Stuart Hall’s, who describes it as, “a group of statements which provide a language for talking about – i.e. a way of representing – a particular kind of knowledge about a topic. When statements about a topic are made within a particular discourse, the discourse makes it possible to construct the topic in a certain way. It also limits the other ways in which the topic can be constructed”.

A further noteworthy aspect of discourse described by Hall is that not only does it refer to “a way of talking about or representing something,” but, “it produces knowledge that shapes perceptions and practice. It is part of the way in which power operates. Therefore, it has consequences for both those


51 ibid: 302.

who employ it and those who are ‘subjected’ to it.” In the context of human rights, not only is the discourse of human rights meaningful as a system of representation that has subsequently been reproduced to the extent of constituting a regime of truth, but through utilizing the lens of discourse we are able to reflect upon the power constructions that may not be apparent in conventional nexus of IR and human rights scholarship. Thus far such scholarship has taken how we instrumentalize/operationalize human rights in scholarship and policy (advocacy and official government policy) as largely unproblematic. Understanding the contentions of human rights in the contemporary international arena through discourse, therefore, affords us insight into what human rights have come to mean/represent, but additionally become instrumental in unveiling some of the deeper challenges that face human rights. I contend that these challenges themselves are visible in the core-assumptions of the dominant human rights discourse.

As Hall points out, “One important point about this notion of discourse is that it is not based on the conventional distinction between thought and action, language and practice. Discourse is about the production of knowledge through language. But it is itself produced by a practice...the practice of producing meaning.” Discourse is therefore largely implicated and oftentimes constitutes practice, making it an indispensable tool albeit overlooked in understanding some of the most fundamental challenges in human rights. The discourse(s) that surround(s) a particular issue (i.e. human rights) therefore becomes an indispensable analytical tool through which the inner workings of the issue at hand can be analysed and problematized. In spite of its largely normative character, this is just as true for the case of challenges to human rights in the contemporary era as it is for the discourses of other fields and should thus be actively pursued in scholarship.

While not adopting a strict genealogical approach, by embracing a critical constructivist approach this analysis seeks to enrich or challenge “previous interpretations, rather than producing one correct, objective history…in particular sensitizes academics to the ways in which dominant discourses, including scholarly interpretations, can create artificial unity by appealing to certain elements of the past over others. It also draws attention to alternative voices that get ignored by traditional historical methods, which tend to inscribe the experiences of the powerful.” In turning to discourse, we are then able to uncover how contemporary discourses – including scholarly interpretations – unveil which knowledges are privileged or appealed over and above others. In so doing, the discourse on human rights in an age of ambiguity itself is rendered asymmetric. Thus to holistically understand contemporary ambiguities, the discourse of human rights on these very reconfigurations themselves is a useful starting point. The lens of discourse analysis enables us to establish which interpretations dominate our understanding of 1) human rights themselves as well as 2) the nature of the contemporary challenges to human rights. The dominant discourse itself is therefore complicit in espousing a particular interpretation of human rights and the challenges they face. As will be demonstrated in part, the discourse of human rights in the case of Sino-African relations reproduces a binary configuration and understanding of the relationship and human rights. I argue that the challenge to human rights then is not necessarily the ‘age’ but rather, the dominant discourse that confines our

53 ibid: 225.
54 Of course there are eternal debates on the meaning of human rights, both philosophical and legal debates, however a large part of human rights scholarship either addresses the meaning of particular human rights from within a legal position, or assumes their meaning universal, a priori, and unproblematic. While this research takes the UDHR as the fundamental human rights document that expresses the meaning of human rights, this is not to say that the discourse on human rights currently reflects that embedded in the UDHR.
55 Hall, S. 1(996): 201.
understanding of human rights. This is problematic and therefore a challenge to the indivisible, a-political and non-ideological human rights as enshrined in the UDHR57 itself.

As elaborated upon in the previous sections on theory, the asymmetries espoused by the discourse is partially a result of narrow scientific rationale that has been championed in human rights scholarship, focused on rationalist, positivist accounts and understandings of human rights. These accounts have also come to dominate our understanding of how best to secure or account for human rights globally. This scholarly preference/tendency has negated and largely subordinated the knowledges emanating from the rest of the world, predominantly the global South, deeming these knowledges either as ‘smokescreens’ for more sinister avenues through which human rights can be violated, or as un-empirical, un-verifiable knowledges. In so doing, the global South and its increased ’visibility’ as it were has in itself become the challenge to human rights. This narrative is of course oversimplistic, problematic and reductive. Unfortunately, this has happened at the peril of understanding context-specific social phenomena, that cannot aptly/adequately be generalized into the standards of Western scientific concepts or the Euro-American experience. The necessity therefore to include vantage points and knowledges from the global South as valuable contributions to our understanding of human rights and its contemporary challenges is paramount. This is particularly necessary in order to makes sense of their positions within the international system and vis a vis human rights. Moreover, such an endeavour is crucial if we are to do justice to universal ‘scientific’ inquiry and inclusive/participatory scholarship.

3. IHR Discourse and global reconfiguration(s) (the case of China-Africa relations)

The human rights discourse has in particular created a narrative around shifting global powers and reconfiguration. In particular this has involved speculation directed towards new configurations such as BRICS, IBSA, AIIB etc from the likes of heavy weight INGOs such as Amnesty International’s Secretary General, Salil Shetty and HRW.58 As institutions reflective of a shift in global power dynamics, these configurations in particular have raised alarm bells not only regarding power, economic, political and social shifts, but importantly in assumed accompanying shifts in human rights protection. Commentators on these new configurations have characterized the member states’ behaviour as “non rights-respecting”59 while noting the coalition as “odd.”60 Similarly the European Parliament has noted that “Human rights, democracy and social cohesion are crucial principles of European development cooperation and these core values cannot be relinquished in the dialogue with BRICS. Above that, poverty reduction remains the most important goal of EU development efforts and affects BRICS as donors as well as recipients of aid.”61 Noteworthy is that these kind of remarks imply a neglect on the part of new constellations to consider for the issues of human rights, democracy and social cohesion. These issues have become the foundation for scepticism as illustrated in the concerns raised regarding BRICS development financing by the European Parliament, which noted, “Whenever this aspect of unconditional assistance was adopted in countries with a problematic human

The scepticism does not go unnoticed and is often unabashedly palatable.

The unease with new configurations is subsequently and similarly then about power. The intimate connection between those who wield power and thus are the producers of knowledge becomes a space ‘up for grabs’ in reconfigured international arena. Although threats to a unipolar world order are not new in the field of International Relations, global reconfigurations in the form of multi-state constellations as reflected in the emergence of recent forms of South-South cooperation, have seemingly had an even greater reverberation. These kind of shifts have become a field of inquiry unto itself, illustrated by the increasing interest in works dedicated to these emerging constellations and their impacts, such as Oliver Steunkel’s, “The BRICS and the Future of Global Order” and Lo and Hiscock’s, “The Rise of the BRICS in the Global Political Economy: Changing Paradigms?” Moreover, publications from official corners such as the European Parliament’s policy oriented, “The Role of BRICS in the Developing World” have sought to make sense of these emerging configurations by moving beyond mere speculative accounts to attempts at making sense of the rapidly changing political landscape and its’ effects on international development and political cooperation. A range of actors have thus taken note of the ‘rise of such new actors’ with the recognition that the “EU trade policies need to consider more strongly the increasing relevance of BRICS as global actors” and that “the EU should be constructive in appreciating the increasing influence of BRICS in their trade relations with development countries and emphasize common ideas and goals in respective negotiations.”

Despite this recognition there remains scepticism in what these new configurations mean for human rights.

Sino-African engagement as example

While speculation has emerged concerning the repercussions of these emerging configurations, a particular area of continued or even increasing concern, relates specifically to ‘growing’ China-Africa relations. Emblematic of these shifting configurations, the emergence or rather increased visibility of Sino-African relations has garnered significant speculation and intrigue, specifically as they pertain to issues of human rights. These issues within the context of Sino-African engagement have more often than not been deemed as non-existent and/or necessarily downplayed/ignored by the parties involved. In particular, the narrative of Sino-African relations as inimical to human rights has gained increased precedence since China’s Year of Africa in 2006 with analogies such as the voracious dragon, the Dragon in the Bush and the scramble and the honey pot being recycled and reused to describe these

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62 ibid: 21
64 Of course South-South cooperation has existed in many forms previously, however notably with the development of BRICS, AIBB, IBSA – these constellations have apparently given rise to a new ‘wave’ of ‘destabilizing’ the status-quo.
68 Ibid: 19
relations. Taken up by international human rights NGOs and policy makers outside of these relations alike, this narrative has been rehashed to the extent of it constituting a ‘regime of truth’ in policy and academic circles.

As far as human rights are concerned I contend that two dominant narratives have emerged. The first relates to omission and takes it cue from the lack of explicit mention of human rights in many of the official reports and documentation emanating from these new configurations themselves. This has been interpreted as indicative of an ignorance/disregard of human rights issues within these cooperative constellations. Resultantly, both policy and academic accounts have limited the impact and rise of these configurations to the areas of politics and/or economics and largely overlooked the human rights dimension. What is more, is that the characterization of these relations as being primarily driven by realist and rationalist self-interested concerns for economic and political clout have implied a negligence of human rights considerations. In these accounts, human rights issues are subsequently reduced to a mere footnote or afterthought vis a vis broader economic and political concerns. Such analyses reiterate an understanding of human rights that implies human rights as necessarily separate and distinct from political, economic and social goals, as opposed to possibly embedded within these structures/goals – reinforcing a conventional ‘western’ approach to human rights that necessitates the power of human rights to be independent of political and/or economic driven goals. The European Parliament’s take on BRICS and the focus on political conditionalities has been notable in its respect to human rights and political conditionalities, stating that i.e.: “Even though Brazil is regarded to comply with EU-development concerns of human rights and democracy, political conditionalities are not attached to its foreign development projects.” The reiteration that political conditionalities are not attached to development projects, imply that without such conditionality human rights cannot and/or will not be protected. This argument however is piecemeal and disjointed in its’ applauding of economic investment, infrastructure development and debt relief as positive characteristics of such cooperation, but treatment of human rights are necessarily separate to these developments.

Such interpretation of how we traditionally ‘account’ for human rights have become embedded in the dominant discourse of human rights, taking the position of conventional wisdom. I argue, however, that simply pointing to an absence of formal mention of human rights within official documentation and/or policy orientation of these constellations (BRICS etc.) is over simplistic and reductive. Thus the conventional lens through which we seek to establish the presence of human rights considerations does not adequately capture the possible range of mechanism through which human rights considerations can be detected/established. Furthermore, not being able to ‘see’ or account for this human rights dimension through conventional approaches does not necessarily imply its absence or even dismissal. This is in part related to the dominant framework of scholarly and policy ways of understanding or accounting for human rights – namely through compliance. While the state, as mentioned, undoubtedly maintains primary responsibility for human rights under human rights law, violations, particularly in the complexity of contemporary international society, cannot be reduced


70 At times mention of human rights is made, but more so in passing. The official FOCAC pillars of Sino-African engagement for example do not explicitly make mention of human rights. See FOCAC official website at: http://www.focac.org/eng/zfgx/

71 Directorate-General For External Policies of the Union. (2012): 11

72 The issue of the ‘nature’ of rights is only addressed in a limited capacity in the paper due to scope restraints. However rights are interpreted as beyond the confines of explicit and narrow legal conceptions of individual rights.
down to or singled out to one actor. Understanding the state as one of many actors that contribute to a given violation is crucial if we are to identify the challenges and accompanying solutions to protecting human rights. The existence of a complex matrix of factors needs to be acknowledged not only in name’s sake, but also in how we understand and embark on ‘putting the pieces of the puzzle’ together.

Part of the narrative of omission stems from the excessively legal nature of the International Human Rights Framework that emphasizes the legal obligations to protect, respect, and fulfil. Though I do not contest these obligations, the dominant narrative has embraced a legal character, and constitutes an overt preference for declaratory statements as emblematic of a commitment to human rights (i.e. through the creation of explicit human rights framed policies or conditionality on the basis of human rights). The heavy-handed influence of the law on our understanding of human rights within an international context remain apparent in, “at the level of duties of implementation, institutional development and protection and monitoring, the principal measures have focused on law. These include the obvious such as ratification of IHRL treaties and their incorporation into domestic law, calls for constitutional and legal reform, improvement of domestic legal institutions, better administration of the criminal and civil justice systems of states.” This has been referred to as the ‘legalization of human rights’ that denotes “the extent to which the subject matter of human rights, in theory and practice, seems to be permeated with legal conceptions. When scholars and practitioners talk about ‘human rights’ they almost always mean ‘human rights law’ without qualification.” With this in mind, as far as new configurations are concerned, however, the inclusion or explicit mention of human rights within these frameworks is logically (as with any other actor) no guarantee for the protection and promotion of human rights. Such an approach to accounting for human rights considerations therefore pushes a very limited understanding of how human rights are in fact best secured/protected.

To illustrate the limitations of such an approach the example of FOCAC and increased Sino-African cooperation is particularly useful. As far as ‘new configurations’ are concerned, Sino-African cooperation in particular, has been scrutinized and criticized on the basis of its’ characteristic ‘no-strings attached’ nature. This apparent emblematic tenet of Sino-Africa cooperation has been viewed as flying in the face of political conditionality and more specifically conditionality based on human rights. The particular emphasis on conditionality as an indicator for human rights has featured prominently in critiques of the relationship, which remains emblematic of global reconfigurations. Such critique, as espoused by political actors, INGOs and human rights scholarship has subsequently become embedded in popular discourse despite evidence demonstrating its’ precariousness.

Proponents of conditionality argue that placing punitive measures on non-conforming states can lead to a change in state behaviour, thus acting as a disciplinary measure in the process of state socialization. As mentioned, the idea of state socialization has formed the bedrock of IR and IHR collaborative scholarship and has subsequently become the dominant line of argumentation in international human rights policy. More specifically, the application of such socialization is said to

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73 The United Nations office of the high commissioner stipulates these three tenets as central to International Human Rights Law in which “states assume obligations and duties under international law to respect, to protect and to fulfill human rights,” with protection and respect interpreted as negative obligations and fulfillment a positive obligation. http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx
75 ibid.
76 EU parliament draft report (2007) on “China’s policy and its effects on Africa,” highlights in particular concerns for the no-strings attached nature of these relations.
occur through a variety of mechanisms, such as coercion through political conditionality.\(^{77}\) In particular, political conditionality,

“entails the linking, by a state or international organization, of perceived benefits to another state (such as aid, trade concessions, cooperation agreements, political contacts, of international organization membership), to the fulfilment of conditions relating to the protection of human rights and the advancement of democratic principles. Positive conditionality can be loosely defined as promising the benefit(s) to a state if it fulfils the conditions; negative conditionality involves reducing, suspending, or terminating those benefits if the state in question violates the conditions.”\(^{78}\)

As a typical case of conditionality, the EU’s Generalised System of Preferences (GSP) from the period 1 January 2009 – 31 December 2011, for example tied benefits from custom reductions for developing countries on the basis that third countries comply with specifically identified international human rights conventions (as well as environment and government principles).\(^{79}\) Within this framework benefits in the form of reduced tariffs\(^{80}\) were accrued to compliant states while punitive measures involved the withdrawal of preferences in the case of violative behaviour (human and labour rights conventions). Interesting is that such conditionality rests on the ratification and implementation of particular human rights conventions by third parties upon which the decision of either granting or withdrawing GSP benefits is based. As Schneider notes, the conventions themselves and specifically the “reports of the relevant monitoring bodies are … used as the main sources for the granting or withdrawal of preferences.” This basis however is precarious in its “ability to provide a tool for assessment,”\(^{81}\) and more specifically an adequate or reflective tool. The reporting system and the measurement of compliance both represent complex systems that in themselves suffer a number of shortcomings, asymmetries and inadequacies.\(^{82}\) Moreover, a further challenge is embedded in obscurities regarding the conventions that are chosen as applicable to a GSP – which remains a political decision in itself.\(^{83}\)

The merits of conditionality however, remain precarious in that they largely stem from a normative position as opposed to an empirical one. In fact there is weak evidence to suggest that conditionality brings about or guarantees desired behavioural change. Instead, approaches based on conditionality tend to be punitive in nature and in many cases have been argued to lead to increased violations of basic human rights. Although more focused on the implications for U.S. interests, the recommendations of the RAND CORPORATION’s report on China’s Engagement in Africa, despite critiques of non-conditionality, surprisingly echoes the limitation of such strategies, concluding that

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\(^{77}\) Risse et al. (2013).


\(^{80}\) Suspension of custom tariffs for products except arms and ammunition (Everything but arms scheme – EBA)

\(^{81}\) Schneider, F.B. (2012): 304.

\(^{82}\) Schneider mentions the issues such as the of lack of monitoring bodies/procedures for conventions such as Apartheid or Genocide that are wholly absent thus rendering the assessment of compliance by the European Commission null and void. A further issue mentioned is the deficiency in the representation of civil rights actors in reporting as well as significant time lapses between reporting periods within which the state of human rights can significantly change. Moreover, the ability for such monitoring bodies to provide a “more exhaustive picture of the current situation in the monitored country” (306) continues to present a significant challenge as a mechanism for the assessment of human rights compliance by a given state. (Schneider,F.B. 2012. 306).

\(^{83}\) Schneider (p. 308), for example, remarks that there are “several obscurities in the choice of conventions for Annex III”
“Haranguing Beijing about good governance is likely to have little impact given the centrality of non-interference to China’s foreign policy.”

Thus, while conditionality and its merits cannot be refuted nor supported in absolute terms, it is similarly superficial and unwarranted to view the absence of conditionality in international relations as a free ticket for human rights transgressions. What is more is that critiques on Sino-African engagement on the basis a no-strings attached policy approach have concluded an indirect legitimization or support for regimes that knowingly carry out human rights abuses. Implied in this kind of argumentation is that the Sino-African relationship based on no political conditionality is necessarily indicative of an active promotion of violative behaviour/condoning human rights violations – an explicitly bold and inflammatory claim to make. However, in such claims, it is pointed out that as far as support for “African despots,” China is not alone. Scholars like Chris Alden similarly point to the fact that “China is not actively working to prop up tyrants.”

This has understandably created the space and opportunity for human rights activists and organizations to fill this apparent (perceived) gap, which they have rightly seized (HRW/AI). While it is the task of such organizations to flag concerns regarding human rights, I argue that the case of reconfigured constellations such as BRICS or Sino-African engagement, require far more complex, nuanced and analytical approach to understanding the human rights dimension of such engagement.

The issue of omission can be charged with what I deem as more broadly problematic in scholarship on Sino-African engagements (and global reconfigurations) – namely narrow understandings/conceptual bias. As already discussed in previous sections, most IR/IPE analyses of Sino-African engagement are focused on rationalist accounts of the relationship, more often than not citing, geostrategic and economic interests as the primary drivers of Sino-African engagement (particularly from the Chinese perspective). These conventional accounts seek to unpack the relationship in all its forms, however, from the position of human rights these endeavours tend to point to issues of conditionality or lack of explicit attention to human rights, as representative of the ‘human rights dimension’ of Sino-African engagement. In doing so, these perspectives overlook the variety of ways in which human rights can be approached and protected through multiple avenues and tend to deem the Sino-African narrative of ‘win-win’ and ‘mutual beneficial’ as rhetorical and largely meaningless.

This brings me to the second narrative regarding human rights in the case of Sino-African engagement, and what I term the narrative of myth (misinformation). Frequently the reports flagged by IHRNGOs suffer from a number of shortcomings that present further problems in how we understand human rights in these new configurations that these ‘new’ relationships constitute. These shortcomings include a lack of disaggregation of levels of analysis in these relations; misinformation;

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85 Chris Alden as quoted in Hanauer, L. and Morris, L.J. (2014): 47. The Rand report states that “Among the countries that receive Foreign Military Financing (FMF) from the United States, for example, are Chad, the Democratic Republic of the Congo and Guinea, which Transparency International ranks as the 11th, 17th, and 23rd most corrupt countries in the world. U.S. partners in the Trans-Sahara Counterterrorism Partnership (TSCTP) include four countries ranked “not free” by Freedom House (Chad, Mali, Mauritania, and Algeria). Nevertheless, these countries receive extensive security assistance from the United States and participate in annual multinational military exercise led by AFRICOM” (p.47). The same goes for Western corporations that “also engage numerous African countries governed by despotic regimes” (p. 47).
87 The relationships are not necessarily new but new importance has been accorded to these relations vis a vis their strengthening and institutionalization.
generalization; and a tactic of naming and shaming which has significant limitations in achieving the desired change such organizations seek.

Weariness specifically of Sino-African engagement has been framed as an issue of human rights in media reports such as those on China’s 2008 ‘Ship of Shame’\textsuperscript{88} debacle that focused on the issue of Chinese arms sales in Africa, as well as INGO reports such as the widely cited HRW report on Chinese-Owned Mines in Zambia\textsuperscript{89} amongst others to draw attention to the issue of labour standards of Chinese companies in Africa. Popular media has similarly fed into a particular narrative of China and Africa that not only frames the relationship as neo-colonial, exploitative and untamed but also equally and as it were, ‘logically’ flippant and almost purposefully dismissive/sidestepping on issues of human rights. From the corners of policy makers and politicians external to these formal relations, speculation has been equally rife in flagging for human rights concerns. The European parliament Resolution of 14 March 2013 specifically on EU-China relations urged “…the Chinese authorities to anchor their policies in Africa on the principles of, and respect for, human rights, the promotion of sustainable development and human security,”\textsuperscript{90} and further called upon the “EU to remain vigilant about the political, economic, social and environmental impact of China’s growing investments in Africa”

Interestingly, though think tanks such as the Rand Corporation seek to advice U.S. policy makers on how to approach Sino-African engagement for example, they are clear that “pressuring China to improve worker safety is unlikely to lead to improvements unless African governments themselves enforce labor standards that are already in place.”\textsuperscript{91} Such an approach undoubtedly places pressure on conventional modes of ‘naming & shaming’ used by IHRNGOs as well as by policy elites seeking behavioural change as theories of ‘socialization’ would have it. These strategies, however well intentioned, should be rethought, especially with the rising clout and sheer weight of reconfigured relations.

Representations of the Relationship and representations of Human Rights

If we are to unpack the ‘mythical’ narrative of Sino-African relations, a look into some of the representations that this narrative or discourse espouses is particularly useful. Debunking some of these myths by interrogating their validity allows us to problematize the discourse and its central tenets. Much of the critique regarding human rights considerations in Sino-African relations for example, is framed as constituting an issue necessarily separate from political and/or economic, social and cultural cooperation. That is, human rights are an area of concern distinct and separate from advances or development in other areas. Such lip service by way of distinct mention of course plays a role in the raising of awareness of human rights issues and in turn the ‘promotion’ of human rights, however, it remains questionable as to whether this in fact translates into tangible changes that

‘secure’ human rights on the ground. 92 The discourse on human rights in Sino-African engagement is therefore telling with regards to how the relationship is conceived and spoken about (representations of the relationship) as well as representations of what human rights in fact constitute. Most critiques levelled against the relationship have placed emphasis on a liberal modernist understanding of human rights. These accounts have harped on the emphasis of civil and political rights as well as individual legal rights, largely ignoring the host of valuable strides that the engagement has made in laying the foundations to secure socio-economic and cultural rights. While the broader discussion and debate regarding the indivisibility of rights is of evident centrality, due to limits of scope I will only highlight a few issues.

The first is that the emphasis on civil and political rights is made clear in the types of accusations levelled against Sino-African engagement. These include outright calls for their explicit attention, such as issues of abuses as raised by the HRW Report but are visible more interestingly in the implicit assumptions concerning the nature of the relationship. More often than not the relationship is simplistically reduced to economically driven interests and/or geopolitical power as instrumental drivers of the relationship and thus assumed to be void of human rights considerations. Again, while I do not discount these aspects as valuable explanatory variables, the manner in which they are conceptualized as necessarily separate and inimical to human rights is problematic. In doing so, civil and political conceptualizations of human rights are prioritized as quintessential exclusive markers of human rights to the exclusion of socio-economic and cultural rights. This is similarly implied in the aforementioned example and emphasis on political conditionality as a fundamental concern irrespective of its validity in achieving specified outcomes.

In these accounts civil and political rights have been frequently referenced and implied as an issue of human rights separate from other broader developments. This is evident in the relegation of the question of human rights to something altogether separate from the economic and political dimensions of the relationship in much scholarship. 93 It is clear that human rights are conceptualized in most accounts as constituting an arena of its own pertaining to issues of labour rights as well as civil and political rights. Brown for example points to the conceptualization of human rights as the “ability to protect oneself against injustice.” 94 This ability is equated not only with human rights but with empowerment. She notes however that empowerment in this context is seen associated with liberal individualism, thus the antidote to a lack of empowerment is seen to be the adoption of liberal individualism. These characterizations however assume a lack of agency on the part of ‘victims’ and moreover present a very narrow understanding of human rights and empowerment. Empowerment and thus human rights if conceptualized as such can be achieved through much more than through liberal individualism. Approaches that consider for this therefore also view broader communal developments, which often relate to socio-economic and cultural rights, as equally valid in conceptualizing human rights. Thus, although issues of empowerment are of concern and require attention they can be facilitated through multiple avenues and moreover can take on multiple forms outside of the liberal modernist construct. In terms of application to the case of Sino-African relations, it should be noted that human rights do not only constitute empowerment through liberal

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92 Underlying these distinctions is a conceptual debate of what human rights are (i.e. legal claimable rights) versus ensuring the fulfillment of a given right. The former is generally framed within a conception of rights that is necessarily anti-statist (i.e. protection from the state), while the latter concerns the states obligation to provide socio-economic goods and freedoms so-to-speak.


individualism but also constitute other aspects of the relationship that are often overlooked. One such example has been the large scale focus on investment and development of much needed infrastructure on the continent.\(^95\) Infrastructure has for long remained the weak link in African development, stumping not only international trade but more importantly intraregional trade. While not traditionally framed as an issue of human rights, infrastructure, I contend is a key component to securing an array of fundamental human rights across the continent. Not only has its’ neglect rendered the continent heavily dependent on foreign imports (such as from China) which have had deleterious effects on African producers/manufacturers unable to compete with more cheaply produced foreign products but these repercussions have had significant impacts on the enjoyment and access to a host of basic human rights.

Of course the economics and politics of dependency are extremely complex, however, the investment into an essential sector such as infrastructure is vital both to the continent’s development and autonomy. For one, traditional western donors have neglected infrastructure as a valuable or instrumental area for collaboration\(^96\) (for whatever reasons, strategic or not), whereas infrastructure development has been a main feature of Sino-African engagement. Cited as the “key enabler of regional integration, growth and development,” Ernst & Young for example, have highlighted Africa’s infrastructure deficit as one of the primary hurdles to prosperity on the continent.\(^97\) Not only does infrastructure carry with it the capacity to enhance development, but moreover its expansion constitutes an integral part of enabling access to food, water, security (supplies), work and movement among a host of other basic rights. Such protection of fundamental rights is simply not possible without the necessary infrastructure. Moreover, the dismissal of infrastructure development as integral to human rights protection simply reinforces a future of dependency on aid for the African continent. Thus although the merits of China’s interest in infrastructure development in Africa are largely undeterminable, strategic or not, to date the sheer scale of investments made in the area of infrastructure hold significant promise for African development nationally, regionally and internationally. While some have accused China as being solely self-interested in their dedication to infrastructure development (i.e. for easy shipment/transport of goods for Chinese consumption), the potential autonomy that such developments afford Africa are routinely overlooked. A as will be discussed in the section to follow, tied to the promise of autonomy is the idea of agency which is afforded through such autonomy— one which the discourse on Sino-African relations has regularly ignored. Such economic and development autonomy can provide the continent possibilities for growth that until now have been unfathomable. Undoubtedly the equal distribution of the fruits of such development remain a legitimate and central concern, however, as with any development/right, possibilities for their misuse is a reality. Moreover, in this landscape, such issues of distribution are issues which the law alone cannot protect/legal remedies are not necessarily applicable/effective.

The criticism of the dominant discourse is not that civil and political rights are not of value, or that calling our attention to these issues is meaningless, but rather that a more complex picture of the relationship in its entirety is acutely necessary. Moreover, the continuous and emphatic reference to civil and political rights to the ignorance of issues of social, economic and cultural importance renders the discourse asymmetrical and incomplete in its conceptualization of human rights. Finally as

\(^{95}\) Hanauer and Morris note the diversification of investment, particularly in infrastructure as a main driver of Sino-African engagement. (Hanauer, L. and Morris, L.J. 2014: 12-15)

\(^{96}\) David Dollar notes that the West has not invested significantly in large infrastructure in Africa as “they thought the private sector could fill this void...however, in power, expressways, and rail, it has proved harder to attract private finance. The returns are very long term, and political and economic uncertainties in poor countries mean that private investors demand a very high return to compensate risks. The result is the current hard infrastructure deficit in Africa” (Hanauer, L. and Morris, L.J. 2014: 14).

\(^{97}\) Ernst & Young as cited in Hanauer, L. and Morris, L.J. (2014): 14
highlighted in the case of conditionality referred to earlier, many of the assumptions embedded in rights associated with civil and political human rights are furthermore unfounded/inconsistent and/or tenuous in their approach and argumentation.

On the other hand, when and where cases of abuse do in fact occur, unfortunately, the entire relationship has suffered this characterization and relates to the representation of the nature of the relationship as espoused by the discourse. The factors involved and the reasons for violations are frequently put down to the very nature of the relationship as opposed to assessing their generalizability. An example has been Amnesty International’s commentary on “No more ‘ships of shame’ to Africa,” and the ‘China threat’ as far as arms trade is concerned. These issues have been raised as the kind of significant challenges to human rights that characterize the relationship, and are seen to flow from the very nature of the relationship itself – namely corrupt, dubious and suspicious. In the case of ‘ships of shame,’ attention was called to the arrival of the deadly cargo of more than 3,000 cases of arms at the Durban port in South Africa, set for the Zimbabwean Defence Force. The ship was eventually sent back due to the ‘flagging’ of the vessel by local South African civil society that alerted to the ship’s contents and destination. While the AI article rightly pointed to the problem of illicit arms trade as an issue of high concern, it was problematically framed and extended to as characteristic of Sino-African engagement in its entirety. According to the report, this was a clear exercise in ‘putting deliberative violators in their place,’ stating that despite China’s claims that arms were not transferred to conflict states in Africa, “that claim is simply not true and China has clearly forgotten about the notorious “ship of shame” [that] We are happy to remind them [of].” The notion of deliberative violators was invoked in the statement that “only if States commit to greater transparency will they be more accountable for their arms trading and transfers...If States dilute transparency and accountability under the ATT, they will be forsaking their responsibility to save lives.” Although States of course bear the responsibility of protecting human rights, this kind of simplistic argumentation has been the line of reasoning used by many human rights activists/NGOs despite States’ pointing to the “administrative burden” of gathering and reporting such transactions. Here again, political commentators have frequently used the notion of the ‘dragon in the bush’ to characterize China’s dealings in Africa. It is not my goal to protect the position of the state or whether or not the validity of the argument of under-capacity is true or not is not my concern. Rather, it is important to point out that the strategy employed by AI in this kind of reporting does not do the complexity of the issue and/or relationship at hand justice. Furthermore, such a ‘disciplinary’ naming and shaming approach does little to facilitate dialogue and engagement in order to bring about sustainable and appropriate solutions and falls under the rubric of unreflexive critique. Lastly, many such reports in their generalized statements, again, treat Sino-African engagement as homogenous and static, ignoring the multiple levels of analysis of the relationship. The result is that accounts pertaining or confined to one level of analysis, are often applied as relevant to other levels, when in fact many of these levels work relatively independent of each other. In this sense, particularly concerning the nature of Chinese engagement, the hold of Chinese government on all facets of engagement is routinely overstated – instead demonstrating a lack of knowledge regarding the intricacies of the Chinese state. Not only do these approaches leave wanting with regards to their

100 i.e government to government (official); economic/trade government to private; private actors to private actors; people to people; cultural relations etc
101 Of course some level of interdependence or effect is present between the various layers however this is not unique to China and can be said to be characteristic of all societies (to varying degrees).
proposed aims and goals, but they furthermore oversimplify discussion, resulting in the polarization and stereotypical characterization of actors.

Representations (Africa) – no disaggregation of the levels of analysis /wholesale characterizations

As already alluded to, invoked in the characterization of the Sino-African relationship as inimical to human rights are evidently problematic representations of the relationship, with China often being represented as the savage, power hungry, self-interested actor (dragon in the Bush), colluding with corrupt (morally and literally) African officials, placing ordinary African citizens as the victims, in a vast, untamed African landscape (bush) as the setting. Juxtaposed to this is the inverse – namely the Western model that emphasizes political conditionality, tied aid and the promoter of human rights. Hillary Clinton’s infamous remarks in her 2012 tour of Africa forms part of this rhetoric, with Clinton having cited America’s commitment to democracy and human rights as the antithesis of Chinese engagement. Clinton stated that the US was committed to “a model of sustainable partnership that adds value, rather than extracts from it…[and that] America will stand up for democracy and universal human rights even when it might be easier to look the other way and keep the resources flowing.”

This statement invoked a host of assumptions regarding 1) the nature of Sino-African engagement, 2) The nature of human rights, 3) The character of Chinese engagement, 4) the characterization of Africa as well as 5) the characterization of a US model. Of course characterizations exist and are invoked across an array of competing discourses, however, the implication that the Western model is best-suited by way of the ‘failures’ of the Chinese model has been co-opted by the international human rights regime, including politicians, policy makers and human rights NGOs. This regime constitutes the drivers and producers of knowledge on human rights and is composed of powerful elites, international human rights organs and institutions as well as dominant players in IHRNGOs. Not only is this narrative of the human rights dimension of Sino-African relations reductive and over simplistic but it is additionally deeply problematic and polarizing. Riddled with myths, generalizations and stereotypes on a number of counts this narrative has framed not only the actors and the setting but moreover framed human rights themselves.

There exist a host of problematic representations embedded in the discourse concerning Sino-African relations, and particularly the human rights component of these relations. For purposes of the discussion at hand – namely, the construction, contestation and challenges of human rights in Africa however, I will limit the discussion to representations of Africa. One problematic representation in this narrative has been the relegation of Africa to a singular, unitary actor, with little to no agency, of which the HRW report, amongst others is guilty. This of course is not an issue solely found in the reports of HRW, but can also be seen as general pattern of victim oriented human rights approaches across the board. Mutua for example has been exemplary in unpacking the troubles with human rights narratives that are excessively victim driven. While these do have their place and are highly necessary in activism and are undoubtedly well-intentioned, it should be noted that this kind of framing often times removes any semblance of agency from the ‘victims’ of concern, rendering such


accounts patronizing and condescending. Not only does this once again reinforce a paternalistic approach to African development but it takes away all potential agency from the African landscape. (of course leadership and conflict in Africa remain issues and areas of serious concern, however autonomy and legitimacy of the African nation-state clearly remains a question unresolved. This is a particularly problematic and paternalistic take on the African landscape).

Similarly the case of trade relations in particular has frequently been characterized as exploitive, with African states occupying the role of passive, unaware victims vis a vis an opportunistic, calculating and manipulative China. For many critics, this asymmetry warrants the title of China as a neo-colonial power. These calls to the colonial imaginary however ignore a number of distinct features of colonial power that are not to be found in the Sino-African dynamic. Of course the context of colonialism were not purely centred on power asymmetries, but were accompanied by rhetoric and policies that were based and founded on racist philosophies of the African ‘savage,’ as well as being embedded in an entire system of oppression incomparable to Sino-African engagement. Furthermore, while China undoubtedly wields power and economic power to be exact, the relationship is based on a long-weathered historical relationship. What is more, albeit often forgotten, is that China itself remains a developing country, facing many similar challenges of its own. Again however, the discourse on human rights in Sino-African relations in particular has presented Africa as void of agency and China, due to its might, dictating the terms of engagement. This however is a generalized simply false narrative. In fact, China allows for and promotes African agency and negotiating power to a considerable degree, with the terms of deals being flexible and open for African leaders to dictate the terms of engagement. This is becoming increasingly apparent with more work on China-Africa relations such as Soule-Kohndou’s work on bureaucratic agency in Africa-China negotiations. In this case study of Benin, Soule-Kohndou challenges the assumptions that African dependency on aid and foreign investment renders them helpless in negotiating suitable terms. Moreover, it challenges the assumption that “African bureaucracies are ineffective and passive in their relationship with China” and instead reveals that “bureaucrats from small states are not passive, conformist agents in negotiations, and that bureaucratic minorities may use tactics of influence on majorities in order for deviant views to prevail. Often acting in the shadows, as agents they safeguard national law, often in opposition to an executive branch intent on pursuing narrow political interests.” Thus not only do African counterparts exert agency, but moreover, Sino-African relations are not only based on the corrupt collusion of Chinese and African ‘elites.’ In fact, on the characterization of these relations as necessarily corrupt due to their ‘opaque’ nature vis a vis Western standards, various China-Africa scholars have noted that “the structure of Chinese loans and grants actually makes it difficult for African officials to embezzle funds…money typically goes straight to Chinese companies, giving African leaders little control over the funds and little opportunity to illicitly take a cut.” Similarly, it has been noted that “Chan’s threat to governance has been overstated.” Furthermore, in as far as Chinese ‘aid’ to Africa is concerned, “China emphasizes ‘local ownership’ i.e., letting African countries decide how they wish to use the aid funding themselves. The benefit of this policy is that it empowers African governments in the decision process of how best to utilize the funds” (RAND, 38).

While these brief examples are by no means exhaustive in their analysis of the human rights discourse on Sino-African relations, they nevertheless illustrate the value of a discursive lens. The array of issues uncovered through such an analysis additionally speaks to the need to unpack a discourse that is

108 ibid
laden with assumptions and largely unquestioned. Although scholarship dedicated to untangling the layers of Sino-African relations is rapidly developing as a field of inquiry unto itself, this research has remained largely confined to economic, political, historical and cultural relations in the ‘strict’ positivist sense. As already highlighted, human rights is necessarily seen as separate to these issues and remains an understudied aspect of Sino-African engagement. Moreover, the insight, which an analysis through discourse affords us, is evidently one laden with multiple layers and complexities. Nevertheless it is evident that such a lens, similarly affords us an opportunity to interrogate and problematize some of the fundamental or core assumptions not only about Sino-African engagement, but also our assumptions of human rights and how we conceptualize human rights. How the particular discourse on human rights in Sino-Africa relations is central in producing particular, problematic narratives or representations furthermore presents us with a view into the issue of human rights and global reconfigurations.

The Way Forward: Potential Avenues

Frequently it is remarked that “Western analysts and policymakers face enormous challenges in understanding China’s engagement in Africa,”109 citing the lack of transparent, accessible and reliable/precise data as being the primary obstacle in this challenge. Although this observation has merit, it is useful to question whether the sourcing of such information would in fact bring us closer to truly understanding China’s engagement in Africa. I contend that increased transparency and visibility of empirical data will do little to enhance our understanding of the Sino-African dynamism. Particularly if empirical data is analysed and used within the confines of western scholarship in terms of categories and concepts, we run the risk of furthering our already limited comprehension of the relationship. Therefore, if we are to begin to grasp the dynamics at work, a shift in focus – away from pure empiricism (as this in itself is of limited value) – allows us insight into that (the multiplicity of complex factors) which shapes the relationship, away from rationalist, oversimplified accounts.

A second challenge as pointed out by the Rand Corporation Report relates to this latter point, stating that, “Even more troubling than opaque statistics, however, is that the U.S., and Western policymakers lack a strategic understanding into how China sees Africa.”110 Acknowledging that China is not a monolithic actor that pursues dynamic policies, the report rightly points to the current limited understanding of how policies are developed, prioritized and implemented in the China-Africa context. Thus, rather than dismiss statements by the political elite as pure rhetoric, such utterances and framing of policy is particularly insightful into alternative factors that potentially underpin the relations. Analyses that account for these aspects as valuable should be harnessed to enable and stimulate nuanced scholarship.

Understanding these ‘alternative’ aspects is invaluable not only to understand the relationship in a descriptive, utilitarian sense, but moreover, become critical in that they challenge us to rethink what we perceive to be the most telling or important aspects of the relationship. Understanding the philosophical and ideational factors are instrumental in enabling us to question our assumptions of the relationship as well as our most fundamental assumptions about human rights, what they entail, and the role of the contemporary dominant discourse in defining and delineating conceptualizations of human rights. Thus, while rationalist accounts are of value, there remain missing pieces of the puzzle that are often overlooked and dismissed. Reorienting scholarship to focus on these underrepresented

109 ibid: 118
110 ibid: 119
lenses can provide deeper insight into these relations, but moreover provide useful avenues through which we can address challenges to human rights globally.

4. Concluding Remarks

The international order is continuously changing. Rapid changes are emerging due to increased forces of globalization, increased interconnectivity and technological developments that have compressed both space and time. These changes have been accompanied by political shifts and reconfigurations in the international arena, and the so-called rise or emergence of the global South as ‘new’ players on the field. While the ‘new-ness’ of this phenomenon is questionable, we are undoubtedly in a period of fundamental power shifts. What this means for human rights globally and particularly in Africa has therefore become a pressing question scholarly and policy question. As echoed in the title of this conference, it has been the ‘age’ that has been assumed as ambiguous, largely implying that the international reconfigured space is to some degree or another jeopardizing human rights. Similarly Stephen Hopgood’s thesis on the ‘End of Human Rights’ has identified the decline of the West and rise of Rest as spelling the end of human rights. These arguments however, are deeply problematic in that they reveal an understanding of human rights as necessarily emanating from the West and thus inimical to the Rest. Moreover, this has rendered the West as the producers of knowledge on human rights, thus monopolizing the discourse on human rights. Resultantly knowledge emanating from outside of Western thought is rendered as necessarily dubious and/or illegitimate. This understanding of human rights and the monopoly of particular understandings of human rights as the truth, I argue is the preeminent challenge of human rights in our contemporary age. Thus, it is not our age that is ambiguous, but rather the way in which we have come to engage with human rights and the discourses it espouses. While there undoubtedly is a shift in power internationally, this I argue, can be seen as a re-balancing and potential (re)opening of the discourse to incorporate marginalized, ignored and subordinated knowledges on human rights that move beyond particular, ideological understandings of human rights.

Africa in particular has been characterized in a particular light within the discourse of human rights. The example of the human rights discourse on Sino-African engagement is telling of the representation of Africa within broader human rights discourses. In moving away from traditional modes of studying human rights in Africa, the lens of discourse allows us to question representations of Africa and the effects these representations have on subsequent policy. Discourse is thus not removed from reality but rather constitutes it. Situating Africa as it were within this discourse therefore reveals much about common conceptions of human rights in Africa. Many of these are problematic and require us to rethink where we see the locale of challenges to human rights in Africa. While I do not discount rationalist accounts, the lens of discourse opens up the range of challenges in current common knowledge and scholarship, and prompts us to think beyond simplistic causal relations that bind us to limited understandings of these challenges. If ambiguity denotes “the quality of being open to more than one interpretation” and “not having one obvious meaning” then human rights cannot be monopolized by dominant discourses that essentially become the gate-keepers of how we understand human rights and global shifts. Instead, this intrinsic ambiguous nature should open up inclusionary discussion on the various facets of human rights in order to move debate and ideas forward. We should reconfigured international spaces therefore not as the quintessential challenge to human rights as denoted in an age of ambiguity, but rather an age of opportunity in which reconfigurations present us with the impetus so engage in critical self-reflection as well as dialogue on the various avenues through which human rights can be protected.