(D)evolving Norms:

The Illiberal Vernacularization of Human Rights

Erik Ramberg

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Department of Political Science

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Abstract

Current academic debate on human rights is characterized by two prominent but seemingly opposed tendencies. On the one hand, scholars generally hold that human rights have entrenched their position as the predominant mode of moral reasoning in international society, with a core set of rights now considered *jus cogens*; that is, customary international law from which no derogation is permitted. On the other hand, skepticism abounds concerning the practical gains that human rights have achieved on the ground, as a large number of authoritarian regimes espousing a principled commitment to human rights continue to systematically violate their citizens' civil and political liberties. In this thesis, I argue that these two tendencies are not contradictory but rather complementary and perhaps even mutually reinforcing. More specifically, harnessing the constructivist literature on the role of norms in international relations, I attempt to show how authoritarian regimes that are unable or unwilling to directly challenge human rights' global discursive hegemony have reinterpreted human rights norms in line with domestic governing values, allowing the regimes to develop their own illiberal conceptions of human rights to which they can claim adherence while continuing to violate their citizens' rights in the classic liberal sense. In service of this argument, I apply and extend the concept of *vernacularization*, which norm theorists have used to describe the process by which local norm entrepreneurs reconstruct both the substantive content and rhetorical framing of certain transnational norms in order to render them consistent with the particular culture and customs of their societies. Conducting a discourse analysis of the documentation that eight authoritarian regimes have submitted to the Universal Periodic Review—a UN peer review mechanism that investigates the human rights record of all member states—I consequently show how these regimes have vernacularized five specific human rights norms in order to promote a wide range of illiberal practices. In conclusion, I argue that this process threatens to render "human rights" a floating signifier lacking fixed political content and, as such, poses a covert yet significant challenge to a core component of the liberal world order.

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Contents

1. Introduction

In recent public statements, authoritarian leaders around the world have expressed notable ambivalence concerning the precise relationship between liberal and illiberal forms of government. A certain inconsistency was on display, for instance, during the campaign that the Turkish government mounted prior to the 2017 constitutional referendum that further concentrated power in the hands of President Recep Tayyip Erdoğan. On the one hand, the President and his ruling Justice and Development Party repeatedly described the goal of the proposed changes as the institution of an executive system in line with that of liberal democracies such as France, Mexico, and the US. On the other hand, however, they often emphasized the legitimacy of key differences between Turkish and Western interpretations of such a system. The tension between these two claims was readily apparent in a brief that the Turkish Ministry of Justice wrote a few months before the referendum to the Venice Commission—the Council of Europe's advisory body on constitutional law—in which the Ministry, seeking to justify the amendments, first affirmed that Turkey remained "devoted to universal values such as democracy, human rights and the rule of law," before proceeding to argue that states can realize such "universal values" through a variety of governance models:

> As it is known, parliamentary, semi-presidential and presidential systems are implemented as the forms of democratic States, according to historical, social and cultural structures of the countries. In other words, there is no standard or ideal system of government in democracies. In today's world, the level of dependence of the system on democracy and human rights is more important than the form of the State implemented in a country. (Venice Commission 2017, 4)

In this way, Turkish authorities purportedly accepted the universal legitimacy of certain liberal norms—democracy, human rights, and the rule of law—yet they did so while simultaneously reserving wide latitude in the institutional structures that states might adopt on the basis of such norms. This strategy allowed the government to strike a tenuous balance between likening and contrasting itself to Western democracies, a balance encapsulated in Erdoğan's preferred term for the political system he sought to institute: "Turkish-style presidentialism" (Hürriyet Daily News 2015). This label implies a system rooted in a hybrid mix of local and transnational governing values and, as such, it illustrates the kind of equivocating rhetoric that has become increasingly common among authoritarian regimes in recent years. Other notable examples

include the comments that Chinese President Xi Jingping made during a rare interview with US media in 2015, whereby he compared the "Chinese Dream" slogan that he coined shortly after assuming office with the classic notion of "the American Dream" in the United States:

> I have the impression that the Americans and people in all other countries share the same dream about the future: world peace, social security and stability, and a decent life. Naturally, owing to differences in history, culture and stage of development, China, the United States and other countries may not have the exact same dream, and they pursue their dreams in different ways. But all roads lead to Rome. (*Wall Street Journal* 2015)

In this remark, President Xi, like Turkish authorities, sought to portray liberal and illiberal conceptions of governance—fundamentally opposed visions of the relationship between ruler and ruled—as merely two different paths leading to the same kind of society. This attempt results in the rather circuitous phrasing quoted above, which alternately emphasizes similarity and dissimilarity: China and the United States "share the same dream," which, "owing to differences" between the countries, may not be "the exact same dream," though both will "lead to Rome." Such oscillation also characterizes the answer that yet another authoritarian leader, Saudi Crown Prince Mohammad bin Salman, gave when asked by a Western reporter last year whether he could envision his country eventually transitioning to a constitutional monarchy:

> What we should focus on is the end, not the means, and these ends are the rule of law, freedom of speech, freedom to work and security. These are the ends that everyone agrees on, that we agree on in Saudi Arabia in our own way. (*Time* 2018)

Here bin Salman, too, relates his country to liberal democracy in an equivocal fashion, simultaneously equating and distinguishing the two systems of governance. Echoing Turkish and Chinese leaders, he attempts to reduce the difference between them to one of political "means" rather than normative "ends," positing a global consensus on the latter, which Saudi Arabia is eager to pursue in its "own way." As in the cases of "Turkish-style presidentialism" and the "Chinese Dream," the fact that Saudi Arabia pursues its "own way" to the rule of law and civil liberties through authoritarianism does not, apparently, pose any contradiction.

For the purposes of this thesis, these three formulations from illiberal states describing homegrown interpretations of supposedly liberal governance norms are significant for evoking a concept that has received considerable attention from constructivist scholars over the past decade and a half. Termed *vernacularization*, this concept refers to the process by which local

norm entrepreneurs reconstruct both the substantive content and rhetorical framing of certain transnational norms in order to render them consistent with the particular culture, customs, and history of their societies. Prominent case studies of this process include, for instance, an Indian NGO seeking to promote women's rights in familiar socialist rhetoric as a matter of economic justice rather than in feminist discourse invoking Western gender concepts (Merry and Levitt 2017), as well as the Association of Southeast Asian Nations' (ASEAN) adoption of the European "common security" norm in the modified form of "cooperative security" (Acharya 2004). Typically, scholars have viewed vernacularization positively as a process that facilitates the spread of liberal governance, with the additional benefit of doing so through local political agency rather than paternalistic imposition from external actors. However, the rhetorical and ideological malleability inherent in vernacularization does not imbue the process with such a teleology; authoritarian regimes can—as suggested above—just as easily interpret transnational norms in line with an illiberal political philosophy. This thesis will analyze such vernacularization as it relates to one of the most prominent points of normative contention in international politics today, namely human rights.

1.2 Research Question

Human rights provide a particularly illuminating lens with which to study illiberal forms of vernacularization, as current academic debate on the subject is characterized by an ambivalence reminiscent of and related to that expressed by the authoritarian leaders quoted above. On the one hand, scholars generally hold that human rights have entrenched their position as the predominant mode of moral reasoning in international society. According to this narrative, significant developments in the international system since the end of the Cold War, including the accession of all states to at least one human rights treaty (Liese 2009, 23) and key innovations of international law—most notably the emergence of the "responsibility to protect" doctrine (R2P) and the establishment of the International Criminal Court (ICC)—have combined to establish a general consensus that the core tenets of human rights law now constitute *jus cogens*; that is, customary international law binding upon all states regardless of their specific treaty obligations (Risse and Ropp 2013, 9). As such, many analysts now consider human rights the authoritative normative framework of the contemporary era, one that provides a "lingua franca of global moral speak" (Perugini and Gordon 2015, 6) or perhaps even a "new standard of civilization" (Donnelly 1998).

On the other hand, skepticism abounds concerning the practical gains that human rights have achieved on the ground. Not only do authoritarian regimes professing a principled

commitment to human rights continue to systematically violate their citizens' civil and political liberties—as is happening in countries as diverse as Turkey, China, Saudi Arabia, Russia, North Korea, and Syria—but supposedly consolidated liberal democracies like Poland and Hungary have recently shown signs of an authoritarian regression as far-right governments there push through constitutional reforms eroding the rule of law (Rohac 2018). Indeed, so acute and prevalent is this trend that some scholars have dubbed it a "human rights backlash" that threatens the viability of the entire transnational human rights project (Vinjamuri 2017), a claim that seems to find empirical support in Freedom House's (2019b) observation of a global net decline in civil and political liberty indicators every year from 2005 until the present.

There thus appears to be a discrepancy between human rights' uncontested authority in discourse—as exemplified by the kind of statements made by Turkish, Chinese, and Saudi leaders—and the regular violation of human rights in practice—as exemplified by these same leaders' actual policies. This is a discrepancy that much of the traditional human rights literature is analytically ill-equipped to explore, as it has tended to locate resistance to the diffusion of human rights exclusively within competing discursive frameworks such as state sovereignty and national security (Jetschke and Liese 2013, 35). Recently, however, recognizing that the balance in this discursive competition has shifted decisively in favor of human rights—at least within institutions of global governance—analysts have begun to note the ways in which authoritarian regimes increasingly signal at least formal commitment to human rights and justify rights-violating policies in rights-based rhetoric. This suggests that the privileged discursive status of human rights and their precarious position on the ground might not constitute a discrepancy but rather two complementary and perhaps even mutually reinforcing tendencies. For instance, in an attempt to explain their quantitative finding that authoritarian regimes ratify human rights treaties just as frequently as liberal democracies, Hafner-Burton, Tsutsui, and Meyer (2008, 121) argue that while "the emergence of a global human rights regime in the last several decades has produced a normative expectation for every state to commit itself to human rights protection," the enforcement of human rights treaties has not kept pace with this normative development, which in combination has rendered the ratification of such treaties a low-cost strategy by which authoritarian regimes can enhance their legitimacy without altering their behavior. Hopgood (2017, 296) goes a step further, bemoaning an increasingly common and "pernicious" form of rights claim in which authoritarian regimes "use the language of rights to defend and promote practices that are not consistent with the basic idea of individual rights" as traditionally conceived. "In some cases," he continues, "rights are even used to defend illiberal causes" (ibid.). The examples he provides of such illiberal rights

claims include the 2012 ASEAN Human Rights Declaration, which Human Rights Watch (2012) criticized as "a declaration of government powers disguised as a declaration of human rights," as well as the anti-LGBTQ resolution that Russia sponsored and passed that same year at the UN Human Rights Council, "which put forward *in the name of human rights* notions about nation and family that are clearly at odds with the classic conception of human rights in that they deny individuals their veto over authority" (Hopgood 2017, 296; emphasis in original).

In my thesis, following this line of inquiry into the possibly reciprocal link between human rights' superiority in discourse and suppression in practice, I will analyze such illiberal rights claims as instances of vernacularization. More specifically, I will argue that these claims are the result of a vernacularization process by which authoritarian regimes, unable or unwilling to challenge the discursive hegemony of human rights as such, develop their own illiberal human rights interpretations to which they can claim adherence while continuing to violate their citizens' human rights in the classic liberal sense. By identifying the proliferation of meanings that the term "human rights" thus assumes, this analysis may in turn help further clarify the seemingly paradoxical relationship between human rights' discursive and political positions, distinguishing between the different and often contradictory values that liberal and authoritarian regimes both reference by use of the same "human rights" signifier. Indeed, I hope to demonstrate that there is no paradox in this perspective, as it trains attention beyond an authoritarian regime's mere invocation of a rights claim to the local—and typically illiberal—normative foundation underlying it, thus realigning the regime's rhetoric and policies. Toward this end, the specific research question I will investigate is as follows:

> *How do authoritarian regimes vernacularize transnational human rights norms within illiberal normative frameworks?*

As this is a hypothesis-generating study, I do not test any preformulated theories in my attempt to answer this question. Rather, I conduct an inductive discourse analysis of relevant source material from which a general framework consequently emerges, suggesting key analytical categories and recurring empirical trends. The primary objective of this approach is to identify and classify the most common vernacularization strategies by which authoritarian regimes articulate illiberal human rights claims. Further, on the basis of this analysis, I offer some observations on the significance and implications of such claims for the transnational human rights regime. The crux of the argument I develop is that the claims illustrate the manner in which human rights as a normative framework is falling victim to its own success, having

achieved such dominant status within the liberal world order—where it now "prescribes the limits of legitimate discourse" (Hopgood 2017, 289)—that the most consequential resistance to human rights has shifted from the espousal of competing frameworks such as state sovereignty and national security to an attempted redefinition of human rights themselves. Thus, supplanting references to the principle of non-interference or the threat of terrorism, illiberal human rights claims vernacularized in line with a "Turkish-style" executive system, "Chinese dream," or "Saudi way"—claims positioning themselves as both identical to and distinct from those of the classic liberal mould—are likely to become an increasingly important tool among authoritarian regimes seeking to justify repressive politics. This development, I argue, may ultimately render "human rights" a floating signifier lacking fixed political meaning and, in so doing, it could come to exemplify one of the most effective forms of resistance currently facing the liberal world order—one that avoids direct confrontation in favor of covert appropriation.

1.3 Theoretical Framework

The concept of vernacularization grew out of the academic literature on norms, which spans political science, sociology, and anthropology. In the field of international politics specifically, which is the empirical domain of this study, the literature on norms includes many case studies on the formulation and dissemination of human rights. Although a focus on norms is compatible with a realist framework treating them as endogenous functions of states' material interests, the majority of norm scholars are constructivists who contend that norms are at least partially exogenous factors shaping the social context that forms states' contingent identities and interests (Wunderlich 2013, 21-22). I have assumed such a constructivist outlook in this thesis.

Norm theorists generally agree on the definition of a norm as "a standard of appropriate behavior for actors with a given identity" (Finnemore and Sikkink 1998, 891). Recent scholarship on the role of norms in international politics is vast, but one can roughly divide it into two distinct waves (Wunderlich 2013, 23). The first focused primarily on the genesis and spread of norms, as exemplified by Finnemore and Sikkink (1998), who popularized the concepts of *norm emergence*, *cascade*, and *internalization*, referring to the authors' three proposed stages of a norm's "life cycle." In the realm of human rights, influential models of rights diffusion such as the "boomerang effect" proposed by Keck and Sikkink (1998) and the "spiral model" proposed by Risse, Ropp, and Sikkink (1999) followed this general approach, seeking to explain the process by which transnational networks of human rights activists have successfully pressured authoritarian states to accept a variety of rights claims. While these studies formed important contributions towards understanding the diffusion of human rights

norms across the international system, they were generally static in nature, describing change in regards only to states' attitudes toward human rights, not the content of the norms themselves. The second wave of norm literature responded to this gap, attempting to explain not only patterns of norm diffusion but also evolving understandings of what adherence to a given norm entails—of what kind of behavior constitutes torture (Liese 2009), for instance, or what kind of policies promote gender equality (Krook and True 2012). The premise of such studies is the observation that broadly supported norms tend to be vague, "enabling their content to be filled in many ways and thereby to be appropriated for a variety of different purposes" (ibid., 104).

It is useful to view vernacularization in this context as a theoretical elaboration of one possible mechanism by which norms evolve. Merry and Levitt (2017, 213) define this process as "the extraction of ideas and practices from the universal sphere of international organizations, and their translation into ideas and practices that resonate with the values and ways of doing things in local contexts." Described in these terms the process sounds rather innocuous, although the authors do hint at the possibility of it resulting in what liberal human rights activists are likely to view as failed or flawed adaptations. For instance, they write that abortion debates "can be framed as the opposition between the right to life and the right to choose," which illustrates the potentially counterproductive "malleability of human rights as a discourse of claims-making" (235). Yet they do not investigate this possibility further, dismissing "the risk of vernacularization that deviates from human rights principles" simply as "the price of vernacularization that makes them more appealing in particular cultural contexts" (ibid.). In short, then, the theoretical aspiration of this thesis is to analyze illiberal rights claims as instances of vernacularization within contexts that are predominantly authoritarian, aiming to provide a fuller and more systematic account of the characteristics of such "deviate" human rights interpretations, as well as their possible implications for the future advocacy of the transnational human rights regime.

1.4 Methodology

In keeping with a constructivist framework that considers language a constitutive factor of the social reality in which states operate, I have investigated this form of vernacularization through discourse analysis. This is also the methodology that Krook and True (2012, 105) recommend specifically for studies of norm evolution, since it rejects the reductive assumption that norms exist only as and to the extent that they are formally codified in international law, allowing one to analyze them more flexibly and dynamically as they are "anchored in language and revealed by repeated speech acts." Moreover, the approach permits a more actor-oriented focus that

confers agency to discursive participants as they purposively define and innovate through such speech acts the terms of political debate. Discourse analysis is thus a useful tool for tracing the process by which states reinterpret dominant definitions of human rights norms and subsequently deploy those reinterpretations to condemn, defend, or excuse given policies.

The empirical base of my analysis is the documentation that a sample of authoritarian regimes have submitted to the Universal Periodic Review (UPR), a peer-review mechanism administrated by the UN Human Rights Council under which member states regularly examine each other's human rights records. The mere fact that all UN members have agreed to subject themselves to such scrutiny is in itself illustrative of the normative sway that human rights now hold in the international arena, yet the voluminous documentation that the review process has generated also evidences the degree to which states compete to establish rival definitions of human rights and imbue the term with political and philosophical content that aligns with their own values and interests. The process can thus provide considerable insight into the manner in which states vernacularize transnational norms in accordance with local belief systems.

The UPR was established in 2006 and is currently in its third cycle. Each cycle follows a set schedule—currently spanning five years—according to which every state submits a report detailing the domestic measures it has taken to strengthen human rights, as well as responds to other states' recommendations regarding its human rights record. For this thesis, I analyzed both the reports and responses that eight authoritarian regimes have submitted through the course of all three UPR cycles. In order to ensure variety as to the level of capacity and degree of repression exhibited by each regime, I determined my sample by selecting two states from each of the four levels of development described by the UN's Human Development Index (HDI)—*very high, high, medium,* and *low*—with each pair of states comprised of one deemed *partly free* and one deemed *not free* in Freedom House's annual democracy ranking (Table 1).

HDI Category	"Partly Free"	"Not Free"
Very high	Singapore	Saudi Arabia
High	Turkey	China
Medium	Philippines	North Korea
Low	Nigeria	Syria

TABLE 1: Sample

Analyzing these states' UPR documentation, I developed a typology of illiberal human rights claims organized by the specific—and traditionally liberal—norms that the regimes have

vernacularized in order to level their claims. These norms are: 1) *non-discrimination*; 2*) rule of law*; 3) *criminal justice*; 4) *majority rule*; and 5) *developmentalism*. By way of illustration, several of the regimes in the sample defend severe restrictions on their citizens' freedom of expression by citing the need to protect minority groups from hate speech; such claims are discussed under the *non-discrimination* heading. Combined, the categories cover the most prevalent and significant ways in which the eight reviewed states have vernacularized human rights to promote illiberal politics.

1.5 Thesis Composition

This introductory chapter has summarized the topic, research question, scholarly significance, theoretical framework, and methodology of this thesis. The second chapter will further elaborate the theoretical questions at stake, conducting a literature review on the role of norms in international relations, developing the concept of vernacularization within that context, and briefly discussing the main characteristics of liberal and illiberal governance in order to clarify the normative frameworks between which the vernacularization processes studied herein occur. The third chapter will discuss my methodological approach in greater detail, first explicating the general assumptions underlying discourse analysis and then presenting my specific research design. The main analysis is given in the fourth chapter, which begins with a presentation of the core values on which each reviewed state claims to base their political system—and which consequently forms the interpretative framework guiding each state's vernacularization of human rights norms—before examining how the states leverage on the basis of these vernacularizations the five norms listed above to justify a variety of illiberal practices. The fifth chapter then offers some observations on the possible implications of such vernacularization for the future practice and theory of human rights in the international arena. Finally, a concluding chapter summarizes my findings and suggests several avenues for further research.

2. Theoretical Framework

The scholarship on norms is vast and interdisciplinary. My analysis is rooted in the political science literature, specifically that pertaining to the role of norms in international relations, although I also draw on anthropological and sociological perspectives. As I am less interested in determining how the presence or absence of a norm may explain a given outcome in the international arena than in understanding how the content and interpretation of norms themselves develop, I draw upon the theoretical framework of so-called "second-wave" norm

scholarship (Cortell and Davis 2000, 66), which pays particular attention to the manner in which norms evolve over time in order to investigate the processes by which they "emerge, diffuse, become internalized, and, once established, become subject to change resulting in their strengthening, weakening, or even erosion" (Wunderlich 2013, 20). My analysis further follows this tradition in expanding the focus of study to encompass not only instances of liberally oriented norm evolution, which long formed the bulk of "mainstream" research on the topic (ibid.), but also normative change driven in opposition to the prevailing tenets of the liberal world order. In this context, a central goal of my thesis is to analyze the concept of vernacularization—the local interpretation of a global norm—as one form such illiberal change can take, as authoritarian regimes purposively inject their local interpretations back into the transnational sphere to produce "repeated if not perpetual disputes over the meaning of the norm [that] may lead to a change of the shared meaning over time" (Müller 2013, 10).

This section will proceed as follows. First, I will review the literature on norms in international relations, tracing the development of scholarship from linear to dynamic models of norm evolution. I will then flesh out the concept of vernacularization as one mechanism by which the meaning of a norm can change, with particular emphasis on vernacularizing states' ability to deploy their own interpretations of a normative framework to contest that framework's original precepts. Finally, a third section will discuss the main characteristics of liberal and illiberal forms of governance in order to map the ideological landscape and better classify the political affiliations of the vernacularization processes later studied in the empirical analysis.

2.1 Literature Review: The role of norms in intl. relations

In the realist and liberal schools of international relations, which one can describe jointly as *rationalist*, norms do not hold much independent explanatory power. While the two schools differ in the precise mechanisms that they emphasize to explain outcomes in the international arena, both consider states to be uniform actors that act primarily in pursuit of their material self-interest—be it military security (realism) or economic welfare (liberalism). Thus, to the extent that either school pays attention to norms, they are conceived as endogenous functions of such interests. It is therefore primarily the constructivist literature that has concerned itself with norms as significant variables in their own right. Constructivism, as a *cognitivist* approach, holds that states do not act purely out of self-interest; the way in which they conduct international affairs is better understood as the result of a complex socialization process unfolding through the interplay of their contingent perceptions, identities, and value systems, which are decidedly affected but not wholly determined by material factors like power and

wealth—less tangible but equally important considerations such as culture, ethics, and habits also play a role. Given this perspective, constructivism makes few *a priori* assertions about the nature of international relations as such, constituting instead a "theory of process" (Hoffmann 2010, 1) with which to analyze how states make sense of the social field they inhabit.[1]

Considering this focus, then, it is not surprising that constructivists have concentrated much of their work on the role of norms in international relations. The early scholarship on this topic was conducted in large part as a response to then-dominant realist and liberal assumptions and was primarily concerned with demonstrating that "norms matter" (Hoffmann 2010, 1)—that is, with establishing that norms are not merely *ex post* rationalizations of material interests and power structures but rather constitutive ideational factors contributing to the very conception and thereby implications of such interests and structures. Defining a norm as "a standard of appropriate behavior for actors with a given identity" (Finnemore and Sikkink 1998, 891), these scholars conducted studies explaining a wide variety of outcomes in the international arena—for instance the abolition of the slave trade (Ray 1989); sanctions against South Africa's apartheid regime (Klotz 1995); the prohibition on chemical weapons (R.M. Price 1997); and the growing acceptance of humanitarian intervention (Finnemore 2003)—by leveraging as their independent variable the emergence of certain norms regulating what kind of behavior states can and cannot legitimately engage in as accepted members of "international society" (Finnemore 1996). This scholarship also included theorizing on how ascendant norms gain acceptance across the international system, exemplified in the realm of human rights by influential diffusion models such as Keck and Sikkink's (1998) "boomerang effect" and Risse, Ropp, and Sikkink's (1999) "spiral model," both of which attempted to explain the process by which transnational networks of human rights activists pressured authoritarian regimes to accept a variety of domestic rights claims during and immediately following the Cold War.

However, while these early studies were significant for challenging previously dominant realist and liberal analyses of international relations, making a persuasive case for the (partial) autonomy of normative considerations, they were characterized by a tendency to "freeze" norms in place (Hoffman 2010, 5). In other words, once they had identified the effect of a norm, these analyses generally held its interpretation constant, a tendency that applied even to studies of norm emergence, which "treat[ed] the norms in question as relatively static – one relatively

[1] Some scholars (e.g. Hopf 1998; Jackson 2011, 201-7) distinguish between two different strains of constructivism: a "conventional" or "neopositive" kind that abides by the positivist epistemology underlying traditional social science, and a "critical" or "reflectivist" kind that follows poststructuralism in questioning positivism's claims to objectivity and causal certainty. Granting this distinction, the mode of analysis I employ in this thesis is closer aligned with the latter variety, although the present section is unable to elaborate this point due to space constraints.

fully formed norm is replaced by a new idea that becomes a norm. The norms' […] meaning, constitutive properties, and behavioral strictures remain unchanged throughout the analysis" (ibid.). While such simplification was to a certain extent unavoidable for the purposes of model-building, it focused attention primarily on competition *between* different norms, neglecting the interpretative struggle that occurs *within* a single normative framework to establish its ethical premises and practical obligations. As such, these initial studies "did little to advance understanding of how norms themselves change without necessarily being replaced" (ibid., 7).

More recent scholarship on norms has attempted to address this lacuna. Following Wiener (2004, 198), who critiqued earlier studies precisely for this tendency to fix norms as stable independent variables, which consequently "leaves situations of conflicting or changing meanings of norms analytically underestimated," scholars have traced the process by which prevailing conceptions of a single norm may evolve. Thus, studies have examined normative contestation and evolution within discrete policy discourses such as global environmental cooperation (Bailey 2008; Hoffmann 2005); regional integration (Acharya 2004; Van Kersbergen and Verbeek 2007); sovereignty and security (Capie 2012; Kornprobst 2007; Liese 2009); and gender equality (Aharoni 2014; Krook and True 2012; Zwingel 2012). Illustrating this work's more dynamic approach, Capie (2012), in a representative study, examines Southeast Asian states' reaction to the emergence of R2P and finds that regional references to the norm generally emphasize its two first "pillars" (prevention and capacity-building) while largely dismissing its third (intervention), which suggests that "[t]o the extent that R2P has found support in Southeast Asia, it is because the 'global' R2P norm has changed to become more congruent with established regional norms around sovereignty" (90). This observation, in turn, supports Capie's larger theoretical point that "the content of norms is not fixed" (76).

These "second-wave" norm studies (Cortell and Davis 2000, 66; Wunderlich 2013, 23) share several important premises worth elaborating for the purposes of this thesis. First, they are attentive to norms' particular status as "*generic* social facts" (Hoffmann 2010, 14; emphasis in original)—a definitional vagueness that necessarily results from the need to formulate norms at a sufficient level of generality to cover a wide range of unique situations, and which thus allows "their content to be filled in many ways and thereby to be appropriated for a variety of different purposes" (Krook and True 2012, 104). Indeed, it is precisely this genericity that has spurred the studies' foundational interest in internal forms of norm contestation, particularly as this relates to so-called "metanorms," that is, core global values such as "reciprocity" and "justice" that are not specific to any one issue area but which "appl[y] in *all* fields of policy" and are therefore especially susceptible to conflicting interpretations (Müller 2013, 5; emphasis

in original). Second, guided by their focus on this generic quality of norms, more recent norm studies do not view state adherence to a given norm as the final outcome of interest; rather, as discussed, they extend their analyses to investigate how actors continue to contest the meaning and implementation of a norm after it has achieved prescriptive status. In other words, the studies treat norms as "'processes', rather than as 'things'" (Krook and True 2012, 122). Third and finally, the studies have challenged the unidirectional approach prevalent in earlier work, which generally portrayed norm diffusion as a linear dynamic by which rules generated within the cosmopolitan core of the world community (i.e. liberal Western democracies) percolate out towards parochial actors in the periphery (i.e. non-Western autocracies). By contrast, contemporary scholarship generally conceptualizes "global norm creation and appropriation as an open process of negotiation in which various actors are involved" (Zwingel 2012, 116) and through which local norm interpretations may circulate back into the global discourse. Thus, in sum, attention to these three aspects of norms—their generic, processual, and multidirectional properties—gives rise to an analytical framework capable of studying the diverse and conflicting array of dynamics characterizing norm evolution in the international arena, sensitive to their full range of motion across both ideological and geographical spectrums.

As such, this framework provides a fruitful lens with which to analyze the illiberal reinterpretation of human rights norms that is the subject of this thesis. This is so because global human rights discourse exhibits several distinctive features that map neatly on to the framework's points of emphasis as detailed above. First, to the extent that human rights do indeed constitute a new "standard of civilization" for the contemporary era (Donnelly 1998), a standard that "prescribes the limits of legitimate discourse" within the world community (Hopgood 2017, 289), one can plausibly describe them as a metanorm grounding all facets of international politics: issues pertaining to security, development, migration, climate change, and a host of other areas have all embedded human rights considerations within their purview (as even nominally evident in thorny UN titles such as *Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism*). Thus, as their degree of specification declines in inverse proportion to the increasing number of issue areas they encompass, human rights norms appear to have attained particularly generic—and thus interpretable—meanings. Indeed, this is how the academic literature characteristically describes rights claims, with scholars frequently noting their particular "malleability" (Merry and Levitt 2017, 235), "elasticity" (Hopgood 2017, 297), and "rhetorical ambiguity" (Douzinas 2007, 10). Second, as an international metanorm, human rights are now the subject of vast and interpenetrating global regimes—including the UN Human Rights Council, UN treaties and

treaty bodies, and international and regional courts—whose institutional mechanisms provide a durable forum for the "process" of human rights to play out in not only a bureaucratic but also interpretative sense as states compete within these fora to establish rival definitions of human rights norms and obligations. Third, following from these prior two points, authoritarian states have found it necessary or at least expedient to partake in the global human rights discourse, resulting among other phenomena in their UPR participation and the kind of pro-rights rhetoric quoted in the introduction to this thesis, phenomena which in the stubborn absence of liberalizing policies within the states' domestic politics bring to the fore the issue of specifically illiberal forms of norm evolution. For these three reasons, then, the theoretical perspective elaborated above is well-equipped to examine the distinguishing empirical characteristics of human rights as a normative regime.

However, this framework does leave unresolved one important point of ambiguity. This concerns the precise relationship between the internal forms of norm contestation that second-wave norm studies have differentiated themselves by conceptualizing, and the external forms that were the primary concern of earlier research; that is, between the factors altering the understanding of a norm as a result of contestation within that normative community, and those factors doing so as a result of contestation between two different communities. Wunderlich (2013, 30), for instance, discusses on the one hand "intrinsic sources" of norm development, which may include "differing understandings of a norm's meaning, its formal validity, or its application in a given social context," and, on the other hand, "extrinsic sources" such as "new or altered norms arising in the course of scientific or technological innovation or from transformations in the international distribution of power." She does not, however, theorize the potential interaction between these two sources of change—for instance how a shift in power distribution may enhance or constrain a state's ability to contest a norm from within—concluding only that both types provide structural "windows of opportunity" for aspiring norm entrepreneurs. In a similar vein, while noting that the "dividing line between 'internal' and 'external' [sources of change] is never absolute," Krook and True (2012, 105) maintain that the distinction is nonetheless useful "as a heuristic to organize and analyse two sets of dynamics that intersect and interact over the course of the norm life cycle." However, in his own literature review on the subject, Hoffmann (2010, 16) questions the value of this analytical move, writing that "the separation between the two kinds of norms research […] may ultimately be artificial." In his view, this particular division of labor is a result of the kind of research questions still being asked, the formulation of which posits an arbitrary distinction by seeking to understand *either* the manner in which "an actor outside a normative community interacts with norms when

it is the target of socialization," *or* the process of "change in norms themselves," but seldom both in tandem. As such, he claims, "[t]hese dual visions of normative dynamics are likely related, but the norms literature has yet to describe how."

Following this line of reasoning, the main theoretical contention of this thesis is that it is possible to gain a clearer understanding of the relationship between internal and external drivers of norm evolution—and, by extension, of the seeming contradiction previously discussed between the manner in which human rights are articulated in discourse and realized in practice—through the concept of vernacularization. This is the subject of the next section.

2.2 Vernacularization

Scholarly attention to vernacularization grew out of the constructivist literature on international norms, specifically that studying the domestic determinants of state compliance (Checkel 1999; Cortell and Davis 2000; Legro 1997), and emerged with the second-wave studies taking a more dynamic approach to norm evolution. In one of the first and most influential studies dedicated to vernacularization as such, Acharya (2004, 245) defines the process as "the active construction […] of foreign ideas by local actors, which results in the former developing significant congruence with local beliefs and practices." He argues that this adaptive act occurs through a process of "grafting" and "pruning" in which local norm entrepreneurs associate the foreign idea with norms already accepted by their community and reject those aspects of the idea that may conflict with preexisting values. Consequently, vernacularization does not describe the mere "reframing" of a foreign idea in a local vocabulary but rather its fundamental reconstitution as a synthetic product containing elements of both foreign and local belief systems. For Acharya, this process—which he terms "localization" in his study—is key to understanding the conditions under which an emerging transnational norm will gain adherence among and within states: "The success of norm diffusion strategies and processes," he writes, "depends on the extent to which they provide opportunities for localization" (241).

Numerous other researchers have since applied and further developed this concept, often referring to it as "vernacularization," which is the term I employ here. This scholarship includes several of the studies cited above, for instance Capie's (2012) analysis of Southeast Asian states' reinterpretation of R2P and Aharoni's (2014) analysis of Israel's implementation of the UN's "Women, Peace, Security" paradigm, both of which examine vernacularization as a mechanism by which international norms may develop new meanings over time as they take on connotations inflected by the local culture that adopts them. Additional examples of this scholarship include studies on the African Union's (AU) doctrinal shift from the principle of

non-intervention to the R2P-like notion of "non-indifference" (Williams 2007); the varying forms of activism that women's rights NGOs pursue in India, China, Peru, and the US (Merry and Levitt 2017); and, within autonomous Mayan communities in Guatemala, a concept of justice evolving from oral-based traditions emphasizing harmonious "relations" to written constitutions bestowing "rights" (Ekern 2018). While the unit of analysis in these studies varies between state, sub-state, and intergovernmental actors, common to them all is that they assign the active and leading role in the vernacularization process to the local rather than the foreign party. In other words, vernacularization designates as its subject—as the norm entrepreneur—the indigenous actor refashioning the norm rather than the transnational actor that originated it.

In line with this perspective, Acharya describes several reasons why local norm entrepreneurs may choose to vernacularize—rather than directly reject or embrace—a foreign norm. Among other purposes, vernacularization can expedite the process of affecting normative change by allowing norm entrepreneurs to "graft" an outside idea onto preexisting values in society, thereby circumventing the need to establish the idea entirely on its own merits, or by enabling the entrepreneurs to simply present the idea as a locally sourced construct and thus already part of their community's cultural heritage. Most relevant in the context of this thesis, however, is the kind of vernacularization that serves to strengthen established sources of authority. For, according to Acharya (2004, 248), vernacularization may typically occur when "the norm-takers come to believe that new outside norms […] could be used to enhance the legitimacy and authority of their extant institutions and practices, but without fundamentally altering their existing social identity." It is in such cases that vernacularization—depending on the nature of the institutions and practices it serves to justify—may become a tool of domination; a legitimizing device with which to justify coercion by the state, warlord, tribe leader, or any other authority-holder. This is a possibility even with regards to human rights norms, which, in the transnational perspective, are meant to protect the individual against precisely such coercion.

Indeed, several scholars have already recognized this possibility. Merry (2006, 40), for instance, cites as an example of this dynamic the manner in which local leaders in the Muslim regions of Nigeria have vernacularized women's human rights as "women's rights under Shari'a," a formulation that envisions on the basis of religious doctrine "a different set of rights from those articulated in international human rights conventions." This, according to Merry, illustrates how human rights vernacularizations may be "seized and transformed into something quite different from the transnational concept, out of the reach of the global legal system but nevertheless called by the same name." Likewise, Goldstein (2013, 114) calls attention to a comparable phenomenon in the urban slums of Bolivia, where both residents and the police

have interpreted human rights in line with a "citizen security" paradigm, which they understand as the right to "protection against criminal predation and delinquency." As a consequence, they condemn legal protections for criminal suspects—such as the presumption of innocence and limits on pretrial detention—for in fact violating the rights of law-abiding citizens by jeopardizing their physical safety. In Goldstein's view, this serves as an example of how vernacularization can result in "competing understandings of human rights […] often differing greatly from their intended transnational meanings and values" (111). Further, in this same vein, Merry and Levitt (2017, 235) note that the debate surrounding abortion "can be framed as the opposition between the right to life and the right to choose," thus illustrating the "malleability of human rights as a discourse of claims-making." Perugini and Gordon (2015, 10), finally, advance this claim yet another step, dedicating a book-length study to the vernacularization of human rights discourse among Israeli settlers in Palestine, a discourse that the settlers deploy to "characterize the Palestinian population as invaders and perpetrators of abuse, and Jewish settlers as indigenous victims." For Perugini and Gordon, this demonstrates the power of human rights claims to "shape moral and legal categories (victims and perpetrators), and to invert and subvert the definition of the relationships of power within which they are mobilized" (ibid.), resulting in hegemonic demands for what they call "the human right to dominate."

It bears noting, of course, that part of this interpretative tension is inherent to the human rights framework itself, which may simultaneously grant claims to two or more conflicting rights without establishing procedures by which to adjudicate between them. It can therefore be difficult to precisely demarcate the line between disagreements arising from the framework's own internal contradictions and those resulting from its vernacularization within another value system. Yet the main point remains that such vernacularization, when it does occur, can develop in unexpected ways that challenge the transnational community's dominant interpretations.

What is the significance of this observation? Here the scholars quoted above differ. On one end of the spectrum, Merry and Levitt (2017, 235) claim "a pragmatic perspective" that disregards "inverted" human rights claims as the rather coincidental "price of vernacularization that makes human rights principles more appealing in particular cultural contexts." On the other end, Perugini and Gordon (2015, 17-18) view this inversion as inherent to the very ontology of human rights, arguing that "precisely because human rights present themselves as universal, their appropriation and vernacularization in a local context are beneficial for both hegemonic and counterhegemonic projects." I find this latter view more convincing, as it recognizes the distinguishing characteristic of human rights as a particularly generic kind of metanorm that can be leveraged to realize different and often opposed political visions. As such, to dismiss the

kind of human rights interpretations cited above as an unfortunate yet essentially insignificant consequence of rights diffusion is, I believe, to overlook the very qualities that have rendered human rights such a uniquely resonant discourse in international society today.

Indeed, it is my claim that paying attention to these interpretations—what I call the illiberal vernacularization of human rights—can help explain the counterintuitive relationship between human rights' hegemonic status in global discourse and precarious position within so many states partaking in that discourse. This relationship derives its peculiar appearance from the fact that actors espousing vastly different political ideologies make their claims in the same generic moral vocabulary, rendering "human rights" a multivalent term pointing to a plethora of different and incompatible conceptions of legitimate governance. In other words, illiberal human rights claims blur the above-noted distinction between external and internal forms of norm contestation, as they are on the one hand rooted in local normative frameworks bearing little resemblance to the liberal philosophy on which the transnational understanding of human rights is based, yet, on the other hand, in formulating and advancing those frameworks in the grammar of human rights, they may ultimately recalibrate the transnational understanding to also encompass illiberal elements. Consequently, insisting on an analytical distinction between external and internal norm contestation neglects one of the core dynamics making human rights a fascinating object of study, providing few explanations for the discrepancy between illiberal states' simultaneous promotion and violation of rights beyond charges of hypocrisy and duplicity—charges that are clearly not unfounded, but which leave the nature, significance, and implications of this definitional struggle for human rights undertheorized. The concept of vernacularization, by contrast, by providing a framework with which to systematically study acts of normative translation, straddles the line between internal and external norm contestation and is thus uniquely equipped to analyze both illiberal rights claims in isolation and the larger changes they may affect within the (currently) liberal transnational human rights discourse.

In summary, this chapter has so far traced the state of scholarship on international norms, elaborated vernacularization as a mechanism by which the meaning of a norm may evolve, and discussed how this evolution may give rise to conflicting interpretations of a norm rooted in the different ideologies motivating the vernacularization process. In order to better discern the stakes and fault lines of such normative conflict, it is now necessary to more precisely define the content of these underlying ideologies—in this case, liberalism and illiberalism.

2.3 Liberalism and Illiberalism

The term "human rights" has traditionally been associated with a liberal political ideology. Yet in keeping with the (critical) constructivist perspective elaborated above, this thesis contends that there is nothing logically or philosophically necessary about this particular association; an illiberal conception of human rights is possible in theory, and the aim of my analysis is to demonstrate how states have begun to deploy such a conception in practice. Indeed, the very terms "liberal" and "illiberal" are discursive constructions that have come to serve as a shorthand that is less useful in delineating the institutional characteristics of two different sets of governing practices—which it often fails to do in a clear and consistent manner—than it is in ascribing such practices a certain moral status. As such, a more comprehensive approach would deconstruct these terms and interrogate the manner in which they operate to justify either condoning or condemning different forms of political organization. Such a task is beyond the scope of this thesis, however, which will simply assume the labels as given and employ them as heuristics to sketch the main thrust of two different types of human rights claim.

A short disclaimer before doing so. While it may be tempting to resist the contingent characterization of human rights presented here so as to not resign oneself to moral relativism, it bears emphasizing that relativism need not be the consequence of this contingency. All it entails is that one not enshrine a liberal conception of human rights as the necessarily or metaphysically "true" one; it is still possible to advocate for the benefits of this interpretation on pragmatist grounds—that it is the one most likely to lead to human flourishing, or distributional justice, or however else one may define the ideal social state. This is the approach that for instance Rorty (1998) has taken, and which I endorse throughout the following analysis on the basis of my admittedly subjective yet nonetheless firm liberal stance.

What, then, distinguishes a human rights claim as either liberal or illiberal? A brief overview of liberalism as a political ideology is necessary in order to answer this question. In essence, liberalism holds individual freedom as the highest good, and the protection of such freedom as the ultimate goal of governance. It is thus out of this ideology that the modern doctrine of "natural rights" emerged, as Enlightenment philosophers like John Locke argued that all persons hold an inherent claim to a minimum degree of personal autonomy that neither the state nor any other individual can legitimately violate. Later thinkers subsequently elaborated this doctrine into a tripartite structure comprised of civil, political, and social and economic rights—as originally identified in Marshall's (1950) landmark study—which has come to comprise a general standard of good governance in Western liberal democracies.

In the liberal view, the government must curtail its own power within limits honoring these rights, and any action it takes constraining an individual's ability to exercise them is legitimate only if the action is necessary to protect another individual's ability to do the same. In other words, the government's central goal should be to institute a society in line with Rawls' (1999, 266) first principle of justice, according to which "[e]ach person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all." The government's proper role, then, is not to realize any "comprehensive conception of the good"—a goal which could justify the violation of individual rights for a greater cause—but rather to remain neutral among such competing conceptions and ensure the conditions under which each individual can freely pursue his or her own (Rawls 2005).

The traditional association between human rights and liberalism arises from the fact that human rights as originally formulated in the UN's Universal Declaration of Human Rights (UDHR)—the founding document of today's transnational human rights regime—were philosophically derived from classical liberalism's natural rights doctrine. Thus, as this regime was consolidated through the course of the postwar period, it came to propagate a conception of human rights that similarly privileged individual freedom over other interests. Indeed, Hopgood (2017, 283) writes that this "classic" conception of human rights is "reflective of a - perhaps *the* - defining feature of Western-style modernity: the emergence of the idea of rational, autonomous, self-governing individuals as the primary building blocks of political and social life and as the fundamental source of moral value" (emphasis in original). He continues:

> Because classic human rights are, in this sense, individual entitlements held against each other and against collective authorities, the emphasis in most arguments for rights is on the primacy of personal choice in terms of beliefs, commitments, lifestyle, and identity. This is captured in the idea of rights as trumps: winning cards in the game of life that individuals can play against any attempt to regulate, prohibit, mistreat, or disadvantage them in the name of broader social or political goals, or the interests of other people. (283-284)

This observation points to the core distinguishing feature of a liberal human rights claim. Essentially, such a claim is one that privileges the individual over the collective in situations of conflicting interest. It delineates a sphere of personal autonomy in which individual preference outweighs appeals to "unity," "stability," "morality," or any other such collective concern.

Indeed, the boundaries of the sphere are drawn only at the point at which they infringe upon others; that is, when granting the right claim would violate the rights of another individual.

By simple inversion, it is now possible to sketch the main contours of *illiberalism* and specifically illiberal rights claims. In the most general terms, illiberalism flips the core tenet of liberalism by subjugating the individual to the collective. It does so in pursuit of a certain "conception of the good"—be it communist, fascist, theocratic, or any other such comprehensive vision of society—which it privileges over others and views as the state's foundational purpose to realize. Consequently, an illiberal state is characterized by a limited sphere of personal choice, as it formally or informally proscribes behavior in domains that liberalism views as the individual's prerogative, including not only political activity but also matters of conscience such as religion, family, and cultural expression, all of which must accord with the state's prevailing ideology. Further, given the legitimacy it attaches to its political project, the illiberal state rejects the institutional system of checks and balances that liberalism mandates as a constraint on executive power, directly or indirectly exerting political control over all branches of government such that "the party and the state are one" (Schenkkan 2018).

In this context, an illiberal human rights claim is one that invokes a right to adjudicate a conflict of interest between the individual and collective in favor of the latter—be it the state or a majority social group. Of course, conflicts of interest are constantly adjudicated this way, and there may be legitimate reasons to do so; it is beyond the scope of this thesis to determine the relative worthiness of different visions of the common good. However, as noted, any such vision is rooted in principles outside human rights' original normative framework as an explicitly liberal instantiation of political and social relations, one that does not operate through the communal logic of the "the greater cause" but rather the individualistic creed of "the pursuit of happiness." Consequently, justifying by reference to human rights a practice that privileges a collective entity over the individuals that comprise that entity is to conflate moral vocabularies. Yet, given the vagueness that human rights have assumed in the contemporary world order—a vagueness necessary to achieve their universalist aspirations—they provide several opportunities for such conflation; or rather, in the parlance of norm theory, for vernacularization.

I discuss five varieties in this thesis, all of which have their basis in the reinterpretation of a certain norm with which the liberal human rights framework is closely associated. The first is equality, which liberal human rights link to freedom in a mutually dependent relationship. This entails a commitment to each value only so far as each remains compatible with the other, as excessive freedom is considered a threat to equality and excessive equality a threat to freedom. However, as it is impossible to determine with any specificity the precise tipping point

between these two values, such a balancing act generates an ambiguity permitting illiberal states to excuse policies drastically constraining individual freedom by citing the need to ensure equality—a word that in this context often stands in for collectivist values like "unity" or "stability." Indeed, this is one of the most common strategies in the UPR documentation I have reviewed, and I discuss it in the analysis chapter under the heading of *non-discrimination* (4.2.1).

The second illiberal vernacularization relates to legality. As mentioned, liberal human rights are rooted in a natural law tradition that grants all individuals certain inalienable entitlements by virtue of their humanity alone, which no legal system can legitimately deprive them of. However, leveraging the intimate association between liberalism and the impartial and equal administration of justice, many illiberal states have reinterpreted human rights according to a positivist legal tradition that considers all laws legitimate as such. Hence, their UPR reports frequently justify policies violating rights to which liberalism bestows all individuals an intrinsic claim by referring to the domestic statutes "providing for" or "sanctioning" such policies. I discuss this strategy under *rule of law* (4.2.2).

The third form of vernacularization invokes liberalism's emphasis on due process, a term that is related to the rule of law but which I use here to describe a narrower set of practices pertaining specifically to the fair arrest, trial, and punishment of criminal suspects. Modern liberalism has developed a progressive vocabulary in this area that emphasizes rehabilitation over retribution, alternative sentences to incarceration, and in certain cases community-based restorative justice. While the states reviewed in this thesis do still commonly excuse violations of suspects' rights using standard security and counterterrorism discourses—sometimes nominally modified in the context of the UPR to stress "human security" or "citizens' right to security"—they also make creative use of these more progressive principles to justify a variety of punishments that liberals would consider cruel and unusual, such as caning, forced labor, and vigilante reprisals. I study these claims under *criminal justice* (4.2.3).

The fourth strategy pivots on the close link between human rights and democracy. For reasons I will discuss more fully in the relevant section, this association is more habitual than definitional, but illiberal states often invoke it to defend repressive practices supposedly aligned with "the will of the people" or "popular sentiment," disregarding the minority protections that are a hallmark of liberalism. This approach is examined under *majority rule* (4.2.4).

The fifth and final strategy is related to the role that liberal human rights assign the state as a public goods provider and the guarantor not only of civil and political rights but also economic and social ones. This has led to a strain of transnational human rights activism that emphasizes economic development and "capacity-building" in impoverished states, perhaps

best exemplified by the title of the Nobel Prize-winning economist Amartya Sen's (1999) book *Development as Freedom*. Illiberal states have since utilized this discourse not only to defend the circumscription of their citizens' civil and political rights in the name of economic development—a common and well-worn argument rooted in liberalism's own internal tensions—but also to more broadly justify in technocratic language stressing government "capacity" and "penetration" what are essentially centralized authoritarian state structures lacking meaningful checks and balances. I study this tendency as *developmentalism* (4.2.5).

Together, these five vernacularization strategies comprise the most frequent and consequential ways in which the authoritarian regimes reviewed in this study apply human rights to promote illiberal policies. Common to them all is that they take as their basis a norm fundamental to the liberal human rights framework as originally conceived, yet whereas this framework emphasizes the norm as necessary for safeguarding individual freedom from encroachment by the state or a majority group, these states apply it in a way aligned with their extant political ideologies—their "cognitive priors"—that generally privilege collective over individual interests. In this way they can, *inter alia*, deny in the name of equality the existence of ethnic minorities within their territory (Turkey); describe the formal codification of gender-discriminating sharia principles as a victory for the rule of law (Saudi Arabia); sentence criminal defendants to caning as a means of facilitating their social rehabilitation (Singapore); criminalize homosexuality as a democratic expression of public opinion (Nigeria); or forcibly relocate indigenous populations as a poverty alleviation strategy (China). Against this backdrop, then, there appears to be more than mere hypocrisy or duplicity in play when President Erdogan affirms that "Turkish-style presidentialism" depends on "democracy," or when Crown Prince Salman describes Saudi Arabia's "own way" to "the rule of law"—while the sincerity of these statements is impossible to gage, the illiberal vernacularization of human rights norms, which alters the kind of practices that terms such as "democracy" and "rule of law" condone, provides these leaders with an opportunity to in fact practice what they preach. In other words, all roads may indeed lead to Rome, as President Xi claims, if the city is all over the map.

3. Methodology

The preceding chapter presented the theoretical framework of this thesis as it relates to the concepts of norms, vernacularization, and liberalism and illiberalism. This chapter will detail the methodological approach by which I have applied these concepts in my analysis. In brief, I conducted a discourse analysis of the documentation that eight authoritarian regimes have

submitted to the Universal Periodic Review—a mechanism under the UN Human Rights Council that regularly examines the human rights performance of all UN member states—with a focus on the manner in which the regimes vernacularize and subsequently deploy human rights norms to justify a variety of illiberal practices. As norms are quintessential examples of social constructs, discourse analysis as a methodology is well-equipped to examine them, as it is geared towards "unpicking the construction of our social worlds" (Gaskarth 2006, 327). Indeed, this is the methodology that Krook and True (2012, 105) recommend specifically for studies of international norm evolution, since it rejects the static and reductive assumption that norms exist only as and to the extent that they are formally codified in international law, allowing one to analyze them more dynamically as they are "anchored in language and revealed by repeated speech acts." Moreover, in keeping with the actor-oriented perspective embedded in the concept of vernacularization, this approach confers agency to discursive participants as they purposively define and innovate through such speech acts the terms of political debate.

Assuming for the sake of analytical clarity the classic methodological distinction between "explaining" and "understanding" social phenomena (Hollis and Smith 1990), one can place discourse analysis within the latter tradition. That is to say, discourse analysis does not typically "seek to uncover the causal laws governing positive facts," but is instead interested in uncovering the "sense-making practices" by which actors construct identities and ascribe meaning to their social environment (Epstein 2008, 4). In other words, discourse analysis is a "reflectivist" (Jackson 2011) methodology well-aligned with the theoretical perspective of constructivism as elaborated in the preceding chapter: both view conclusions as necessarily contingent in that they are historically-situated, inflected by power relations, and beholden to the researcher's own subject position. As such, my analysis does not posit a causal model between discrete independent and dependent variables in the vein of more positivist social science, but rather seeks to discern the discursive processes that construct, maintain, and challenge the common social understandings on which such models are premised.

This reflectivist outlook, however, does not permit an "anything goes" approach to inquiry. Although it shuns making fully objective and all-encompassing "big-T Truth claims," discourse analysis does not reject the possibility or usefulness of "small-t truth claims" within a certain domain; that is, "logical and empirically plausible interpretations of actions, events, or processes" supported by the weight of the analyzed evidence (R. Price and Reus-Smit 1998, 272). I have thus taken several methodological steps to ensure a research design that may persuasively make such claims. First, my analysis is limited to texts pertaining to a single, institutionalized UN process, which periodically generates documents in a standardized and

comparable format. Second, states comprise my exclusive unit of analysis—conceived for the purposes of this thesis as unitary actors—and the analysis' empirical scope is limited to the international system, more specifically institutions of global governance; I do not make claims regarding domestic or bilateral relations. Finally, I selected my sample by reference to a 4x2 matrix meant to ensure systematic variation in both the level of development and degree of authoritarianism exhibited by each regime. Together, these measures should contribute to the reliability and replicability of my findings as far as a reflectivist stance can aspire.

The remainder of this chapter is divided into two sections. The first elaborates the main principles of discourse analysis as a methodology, presenting its epistemological assumptions and practical applications. The second explains my specific research design in further detail, expounding on its empirical domain, unit of analysis, source selection, and sample selection before outlining the main steps of the analysis procedure.

3.1 Discourse Analysis

Discourse analysis as a methodology is rooted in certain theoretical presumptions, and thus any discussion of the methodology must also be somewhat theoretical in order to account for these presumptions. In many ways, they overlap with the core tenets of constructivism as previously outlined. Core among them is the contention that social reality is not given but made. That is, the categories and concepts through which we order our perception of, and derive meaning from, the world around us do not constitute a fixed or "natural" reflection of reality *as it is* but are rather the products of a contingent historical process subject to shifting power relations. Discourse analysis is therefore typically concerned with investigating how these categories and concepts are produced, enforced, and contested, paying particular attention to whose interests they serve and how they demarcate boundaries between the acceptable and unacceptable, legitimate and illegitimate, permitted and prohibited. In short, discourse analysis examines the process by which social reality assumes it prevailing form(s).

But what, exactly, is a discourse? The term is closely associated with Foucault, who used it not in the strictly linguistic sense but rather to refer to an entire system of practices governing any particular type of knowledge (Weedon 1987, 108). Race, gender, class, even catch-all labels like politics and culture—these words all denote discourses encompassing a set of concepts positioned in a certain relation to one another and bearing certain valuations: black and white, man and woman, rich and poor, and so on. These are the operative categories by which a discourse exerts power to structure the perceptions and identity of its subjects, simultaneously imbuing natural phenomena with social significance and positing social

phenomena as natural. In this way, by dictating not only what things its subjects can say, do, or know but how also how they can say, do, or know them, a discourse determines the "conditions of possibility" for a given domain of knowledge (Kendall and Wickham 1998, 37). Importantly, however, given the resistance that such power exertion necessarily generates, a discourse is never stable; its concepts and categories are always subject to negotiation and thus change. As such, discourses are both "constitutive of" and "conditioned by" society (Maynard 2013, 305).

One key aspect of discourses worth particular note is that they are productive. That means they "produce" the discursive object—be it gender, race, or class—by specifying it. In other words, the discursive object does not exist prior to the operation of the discourse. "Race," for instance, was not an active concept before European elites sought justification for the colonial domination of the Americas in the 16th and 17th centuries. That is not to deny the existence of material reality—the fact that Europeans and Native Americans have certain skin pigmentations is not in dispute—but merely to state that it is only through discourse that material reality is given social meaning. As the discourse evolves, so does this meaning.

Evidently, then, discourses bear a certain resemblance to norms as discussed in the international relations literature. Both are proscriptive, contestable, and in flux. Discourse, however, is a broader term referring not only to a standard of appropriate behavior but to an entire domain of knowledge encompassing a complete set of norms as well as the vocabulary, symbols, institutions, and interests associated with them. In this sense, "human rights" as a discourse refers to the transnational complex of laws, courts, treaties, reports, organizations, and debates that partake in the particular terminology of "right" and "violation," which classifies and consequently condones or condemns different forms of interaction between state and citizen. A discursive approach to human rights, then, would not accept the discourse's own mythology that casts itself as an ahistorical entitlement due all individuals by virtue of some essentialist notion of humanity—such as "dignity" or "rationality"—but rather investigate it as a set of practices that emerged out of a particular ideology (liberalism) that was formulated during a distinct historical period (the Enlightenment) in service of certain political objectives (constitutional rule). Toward this end, the approach might focus attention on how the emergence of human rights discourse shifted a particular material act, for instance caning, from the category of "punishment" to a new one labeled "violation," as well as the redefinition of concepts like "authority," "legitimacy," and "individual" upon which such a shift is premised.

Further, the constructivist outlook embedded in discourse analysis brings into relief the insight that if the social world is constructed, "it could have been constructed otherwise" (Epstein 2008, viii). With regards to human rights, this means that the discourse is not

ontologically wedded to liberalism; one can imagine an alternative (or future) human rights discourse steeped in illiberalism, one in which caning moves from the category of "violation" to that of "rehabilitation," for instance. From the perspective of discourse analysis, it is such a reformulation of human rights' operative categories that is my object of study in this thesis.

Although discourse refers to both linguistic and non-linguistic practices, discourse analysis is commonly associated with the study of language. This is because language, as "an irreducible part of social life" (Fairclough 2003, 2), most clearly displays discourse's power to name and delineate various forms of knowledge. To discern the ways in which a given discourse does so, scholars employing this method study the "texts" pertaining to it, a word that in this context refers not only to written documents but more broadly to any instance of language use: documents as well as speech, signs, films, and so on. The network of relations between these texts comprise the discourse as a whole, a bounded structure governed by the same common logic, or "rules of formation" (Gaskarth 2006, 327), which it is the analyst's task to uncover.

Beyond this attentiveness to language, however, approaches to discourse analysis vary widely. As in social science generally, a basic distinction is between quantitative and qualitative methods. The former use statistical methods to analyze vast amounts of textual data, often spanning decades or even centuries, to identify large-scale patterns over time: how often a certain word is used, for instance, or how frequently certain words appear together in combination. The latter study fewer texts more intensively, less interested in their discrete, quantifiable aspects than in how their constituent parts—structure, grammar, vocabulary, and so on—operate together to exert certain "social effects" on the construction of identity and meaning (Fairclough 2003, 8-9). Generally, these qualitative analyses do not seek to uncover what is "true" or "false" in a given text, but rather, following Austin's (1975) theory of speech acts, to illuminate what functions it performs; how it "articulates" a practice in a certain manner to establish its significance and position in the social field (Laclau and Mouffe 1985).

It is such a qualitative approach I have applied in my analysis. In the most general sense, employing a discursive methodology, I conceived of prevailing human rights norms as well as the transnational regime that enforces them as a bounded discourse with its own particular rules of formation. My research interest concerned the ambivalent manner in which illiberal states engage with this discourse, simultaneously promoting and contesting it by vernacularizing it within their own normative frameworks. Attempting to illuminate the process by which this vernacularization unfolds, I conducted a discourse analysis of the documentation that a sample of authoritarian regimes have submitted to the Universal Periodic Review, with the aim of identifying typical classes of human rights claims that these regimes make on the basis of their

extant political identities, and which may serve to redefine the terms and categories operative within the global human rights discourse. I explicate my research design more fully below.

3.2 Research Design

There are two dual contentions guiding this thesis' research design. The first is that human rights norms have become virtually uncontestable within international institutions, where they form the cornerstone of a hegemonic discourse proscribing principles of legitimate governance. The second is that many states still commonly violate their citizens' human rights, or, stated differently, that alternative discourses still dominate within many domestic societies. Combined, these two circumstances have required rights-violating regimes to translate their domestic discourses into that of human rights when participating in international society. This dynamic is my thesis' core object of study, analyzed through the concept of vernacularization. Here, I will present the key methodological implications of this argument as they relate to the thesis' empirical domain, unit of analysis, source selection, and sample selection. I will then outline the main steps of my analysis procedure.

3.2.1 Empirical domain and unit of analysis

The empirical domain of this thesis is the international system, as this is where human rights discourse exerts its dominant influence and where illiberal states consequently deploy their norm vernacularizations. As is conventional for international-level studies, states constitute the basic unit of analysis (Singer 1960; Waltz 2001), here modeled for simplicity as unitary actors.

One potentially confounding aspect of this methodological approach is worth noting. As it is primarily within the international arena that human rights command discursive hegemony, the illiberal states reviewed in this thesis likely legitimize their rule domestically using other discourses, engaging in a form of doublespeak approximating the conditions of a "two-level game." This term describes situations in which a government must negotiate with both international and domestic actors on a particular issue and consequently employs separate strategies with each type of audience (Evans, Jacobson, and Putnam 1993). While a more comprehensive study would thus be attentive to both levels of the "game" illiberal states play with regards to human rights, a consequence of this thesis' exclusive focus on the international system is that it disregards the domestic level of discourse. Given that this level is likely to express less concern for human rights than the international level, such an analytical focus may result in source material suggesting that the states in question are more supportive of human

rights than they in fact are. Despite the bias that this angle potentially generates, however, and which I must account for when drawing conclusions on the basis of my analysis, there is no plausible alternative to this approach, as examining both international and domestic discourse is beyond the scope of a thesis of this scale. I also believe this approach is theoretically justified, since it is, as noted, mainly within institutions of global governance that states must deploy their human rights vernacularizations, and these institutions are thus the primary site of the empirical phenomenon under study. In order words, given my emphasis on illiberal states as international norm entrepreneurs, their domestic discourse is less relevant in this particular context.

3.2.2 Source selection

The main source for my analysis is the Universal Periodic Review (UPR). This mechanism emerged out of the UN reform process and is the flagship initiative of the UN Human Rights Council (UNHRC), which was established in 2006 to replace the Human Rights Commission. By that time, the Commission had long been criticized for politicization, gridlock, and a lack of credibility (UNGA 2005b, 45), and the new Council was meant to address these deficiencies through modified membership criteria and voting procedures, as well as the UPR.

Essentially, the UPR is a cyclical peer-review mechanism that evaluates the human rights record of all UN member states. It was mandated by UN General Assembly (UNGA) resolution 60/251, which instructed the UNHRC to "undertake a universal periodic review, based on objective and reliable information, of the fulfilment by each State of its human rights obligations and commitments in a manner which ensures universality of coverage and equal treatment with respect to all States" (UNGA 2006, 3). The mechanism's institutional design was later elaborated by UNHRC resolution 5/1, which formalized the above mandate and specified that the process be "conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner" (UNHRC 2007, 2). This approach was considered most conducive to the mechanism's core objective, which, according to the resolution, is the "improvement of the human rights situation on the ground," as well as the facilitation of intergovernmental cooperation and capacity-building toward that end (ibid., 2-3). Finally, the resolution's annex specifies the standards for review, namely the UN Charter; the UDHR; the human rights treaties to which the state under review is a party; voluntary pledges and commitments the state has made; and applicable international humanitarian law (ibid., 1).

The UPR proceeds in cycles. The first began in 2008 and lasted four years, comprised of three annual sessions that each reviewed 16 states. In order to allow more time per review, the length of the two subsequent cycles was extended, the second to four-and-a-half years and

the third—scheduled to finish in 2021— to five, with the number of states reviewed per session reduced to 14. The reviews are conducted by the UPR Working Group, which consists of the 47 UNHRC members selected by the UNGA for staggered three-year terms according to regional allotments. The Working Group conducts each review on the basis of three documents: a twenty-page national report in which the state under review (SuR) describes its domestic human rights situation, including challenges and best practices; 2) a ten-page UN report summarizing information on the SuR from relevant Special Rapporteurs, human rights treaty bodies, and other UN entities; and 3) a ten-page civil stakeholder report summarizing information from national and international human rights organizations. After collating and circulating these documents, the Working Group convenes an "interactive dialogue," open to all UN members, during which the SuR presents its report and other states put forward questions and recommendations concerning the SuR's human rights practices. Subsequently, the SuR must draft a final report responding to all the recommendations received, which it can either note, reject, or accept. The accepted recommendations form the basis for the SuR's next review in the following cycle, which is mandated to evaluate their implementation (UPR Info n.d.-b).

As a topic of academic interest, the UPR has received a fair amount of attention since it was established. Studies have investigated a range of issues spanning, for instance, how individual countries such as North Korea, the UK, and Italy have engaged with it (Chow 2017; Cochrane and McNeilly 2013; Cofelice 2017); what kind of impact it has had on particular issue areas like sexual rights (Gilmore et al. 2015); methods for evaluating the implementation and effectiveness of its recommendations (Frazier 2011; McMahon and Johnson 2016); and theoretical questions examining it against the backdrop of cultural relativism and public ritualism (Blackburn 2012; Charlesworth and Larking 2015). To my knowledge, however, no study has examined in an explicit, systematic, and comparative perspective the kind of participation the UPR commands from illiberal states, which is the purpose of this thesis.

Methodologically, one particular consideration has been important when studying the mechanism with this aim. As its mandate is to promote the "universality, interdependence, indivisibility and interrelatedness of all human rights," illiberal states undoubtedly signal greater commitment to human rights during UPR procedures than they do in domestic discourse, as noted, as well as in their engagement with other UN bodies, such as the General Assembly or Security Council, where potentially competing priorities like national security or geopolitical stability hold greater weight than they do within the UNHRC. As such, like the broader decision to focus exclusively on illiberal states' international discourse, further limiting the scope of this discourse to the UPR risks overstating the importance that the states attach to human rights,

potentially compounding the bias to control for. I did so primarily by reading the UN and stakeholder summaries for each state prior to the states' own national reports, which gave me a sense of the particular policies and laws that the transnational human rights regime view as problematic issues for the states in question, and which the states were thus likely to sugarcoat, deemphasize, omit, or otherwise misrepresent in their own reports. This was a useful corrective providing me with the subtext and context required to critically evaluate the states' claims.

In more general terms, however, regardless of the potential for institutional bias to color this particular source material, the underlying fact remains that the illiberal states studied in this thesis have all agreed to public and consistent scrutiny of their human rights records. This illustrates in itself the hegemonic moral authority that human rights discourse has come to exert in the international arena, notwithstanding the alternative discourses and sustained pockets of resistance present in other institutions. Indeed, as the first human rights mechanism to enjoy universal participation from all 193 UN member states (UPR Info n.d.-a), the UPR is perhaps the most striking institutional embodiment of human rights' dominant discursive position, particularly if one is to measure the perceived legitimacy of an institution by the "degree of international consensus" that it commands (Chayes and Chayes 1995, 41). As such, the UPR serves as a prime site to investigate how that legitimacy is challenged from within.

3.2.3 Sample selection

Illiberal states constitute the population of cases I have wished to study in this thesis. This is both a vague and varied category, however, and I have thus attempted to both operationalize it and capture some of the variation it contains by selecting my sample across two axes.

The first is the states' degree of illiberalism; that is, the level of repression each state exhibits. A rough indicator of this is Freedom House's democracy index, an annual ranking of state performance with regards to the civil and political rights stipulated by the UDHR. Specifically, the survey scores countries on a scale from 0 to 4—wherein 0 represents the least freedom and 4 the most—along 10 political rights indicators and 15 civil rights indicators. A country can thus receive a maximum score of 40 for political rights and 60 for civil rights. These two scores are then converted into two ratings, both on a scale from 1 to 7, which is somewhat confusingly reversed such that 1 represents the most freedom and 7 the least. The average of these two scores becomes the country's "Freedom Rating," according to which a country is labeled either *free* (1.0 to 2.5), *partly free* (3.0 to 5.0), or *not free* (5.5 to 7.0) (Freedom House 2019c). For reference, in the latest 2018 ranking, Norway received a *free* score of 1.0, Singapore a *partly free* score of 4.0, and Saudi Arabia a *not free* score of 7.0 (Freedom House 2019g).

For my analysis, I selected four countries ranked *partly free* and four ranked *not free*. The purpose of this distinction was to capture a broad spectrum of illiberalism—the distance between Singaporean and Saudi society. Naturally, countries with a *free* ranking do also engage in illiberal behavior, as infamously evidenced by US military practices at Abu Ghraib and Guantanamo Bay, for instance, and which Liese (2009) has shown specifically in the context of international norm contestation by studying how three traditionally liberal states—the US, UK and Israel—have attempted to redefine and narrow the international prohibition against torture. My primary research interest, however, does not concern how the states that constructed and generally endorse the liberal world order at times abdicate the obligations it imposes or contest some of its particular norms as their interests may dictate, but rather how states with fundamentally different governance traditions attempt to formulate those traditions in the liberal language of human rights. As such, I have excluded *free* countries from the analysis.

The second selection criterion I employed is level of development. As a simple measure for this, I used the Human Development Index (HDI), a composite statistic maintained by the UN Development Program (UNDP) that combines country indicators for life expectancy, education, and per capita income into a single number from 0 to 1, that is, from the lowest to highest level of development (UNDP 2018a). Countries with a score of 0.8 or greater are classified as having a *very high* level of development; those between 0.7 and 0.799 a *high* level; between 0.550 and 0.699 a *medium* level; and less than 0.550 a *low* level. In the UNDP's 2018 report, once again for reference, both Singapore and Saudi Arabia have a *very high* level of development; China has a *high* level; the Philippines a *medium* level; and Nigeria a *low* level (UNDP 2018b, 22-25). For this analysis, I selected my sample such that each of the four development categories contained one pair of states, with each pair comprised of one state deemed *partly free* and one *not free* by Freedom House. I chose to distinguish the sample by government capacity in addition to regime type in order to add an extra dimension of variety to the analysis and allow for more nuanced crosscutting, attentive not only to the kind of differences that exist between Saudi Arabia and Singapore, for instance—which are in the same development category—but also to the kind that exists between Singapore and Nigeria, which are both classified as *partly free* but find themselves at opposite ends of the HDI scale. While the analysis did not uncover any recurring patterns with regards to how membership in a given category along either axis affects the manner in which a state vernacularizes human rights norms, the categories nonetheless provided a useful set of criteria with which to ensure a non-arbitrary selection of sample states. Table 1 on the next page shows the full sample once again for reference.

HDI Category	"Partly Free"	"Not Free"
Very high	Singapore	Saudi Arabia
High	Turkey	China
Medium	Philippines	North Korea
Low	Nigeria	Syria

TABLE 1: Sample

As several different countries could fill each cell in this table, I was confronted with a few difficult choices when deciding which particular ones to select. For instance, Saudi Arabia and Russia competed for the *very high*/*not free* cell, and I would have liked to include both; ultimately, I resolved such dilemmas by reference to my own, slightly arbitrary research interests, which in this case privileged Saudi Arabia.

These interests also account for three minor irregularities in the sample selection procedure. The first regards North Korea, whom the UNDP does not assign an HDI score due to a lack of reliable data. Hastings (2009), however, made an unofficial calculation for the UN Economic and Social Commission for Asia and the Pacific that placed the country in the *medium* HDI category. While this estimate may be somewhat out of date at this point, I relied on it to be able to rank and consequently include North Korea for analysis, as it is one of the most distinct and idiosyncratic voices in the international arena with regards to human rights. Second, each of the selected countries has remained in the same Freedom House and HDI categories throughout all of the UPR reviews conducted so far, with the possible exception of North Korea, whose current HDI score is unknown, as well as Syria, which fell from the *medium* to *low* category between 2014 and 2015 as a result of its civil war (UNDP 2018b, 28). As such, the country had a *medium* ranking during its first UPR review in 2011 and a *low* ranking during its second review in 2016. Yet despite this inconsistency, I selected the country for analysis—on the basis of its current score—for the considerable influence that the conflict exerts on contemporary geopolitics and which thus renders the country a case of particular qualitative interest. Third and finally, as the third UPR cycle is still ongoing, the sample is split between countries that have been reviewed three times (Saudi Arabia, China, the Philippines, and Nigeria) and countries that have only been reviewed twice (Singapore, Turkey, North Korea,[2] Syria). The states in the former group have thus generated more voluminous and topical

[2] North Korea's third report was published shortly before the submission of this thesis. However, there was at that point not enough time to review and incorporate the document into the analysis before the submission deadline. As such, the analysis features only the country's two first reports.

material to analyze, but as this split neatly halved each HDI category, it is not likely to have biased the analysis in one direction or another.

3.2.4 Analysis procedure

After determining my sample, I proceeded to the analysis stage. I approached this seeking to shed light on how authoritarian regimes reconcile human rights-violating practices with rights-promoting rhetoric, and with a general interest in vernacularization as a potentially relevant concept in this regard, but I had not formulated any specific hypotheses or theorized any particular mechanisms beyond this initial research agenda. Following the generally inductive methods of discourse analysis, the goal was to derive a framework from the data.

I reviewed one state at a time, studying all the documentation within one UPR cycle before proceeding to the next. For each cycle, I first read the given state's UN and stakeholder reports, as mentioned, noting recurring or particularly distinctive criticisms of the state's human rights practices. Both those reports are summaries of other reports submitted by various UN bodies and civil society organizations, and so if I found reference to a potentially relevant policy or law, I would collect additional information from the original report that cited it. If I required further detail after this, I would consult external sources. For instance, Singapore's first stakeholder report briefly references a recommendation made by a domestic NGO to abolish the Group Representation Constituencies (GRCs) proscribed by the country's election law. Seeking more information on such constituencies, I looked up the relevant section of the NGO report, which argues that GRCs—which nominate tickets of four to six candidates, at least one of whom must hail from an ethnic minority—privilege Singapore's ruling party by imposing such burdensome criteria for contestation that the party tends to win them by walk-over. I then searched the academic literature to verify this claim, finding several studies supporting it.

Once I had reviewed the UN and stakeholder reports for a given state, within a given cycle, I turned to the state's own report. During a first preliminary reading, I looked for broad affirmations of the state's national identity, cultural values, and/or general approach to human rights, which focused attention on language making reference to such constructs as the state's "main priorities," "governing principles," "belief system," and so on. I thus noted, for instance, Singapore's claim that "maintaining racial and religious harmony has been *the top priority bar none* of Singapore's governing institutions" (UNHRC 2011b, 2; emphasis added). This reading formed the basis of the first section of the analysis chapter, which presents the core local values constituting each state's *vernacularization framework* (4.1).

I then conducted a second review of the state report. This review was similar to the reading of the UN and stakeholder reports, searching for recurring or distinctive mentions of the state's human rights practices. The ones that stood out most immediately were violations that the transnational community had criticized, and which I had thus already noted. A state could describe these violations using a variety of strategies, which I distinguished according to the kind of speech act the description performed. Most of the strategies I identified in this stage I excluded from further analysis, as they did not evidence the vernacularization process I was interested in. For instance, a state might still *defend* a certain violation by invoking principles outside the normative framework of human rights, such as sovereignty or national security. A state could also simply *lie*, claiming it has granted a right or rectified a violation when that was demonstrably not the case. Alternatively, a state would *politicize* a violation, describing it as the consequence of other states' behavior. Or, a state could *randomize* violations, admitting they occur but not as a result of deliberate state policy. I did not further analyze any such claims.

What I instead focused on were instances of a state *promoting* an ostensible violation. For example, Singapore claims in its first report that GRCs, which a liberal NGO had criticized for undermining Singaporeans' right to stand for election, "ensure that ethnic minorities are adequately represented in Parliament" (UNHRC 2011b, 3). As we will see, minority representation is a key component of the principle of non-discrimination, which, in turn, is a fundamental aspect of the liberal human rights framework. Thus, Singapore's report justifies in this sentence a human rights violation by reinterpreting the human rights discourse's own logic. Or, in other words, it justifies an illiberal practice (uncompetitive elections) by vernacularizing a liberal norm (non-discrimination) on the basis of local values ("social harmony").

This is the kind of speech act I would note during the second reading of state reports. Throughout this analysis, I coded each act according to the particular human rights norm it invoked to justify a violation. Five recurring codes eventually emerged, namely *non-discrimination, rule of law, criminal justice, majority rule,* and *developmentalism*. These were the norms that the states most commonly and consequentially vernacularized in line with their extant political ideologies to promote a variety of practices that the liberal human rights regime had condemned as violations. Common to each vernacularization was that it appealed to one of the above norms to adjudicate a conflict of interest between an individual and collective entity in favor of the latter. Therefore, I refer to this kind of speech act as an illiberal rights claim.

4. Analysis

I present the findings of my analysis in this chapter. While one can classify all the states in the sample as illiberal to varying degrees, each describes a distinct national identity in its UPR documentation, and I therefore begin the chapter by explicating the core principles comprising each of these identities—what I refer to as a state's *vernacularization framework*. I then proceed to the main analysis, which details how the states reinterpret within these frameworks each of the five human rights norms identified above in order to promote a variety of illiberal practices.

4.1 Vernacularization Frameworks

As previously stated, Merry and Levitt (2017, 213) define vernacularization as "the extraction of ideas and practices from the universal sphere of international organizations, and their translation into ideas and practices that resonate with the values and ways of doing things in local contexts." They emphasize further that these local contexts "are not empty, of course, but rich with other understandings of rights, the state, and justice." Therefore, in order to understand how and why a particular norm is vernacularized in a particular way, it is necessary to have at least a rough sense of the local normative framework guiding the vernacularization process. In the following, I attempt to provide this by sketching the general approach to human rights that each state claims to take in its UPR reports, as well as the core political, cultural, and/or moral values it describes as foundational components of the national identity motivating this approach. These findings are summarized in Table 2 and further elaborated in the sub-sections below.

Country	HDI category	FH category	Core value(s)
Singapore	Very high	Partly free	Social harmony
Saudi Arabia	Very high	Not free	Sharia
Turkey	High	Partly free	Civic citizenship
China	High	Not free	Socialism with Chinese characteristics
Philippines	Medium	Partly free	Human security
North Korea	Medium	Not free	*Juche* and *songun*
Nigeria	Low	Partly free	Development
Syria	Low	Not free	Counterterrorism

TABLE 2: Vernacularization Frameworks

4.1.1 Singapore

Singapore is a parliamentary republic that has been governed by the center-right People's Action Party (PAP) since the country gained independence in 1965. Freedom House (2018b)[3] considers the country *partly free* due to the legal system PAP has instituted through the course of its reign, which "allows for some political pluralism" yet "constrains the growth of credible opposition parties and limits freedoms of expression, assembly, and association."

In its own UPR reports, Singapore expresses firm support for human rights as a matter of principle. The country claims to "respect the principle of the universality of human rights and consider human rights to be indivisible, with economic, social and cultural rights as important as civil and political rights" (UNHRC 2011b, 6). However, like the authoritarian leaders quoted in the introduction to this thesis, the country calls the credibility of this universalist stance into question by immediately hedging it against a relativst claim: "The manner in which all rights are attained and implemented must nevertheless take cognisance of specific national circumstances and aspirations" (ibid.). In other words, Singapore argues, the concept of human rights is universal but states are nonetheless entitled to determine for themselves and on the basis of local conditions precisely how to realize these rights in practice.

For Singapore, the single most important condition in this context pertains to the country's demographic makeup. In both its reports, Singapore strongly identifies as a socially diverse country, emphasizing its "multi-racial, multi-religious and multi-lingual" population (UNHRC 2011b, 4). As this diversity causes a "strong potential for tensions," the country states that "maintaining racial and religious harmony has been the top priority bar none of Singapore's governing institutions" (ibid., 2). Thus, the government is committed to taking "firm action" (ibid.) against any actors threatening this harmony, including "racial chauvinists" and "religious extremists" (UNHRC 2015, 15). This is necessary because "[s]tability, security, and social harmony are the key prerequisites for economic growth, which enables the Government to care for and protect Singaporeans" (UNHRC 2015a, 16). In other words, peaceful racial and religious relations are necessary to ensure Singaporeans' human rights. The implicit corollary of this claim is that the "firm action" the government takes against alleged agitation—so-called "inflammatory rabble-rousing" (UNHRC 2011b, 17)—is in the name of human rights too.

The country readily concedes that this approach generates trade-offs. Indeed, it does not deny the fact that its "diverse society poses a challenge in balancing social harmony with the

[3] Freedom House has not yet published all country summaries for the 2019 edition of the organizations' s annual *Freedom in the World* report. Therefore, this section quotes from the 2018 edition of the report when describing those countries for which the 2019 edition is not yet available.

preservation of individual rights" (UNHRC 2011b, 15). The country argues that a certain circumscription of such rights is unavoidable, however, as Singapore's "[s]mall size, high population density and diversity mean that actions or speech by one group of people could potentially have an impact on other groups" (ibid., 19). Thus, "it is vital that individual rights and freedoms be exercised responsibly within a legal framework" (ibid.). This framework is rooted in "a practical, not an ideological" approach to the realization of human rights, one focusing on "delivering good socioeconomic outcomes through pragmatic public policies" (UNHRC 2015, 3) rather than dogmatically enforcing unrestrained personal liberty that is likely to spark tensions. Indeed, it is through such pragmatism that the country ensures social harmony and thus "the necessary conditions for respecting the fundamental human rights enshrined in our Constitution and the Universal Declaration of Human Rights" (ibid.).

4.1.2 Saudi Arabia

Saudi Arabia is an absolute monarchy that has been ruled by the House of Saud since the Kingdom's founding in 1932. The official state religion is Wahhabism, a conservative Sunni denomination, which dictates the structure of both public and private life. Freedom House (2019f) ranks the country *not free*, stating that the regime "restricts almost all political rights and civil liberties" and maintains power through "extensive surveillance, the criminalization of dissent, appeals to sectarianism and ethnicity, and public spending supported by oil revenues."

Saudi Arabia's legal system is rooted in sharia. Consequently, the country's UPR reports consistently interpret human rights within that legal framework: "The Kingdom is governed by sharia law, pursuant to which Muslim rulers are mandated to apply its established principles and rules to the promotion and protection of human rights, as prescribed in the Holy Koran, the Sunnah of the Prophet and Islamic jurisprudence…" (UNHRC 2013c, 3). Significantly, the country does not see any contradiction between the application of sharia on the one hand and the protection of human rights on the other; rather, it describes the two objectives as complementary insofar as sharia principles "prohibit and criminalize the violation of human rights" and the judgements handed out by sharia courts "are simply a systematic endeavour to protect and promote these rights…" (ibid.). Indeed, "the principles of the Universal Periodic Review of human rights coincide with the principles of […] faith" (UNHRC 2009g, 3).

This marriage of sharia and human rights is enabled in part by a heavily state-centric view of the latter. The reports construct this view through a series of paratactical associations, which, combined, operate almost like a mathematical equation. For instance, in its second report, the country first emphasizes the King's absolute governing authority, referring to Article 55 of

the country's Basic Law of Governance, which affirms: 'The King shall oversee the application of sharia, laws and the general policy of the State'" (UNHRC 2013c, 3). In the next sentence, the report gives this authority a religious foundation: "Allegiance to the King is pledged on the basis of the Koran and the Sunnah, pursuant to article 6 of the Basic Law: 'Citizens shall pledge allegiance to the King on the basis of the Book of God Almighty and the Sunnah of His Prophet'" (ibid.). Finally, in the next paragraph, the report assigns to the divinely sanctioned authorities responsibility for protecting human rights, citing Article 26 of the Basic Law of Governance, which provides: "The State shall protect human rights in accordance with sharia law" (ibid.). In this way, the report posits three concepts—the state, religion, and human rights—and attempts to eliminate any tension that may arise between them by simply equating all three.

It consequently follows that the Saudi state, practically by definition, cannot commit human rights violations. Thus, any violations that do occur are "attributable to individual practices" (UNHRC 2009g, 4) that "do not constitute a pattern" of state policy (UNHRC 2008b, 10). Such practices are not caused by strict adherence to Wahhabi principles but are rather a consequence of their misunderstood or misguided application. The guardianship system, for instance, may sometimes lose its proper "connotation of responsibility and care" and "transform into domination and coercion." In actual fact, however, "there are no statutory requirements that necessitate guardianship or make a woman's enjoyment of her rights conditional on approval" (UNHRC 2009h, 5). Indeed, the system properly instituted should be conceived as a "tutelage link" between the sexes rather than a guardianship, the latter of which "cannot constitute a statutory stipulation since Islam guarantees a woman's right to conduct her affairs and enjoy her legal capacity" (ibid.). In short, sharia and human rights are inherently compatible.

4.1.3 Turkey

Turkey was a parliamentary republic up until its 2017 constitutional referendum, after which it adopted its "Turkish-style" presidential system. In 2015, the year of the country's most recent UPR review, Freedom House (2016b) deemed Turkey *partly free*, observing competitive yet violent parliamentary elections that were additionally marred by a "continued crackdown on the media." In its two reports following the constitutional referendum, Freedom House has ranked the country *not free*. However, as these latest developments are not yet reflected in the country's UPR documentation, I have analyzed it within the *partly free* rubric.

In its first UPR report, Turkey describes itself as a "democratic, secular and social state governed by the rule of law," as proclaimed by Article 2 of the country's constitution (UNHRC 2010a, 3). According to the report, this same article also mandates respect for human rights as

"one of the basic and one of the irreversible tenets of the Republic" (ibid.). In this spirit, the report champions the country's "pluralistic" democracy, guaranteed by the "principle of the separation of powers" (ibid.). Notably, the country's second report makes no mention either of "secularism" or the "separation of powers"—perhaps a sign of the political closure to come.

Both reports do, however, emphasize equality as a core value. This "fundamental principle" is ensured through a civic conception of Turkish citizenship, which is defined "on the grounds of legal bond without any reference to ethnic, linguistic or religious origin" (UNHRC 2010a, 6). Indeed, the country views all citizens as "an integral part of the Turkish national identity and culture" (ibid.), stressing that "citizens of different faith groups are an inseparable part of Turkey" and promoting a series of legislative reforms "aiming to provide higher standards for all Turkish citizens, irrespective of their ethnic or religious backgrounds" (UNHRC 2014b, 7). As we shall see, this particular focus on and conception of citizenship has bearing on how the country responds to the claims of its ethnic minorities, particularly the Kurds.

4.1.4 China

China is a socialist republic dominated by the Chinese Communist Party (CCP), which effectively rules the country as a one-party state. Freedom House has consistently labeled China *not free* in its annual surveys, but writes in its 2019 report that the "authoritarian regime has become increasingly repressive in recent years," tightening control over "the state bureaucracy, the media, online speech, religious groups, universities, businesses, and civil society associations," all while President Xi Jingping continues to "consolidate personal power to a degree not seen in China for decades" (Freedom House 2019a).

Like Singapore, China's UPR reports express both a universalist and relativist approach to human rights. Its first report affirms that the CCP "respects the principle of the universality of human rights," but nonetheless argues that states' human rights performance should be judged "in the light of their national realities" (UNHRC 2008a, 5). Further, while the second report claims that the CCP "accord[s] equal importance" to civil and political rights on the one hand and economic and social rights on the other, seeking to "promote the coordinated development of individual and collective human rights," it states in the next paragraph that the Party "takes the furtherance and protection of the right to subsistence and the right to development as first principles" (UNHRC 2013a, 3). These conflicting statements are perhaps best summarized in the country's third report, which explicitly thematizes and purportedly resolves them: "China gives due regard to both the universality and the particularity of human rights, combines promotion of democracy and people's livelihood, coordinates the pursuit of

peace and development, and promotes and protects human rights in the process of development" (UNHRC 2018b, 3). In other words, rather than viewing the relationship between economic development and human rights as potentially conflicting objectives requiring some form of compromise, China argues that it is precisely through development that the country shall uphold its citizens' rights, enhancing the "common prosperity of the people as a whole" (UNHRC 2018b, 3). Indeed, this view is what characterizes the country's distinctive "system of human rights with Chinese characteristics," which expresses specifically in the realm of human rights the underlying state ethos of "socialism with Chinese characteristics" (UNHRC 2018, 2).

4.1.5 Philippines

The Philippines is a constitutional republic currently led by President Rodrigo Duterte, who was elected in 2016. According to Freedom House (2018a), the country is *partly free*, with "well developed" governing institutions but a "haphazard" legal system that "heavily favor[s] ruling elites." Further, the country has suffered from decades-long violent insurgencies, as well as the aggressive war on drugs that President Duterte launched upon assuming office, which has resulted in over 12,000 extrajudicial killings since that time (ibid.).

Echoing both China and Singapore, the Philippines employs in its UPR reports the common strategy of simultaneously expressing universalist and relativist perspectives on human rights. The country's third report even manages to do so in a single sentence: "The Government of the Republic of the Philippines (GPH) affirms the universality, indivisibility, interdependence, and interrelatedness of all human rights, respectful of our unique national and regional particularities borne by our diverse historical, cultural, and religious backgrounds" (UNHRC 2017b, 2). Again, like China and Singapore, the country provides scant detail on how one might reconcile in practice the two seemingly opposed clauses of this sentence.

For the purposes of this analysis, the significant aspect of the Philippines' relativist proviso is the security perspective it allows the government to inject into its human rights discourse. After affirming the above principles, the country's third report goes on to cite the broad mandate that President Duterte received to "fight criminality, corruption, and illegal drugs" upon his election, which provides the context for his administration's current anti-drug campaign (UNHRC 2017b, 2). According to the report, the President pursues this campaign "[i]n keeping with the State's duty to promote and protect human rights and fundamental freedoms" and in order to "preserve the lives of the Filipino people and protect the country from turning into a narco-State" (ibid.). The report then goes on to describe the campaign essentially as a human rights initiative, citing the health risks associated with *shabu*—the widely used

amphetamine that is the campaign's primary target—as well as the "holistic approach" that the campaign takes, which "includes not only law enforcement operations to strengthen the rule of law, but also the rehabilitation and reintegration of surrendering drug users" (ibid.). Thus, by both upholding public order and rehabilitating victims, the war on drugs is protecting "the right to life, health, and personal security" of the Philippine people (ibid.). Such a framing of the campaign essentially marries public security and human rights concerns, summarized in the government's avowal to safeguard what it calls "human security" (ibid.).

4.1.6 North Korea

North Korea is a socialist, one-party state governed by the Workers' Party of Korea under the leadership of Kim Jung-un, the third generation of the Kim family to rule the country since its founding after World War II. Freedom House (2019e) gives the country a *not free* rating, citing a system of extensive surveillance, arbitrary arrests, and severe legal punishment, all of which result in "widespread, grave, and systematic" human rights violations.

While North Korea's reports offer the same kind of boilerplate phrasing quoted above regarding the simultaneously universal and relative nature of human rights, the country makes a more distinctive argument when relating human rights to the country's specific governing ideology, which is premised on the dual notions of *juche* ("self-reliance") and *songun* ("military first"). According to the former principle, human rights "imply the possibility for a human person to freely conduct the activities to overcome or remove all the fetters of the nature and society as the master of his/her own destiny, and to make everything serve his/her independent needs and interests" (UNHRC 2009b, 4). The country is of the view, however, that human rights can only serve this end when they are enforced by a state. This claim has two implications.

First, with regards to domestic conditions, it means that human rights do not constitute a right to "freedom *irrespective of* the State and society" but rather to "freedom *guaranteed by* the State and society" (ibid.; emphasis added). Thus, concerning individual rights such as freedom of expression, the country's constitution guarantees liberties to the extent required for "healthy individuality," but it does not permit the kind of "'self-indulgence' which prejudices others' freedom or disregards the law" (ibid., 7). Second, with regards to foreign policy, seeing as human rights are guaranteed by sovereign states, the country holds that "any attempt to interfere in others' internal affairs, overthrow the governments and change the systems on the pretext of human rights issues constitutes violations of human rights" in and of itself (ibid., 4). This is why the country pursues its *songun* policy of military armament, as "safeguarding national sovereignty provide[s] a guarantee for the enjoyment by people of their human rights"

(UNHRC 2014e, 7). In this sense, the country's nuclear capabilities are merely "a strong war deterrent that can firmly safeguard [the country's] human rights system" (UNHRC 2010b, 4). Indeed, the link between human rights and national sovereignty is supposedly so close that "human rights *immediately mean* national sovereignty" (UNHRC 2009b, 4; emphasis added).

4.1.7 Nigeria

Nigeria is a federal republic with a presidential system. It is the most populous state in Africa and also one of the continent's most demographically diverse, home to hundreds of different ethnic groups split between predominantly Muslim communities in the northern regions and Christian communities in the south. According to Freedom House (2019d), the country is *partly free*, having made "significant improvements in the competiveness [sic] and quality of national elections in recent years, though political corruption remains endemic…" In addition, the country is plagued by violent sectarian conflict, as well as widespread religious and cultural biases that result in discriminatory practices against women and LGBTQ individuals (ibid.).

Unlike the majority of countries reviewed so far, Nigeria does not make any explicit reference to a relativist view of human rights in its UPR reports. They express a matter-of-fact "belief and respect for the rule of law and human rights" (UNHRC 2018d, 8) without invoking exceptions on the basis of distinct national characteristics. This "belief" and "respect," however, nonetheless appear to be borne out of the particular conditions Nigeria faces as a developing country. Indeed, the government writes in its second report that it is "building sustainable peace on the basis of mutual co-existence, realizing that peace is an inevitable condition for any meaningful development" (UNHRC 2013b, 13). In its third report, the government states that it "believes that respect for human rights provides the foundation for enduring peace and social harmony" (UNHRC 2018d, 22). Combined, these statements create a causal link in which respect for human rights ensures peace, which in turn ensures development.

In this same vein, the country describes the challenges it faces in upholding human rights as a consequence of deficient state resources and capacity. For instance, Chapter 2 of the federal constitution provides for Nigerians' social and economic rights, but these are non-justiciable, framed, according to the country's first report, "not as human rights but duties of the State" (UNHRC 2009c, 3). Having received criticism for this, Nigeria writes in the same report that while "appreciating the argument put forward by the advocates of changing the law to make government legally responsible for the provision of these rights, it was also obvious that the cost of implementing this programme was far above the means of government" (ibid., 19). Further, the country exempts itself from responsibility for sectarian tensions and discriminatory

cultural practices in this same manner, attributing them to two main sources: the country's pluralism, "which creates practical difficulties for the harmonization of views, strategies and programmes for promotion and protection of human rights," and its complex legal system, which, due to this same pluralism, is composed of common law, sharia law, and customary law, the latter of which regulates personal status matters and may create "conflict with human rights norms guaranteeing equality between men and women." Thus, insofar as these challenges arise from structural conditions pertaining to the country's demographic makeup, the government implies that any human rights violations Nigerians face as a result of them are not due the state's lacking will to remedy them but simply its lacking ability to do so at this point in time.

4.1.8 Syria

Syria is a presidential republic that has been continuously ruled by the Arab Socialist Ba'ath party since 1963. The current president is Bashar al-Assad, who assumed power from his long-reigning father in 2000. For the past eight years, the country has been embroiled in a complex, multiparty civil war that has so far claimed an estimated 570,000 lives (Syrian Observatory for Human Rights 2019). Freedom House (2018c) rates the country *not free*, as Syrians' human rights "are severely compromised by one of the world's most repressive regimes and by other belligerent forces." These actors have split the country between government-controlled areas in which corruption, disappearances, and torture are "rampant" and contested regions in which residents are "subject to additional abuses including intense and indiscriminate combat, sieges and interruptions of humanitarian aid, and mass displacement" (ibid.).

Syria's UPR reports claim commitment to human rights in broad strokes. The first report states that the country is "guided by the purposes and principles of the Charter of the United Nations" and that it "abides by the principles of international law, as international law provides a solid foundation for the observance of human rights" (UNHRC 2011c, 3). The second report affirms Syria's "constant observance of the provisions of the Charter and the principles of international law and international human rights instruments on the basis of its firm conviction that peace and security may be strengthened at the national and international levels by respecting and protecting human rights and fundamental freedoms" (UNHRC 2016a, 3). Neither report elaborates any particular vision of human rights aligned with specific state values such as sharia or *juche*, although the country does offer during its first interactive dialogue a novel take on the universal versus relative status of human rights, deriving the former from the latter; that is to say, the delegation "reaffirmed the universality of human rights," which, being universal, "did not belong to any single civilization or culture or religion" (UNHRC 2012b, 3).

Less interested in this theoretical debate, the primary concern of both Syria's national reports is the country's civil war. Its first UPR cycle occurred in 2011 during the war's preliminary stages, and this report opens with a strongly worded invective that blames the growing unrest on "armed terrorist groups […] accompanied by an unprecedented media campaign of lies and allegations […] supported by certain Western States that are bent on discrediting and weakening the Syrian Arab Republic" (UNHRC 2016a, 3). Notwithstanding the significant human, economic, and administrative resources that the crisis has cost the state, however, it remains eager to participate in the UPR in order to show the world community "just how committed the Syrian Arab Republic is to promoting and protecting human rights in universal human rights frameworks," as well as to detail the many reforms that the country has introduced "to meet the legitimate demands of the Syrian people" (ibid.).

The second UPR report doubles down on this tactic. It claims that the "fundamental reasons" for the outbreak and aggravation of the war are "[t]errorism, unilateral coercive measures and the Israeli occupation [of the Golan]" (UNHRC 2016a, 12). These are consequently to blame for the human rights violations occurring in the country. Terrorism, particularly, "has gravely affected all human rights, such as the right to life and the rights to security, dignity, health, education, work and food, and the right to a decent standard of living, etc." (ibid., 13). Thus, while the Syrian government "has spared no effort to find a political solution" to the crisis (ibid., 20), it follows that the government's military operations, whose sole objective is "to combat terrorism" (ibid., 29), are necessary not only to reclaim national sovereignty and territorial integrity but also to restore Syrians' human rights, as the operations "pave the way for the return of migrants and displaced persons to their native districts and homes" (ibid., 3). In this sense, the government's military action can be construed as part and parcel of its "constant observance" of its human rights commitments under international law.

4.2 Vernacularized Norms

The preceding section detailed the general approach to human rights that the reviewed states claim to take in accordance with their respective normative frameworks and material circumstances. In this section, I will show how the states vernacularize five specific human rights norms within these contexts to promote a variety of illiberal practices. These norms are: 1) *non-discrimination;* 2) *rule of law;* 3) *criminal justice;* 4) *majority rule;* and 5) *developmentalism.* The analysis is structured thematically according to each norm in question.

4.2.1 Non-discrimination

In an essay arguing that increasing multipolarity in the international system will allow authoritarian regimes to more effectively promote alternative interpretations of human rights, Hopgood (2017) identifies certain key features of the "classic" interpretation that he believes will be challenged as a result. He associates this interpretation with a liberal commitment to the autonomous individual, as discussed, and he therefore argues that the core objective of human rights as classically conceived is to safeguard individual freedom. Moreover, following as an immediate corollary of this objective, he holds that human rights must resist all discriminatory practices that bestow such freedom unequally. Thus, for Hopgood, "[a]ny theory of human rights" that permits discrimination on the basis of gender, race, religion, or any other such arbitrary distinction "cannot be said to be consistent with the core inner logic of classical human rights claims, either conceptually or in their dominant historical form" (284). He continues:

> How could an advocate of human rights accept any form of discrimination, unequal treatment, or unequal moral status on principle? How could any human rights agreement include such principles? Equal moral worth – and, as a logical consequence, prima facie equal individual autonomy over personal choice – are the founding principles of human rights claims. (284)

Here Hopgood essentially identifies the principle of non-discrimination as the defining value of the entire normative framework underlying human rights in their classical sense. While this is a strong claim, it finds support in the multitude of agreements that constitute the international human rights regime. Indeed, Article 1 of the UDHR states that "[a]ll human beings are born free and equal in dignity and rights," while the following article elaborates: "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status" (UNGA 1948). A variety of binding, domain-specific treaties include similar provisions, including Articles 2 and 26 of the International Covenant on Civil and Political Rights (ICCPR); Article 2 of the International Covenant on Economic, Social, and Cultural Rights; Article 2 of the Convention on the Rights of the Child; Article 7 of the Convention of Migrant Workers; and Article 5 of the Convention on the Rights of Persons with Disabilities; as well as the entirety of two additional conventions, namely the Convention on the Elimination of all Forms of Discrimination Against Women and the International Convention on the Elimination of All Forms of Racial Discrimination, the explicit purpose of

which is to prohibit discrimination on the grounds of gender and race (Icelandic Human Rights Centre n.d.). Further, in order to secure the social conditions that will allow all individuals to claim the equal rights granted them by these articles and conventions, states are under a general obligation to protect vulnerable groups from physical threat and cultural stigma, as stipulated for instance in Article 20 of the ICCPR, which states: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law" (UNGA 1966). Hopgood thus appears justified in his claim that the principle of non-discrimination and its ensuing obligations stand out as foundational to both the theory and law of international human rights as classically understood.

Yet despite this importance, or perhaps precisely because of it, the analysis undertaken for this thesis finds that illiberal states commonly invoke the non-discrimination principle to excuse human rights abuses in a variety of other domains. Two main variants of this tactic exist. Applying the principle in its stronger form, a state can defend restrictions to a variety of rights owed its general population ostensibly on the grounds that such restrictions are necessary to protect vulnerable groups from discriminatory social practices and/or to rectify the consequences of historical disadvantages that these groups have suffered. Applying the principle in its weaker form, a state can reject the rights claims of its ethnic and/or religious minorities ostensibly on the grounds that it does not consider ethnicity or religion to be legitimate categories by which to recognize or distinguish among rights claimants. In both cases, state policy typically results in the undue abrogation of civil or political rights. The remainder of this section will further examine both these tactics according to the type of right they target.

i. Civil rights violations

The most prevalent tactic is to invoke the principle of non-discrimination to defend the violation of a core set of civil rights, including the right to a fair trial, to freedom of expression, assembly, and association, and to a free press. All reviewed states restrict these rights to a degree that the international human rights regime generally deems unacceptable, and all defend these restrictions at least in part by reference to a strong interpretation of the non-discrimination principle that obligates the state to extend special protections to vulnerable social groups. Consequently, they all portray laws curtailing the abovementioned rights as a necessary consequence of the classic trade-off between free speech and minority protection—a trade-off with which liberal societies are also familiar, and which they may therefore be inclined to regard, at least in theory, as legitimate grounds for restrictive policy. Although the exact form of this tactic varies from state to state, in essence it consists of defining political expression as hate

speech and consequently prohibiting it as such in the interest of whichever group the speech supposedly targets.

Singapore provides the most and clearest examples of this maneuver. In its second UPR report, the country makes typical reference to itself as "a multi-religious and multi-racial society" and in the following sentence states that its "diverse society means that we need to balance the right of our people to social harmony with other competing rights" (UNHRC 2015a, 16). Indeed, striking such a balance has proven to be imperative, according to the report, as the world community has previously "seen how the pursuit of absolute freedom of expression in other countries can give rise to polarising extremism, racism and xenophobia, which have in turn led not only to acrimony between different groups but tragic bloodshed at times" (19). Naturally, Singapore "want[s] to avoid such incidents," and toward this end the report proudly points to its "strong legal framework" comprising a variety of bills such as the Maintenance of Religious Harmony Act, the Penal Code, the Sedition Act, and the Public Order Act, which together serve to "deter any individual or group attempting to cause racial and religious conflict" (16).

Yet in both Singapore's review cycles, the UN and stakeholder reports express concern at the broad coercive powers these acts grant the state, which appears more interested in enforcing them as means of repression than as tools of protection. Indeed, one joint submission in the first stakeholder report, signed by a variety of Singaporean NGOs, criticizes the government despite its rhetoric for being "notably resistant to enact any form of anti-discrimination legislations with regards to addressing discriminatory practices in society," preferring instead "to adopt an educational and promotional approach" that generally leaves victims of discrimination with "little to no administrative recourse" (JS1 2011, 7). Thus, when later discussing the Maintenance of Religious Harmony Act—which among other provisions grants the Minister for Home Affairs authority to issue a restraining order against any clergy member on such vague grounds as "exciting disaffection against the President or the Government" (Republic of Singapore 1990)—the NGO submission does not praise the act for protecting the right of believers to freely practice their religion, as one might expect from the Government's description of the legislation, but instead criticizes it for "prohibit[ing] involvement of religious groups and officials in political activity which the government deems to be inappropriate" (JS1 2011, 10). This concern is echoed by Amnesty International (2011a, 2), which additionally criticizes the Public Order Act for unduly restricting freedom of assembly, defining a "procession" as "as few as two persons moving 'substantially as a body of persons'" and requiring that a permit be obtained for such a "procession." In effect, then, it would seem these acts do not primarily serve to safeguard the principle of non-discrimination, as the state

claims, but rather to curtail popular mobilization through strict restrictions on the rights to freedom of association and assembly.

When confronted with these concerns during the country's second interactive dialogue, however, the Singaporean delegation dismissed them as unfounded. It diligently adhered to the non-discrimination narrative, claiming that the kind of restrictions in question in no way circumscribe legitimate rights and serve only to check dangerous bigotry. The delegation stated:

> On freedom of speech, no one in Singapore was prosecuted for criticizing the Government or its policies, and many were doing so. The Constitution guaranteed the right to freedom of expression. However, there must be safeguards against those who abused this right to denigrate or offend the beliefs of others, or to incite racial or religious hatred. (UNHRC 2016b, 8)

Indeed, so consistent is Singapore's commitment to this framing that the country even employs it to rebuke criticism of its controversial Internal Security Act, which, according to Amnesty International (2011a, 1), permits "'preventive detention' of persons for up to two years each time without charge or trial," with the possibility of indefinite renewal. In addition to national security concerns and "the need to protect witnesses and informants from intimidation," the country's first state report cites the oft-mentioned "multi-racial and multi-religious make-up" of Singaporean society as one of the reasons such detention is at times warranted, particularly in cases "involving racial and religious agitation or incitement [that] would provide defendants and their supporters further opportunity for inflammatory rabble-rousing" (UNHRC 2011b, 17). Viewed in this perspective, the deprivation of due process merely serves to safeguard Singapore's social pluralism; it demonstrates respect for the country's "diverse," "multi-racial," and "multi-religious" society.

While Singapore is the state in this study that most often invokes the principle of non-discrimination to justify civil rights violations, it is by no means alone in employing this tactic. China, for instance, mentions with regards to its notorious Internet regulations the necessity of "prohibiting content that incites violence or racial hatred" (UNHRC 2013a, 14). Turkey also defends extensive restrictions on these rights by reference to the same concerns, citing Article 216 of its Penal Code, which supposedly "strikes a balance between high standards for the freedom of expression" and "the problem of incitement to hatred on the above mentioned grounds [of social, racial, religious or regional enmity or hatred]" (UNHRC 2010a, 7). This is the same article, however, which the joint submissions from two groups of international NGOs

recommend should be amended or abolished for serving as "a pretext to stifle free speech" (JS6 2014, 4), providing the Turkish government with the legal basis to charge human rights activists "under specious charges of 'publicly insulting religious values'" (JS11 2014, 6). Similarly, Syria discusses in its first report measures that the country's legislature has introduced to combat discrimination, including provisions in its Criminal Code that prohibit any act or speech with "the aim of stirring up interconfessional or racial strife or conflict" (UNHRC 2016a, 11). Yet in its report on the country, the Committee against Torture (CAT 2010, 3) admonishes the referenced Criminal Code for "vague security provisions […] that unlawfully restrict the right to freedom of expression, association or assembly." This criticism is further substantiated by Amnesty International (2011b, 3), which reports in its stakeholder submission that scores of human rights activists have been convicted under the Code on charges such as "inciting sectarian strife" and consequently sentenced to prison "simply for peacefully expressing opinions that differ from those of the authorities." Finally, this same pattern is also on display during the reviews of Saudi Arabia, which asserts in its second report that "the Kingdom's legislation and laws contain not even a hint of provisions that discriminate against anyone; on the contrary, discrimination is a punishable offence" (UNHRC 2013c, 7). In this vein, the first report points to the country's Press and Publications Act as a specific example of effective anti-discrimination legislation, supposedly prohibiting "the establishment of organizations which are of a racist character" (UNHRC 2008b, 11). Yet the actual text of the law does not make a single mention of racism, stipulating only that the press heed sharia law and refrain from defamation (Kingdom of Saudi Arabia 2000), and in its own report the UN Educational, Scientific and Cultural Organization (UNESCO 2013, 7) criticizes the law on this basis for "penaliz[ing] media outlets with high fines and closure for publishing any materials that damaged the reputation" of senior religious or political figures.

In summary, these quotes illustrate the manner in which illiberal regimes take advantage of the ambiguity inherent in human rights' attempt to simultaneously safeguard the rights to free speech and to equal protection. Indeed, Singapore explicitly makes this connection, comparing its own legislation to that of liberal states when stating in one of its recommendation responses that the country's restrictions on freedom of expression are "not unlike laws against hate speech in many countries" (UNHRC 2011d, 5). While this trade-off is the subject of genuine debate, beholden to a variety of legitimate yet conflicting interests that are not easily reconciled, the states reviewed here define hate speech so broadly and grant themselves such broad coercive powers in order to silence such speech in the name of perceived collective interests that their application of the non-discrimination principle is decidedly illiberal.

ii. Political rights violations

States also use non-discrimination discourse to defend the violation of political rights, among them the right to stand for election, to vote, and to self-determination. While this tactic is not as prevalent as the above, the states that do employ it evince greater variety in how they do so, applying the non-discrimination principle in both its weak and strong forms. The ultimate effect generally serves to undermine the possibility for effective popular participation in state governance.

Singapore is once again worthy of special mention in this regard. As it did in the domain of civil rights, here too the country leverages a strong interpretation of the non-discrimination principle as an excuse to expand the scope of a commonly accepted yet strictly limited exception to a standard human rights norm, with the ultimate effect of eroding the conditions required to fulfill the right in any meaningful sense. In this case, the country takes advantage of the recognized need to curtail democracy's generally majoritarian decision-making processes in order to secure the political representation of minorities, using this interest to justify an electoral system that entrenches the power of the reigning party through uncompetitive elections. In essence, this strategy relies on the country's constituency system, which, as mentioned, distinguishes between two different types: single-member constituencies and group representation constituencies (GRCs). Singapore's first UPR report explains that GRCs "elect teams of between four to six members, at least one of whom must be from an ethnic minority to ensure that ethnic minorities are adequately represented in Parliament" (UNHRC 2011b, 3). On the face of it, such a system sounds relatively uncontroversial—even praiseworthy—yet in its stakeholder report, the civil society organization Singaporeans For Democracy (SFD) (2011, 1) notes that "the current electoral system has been responsible for continuously returning the ruling People's Action Party (PAP) [to power] over a period of 45 years in the last 10 general elections," and the group recommends in this context that the country "[a]bolish the Group Representation Constituencies." Why? As Tan (2005, 418) points out, GRCs disadvantage opposition parties, which due to poor resources have faced "immense difficulties" recruiting enough candidates to run in such constituencies, allowing PAP to win them uncontested. Moreover, by creating so many "walkover" districts, the GRC system not only imposes an undue burden on Singaporeans' right to stand for election but also undermines their right to vote: in the country's 2006 elections—the most recent for which SFD (2011) has data—only 56% of eligible voters lived in districts holding competitive races (3). The challenge this poses to PAP's democratic legitimacy has only continued to grow as the party has gradually increased

the maximum size of a GRC ticket from three to six candidates, without mandating a corresponding increase in the number of candidates per ticket that must hail from an ethnic minority—an indication that political control rather than minority representation is the primary purpose of the GRC system (Tan 2005, 418-19).

The Philippines has also witnessed a similar phenomenon, albeit to a smaller extent and not necessarily by design. During the country's first interactive dialogue, the delegation boasted of the party-list component of the Philippine electoral system, which allegedly "helps ideological groups and sectoral interests to achieve representation in the Philippine Congress" (UNHRC 2008c, 5). Briefly summarized, this system mandates that 20% of the seats in the country's House of Representatives are elected on party-lists through proportional representation, as opposed to the remaining 80% that are elected on a first-past-the-post basis, with the purported aim of boosting the representation of traditionally underrepresented groups such as women, peasants, and indigenous peoples. The system has proven controversial, however, most recently during the country's 2010 elections, when it was the cause of two disputes that together demonstrate how it can be manipulated for ends contrary to its stated aims. The first dispute emerged when the country's Commission on Elections barred a party representing the interests of LGBTQ individuals from contesting party-list seats, denying its registration application on "moral grounds" (Commission on Human Rights of the Philippines 2012, 5). While this decision was later overturned by the Philippine Supreme Court, the case nonetheless suggested that the representation of minority interests is not always the primary concern of the electoral bodies administrating the party-list system. Further, the system has proven susceptible not only to neglect of its original mission but also to active cooption for other purposes, as illustrated by the second dispute, which concerned then-President Gloria Macapagal Arroyo. In 2010, she was barred by term limit to run for reelection and opted instead to contest a seat in the House of Representatives. In the midst of the campaign, an election watchdog group found that several parties contesting party-list seats around the country were fielding candidates closely affiliated with Arroyo. These included her son, whom a group curiously claiming to represent the interests of security guards had named as its first nominee, as well as past and current members of her cabinet (Calonzo 2010). The watchdog group believed these candidates constituted a coordinated effort to manipulate the party-list system to help Arroyo gain speakership of the House once elected and, possibly, pass a constitutional reform to institute a parliamentary form of government that would allow Arroyo to reclaim power as prime minister (ibid.). While the latter prediction has not and likely will not come to pass, Arroyo did become Speaker of the House earlier this year (Cepeda 2018).

The manipulation of GRCs in Singapore and party-list seats in the Philippines illustrate a dynamic by which governments exploit for their own political gain policies which, premised upon a strong interpretation of the non-discrimination principle, officially seek to curtail democratic majoritarianism in the interest of minority representation. Turkey provides an example of the inverse dynamic, namely a government applying a weak interpretation of the principle in order to deprive minority groups of recognition as such and thereby deny their right to political representation on the basis of their minority status. The issue at stake here is indicated by the references that the country's UPR reports characteristically and consistently make to "regional enmity" as a sanctionable form of discrimination—an oblique allusion to the national aspirations of the country's Kurdish minority. As we will see in the next section, Turkey employs a strategy of rigid legalism to withhold from this group official minority status and the legal privileges such status entails, but it roots this strategy in a form of nationalism that denies the group recognition in a more existential sense by imposing on it a conception of Turkish citizenship that ostensibly lays claim to equalizing aspirations. This is evident in the country's first report, for instance, which declares:

> In line with the fundamental principles of equality and non-discrimination, every Turkish citizen is considered an integral part of the Turkish national identity and culture. The concept of citizenship is defined in Article 66 of the Constitution on the grounds of legal bond without any reference to ethnic, linguistic or religious origin. (UNHRC 2010a, 6)

What this notion of citizenship in fact does—under the guise of non-discrimination—is deny the existence of a distinctive Kurdish identity. According to a stakeholder submission by the Kurdish Human Rights Project (2009, 4), premising citizenship on "Turkishness" in this way results in the violation of "the fundamental rights of Turkey's ethnic, religious and other minorities," including their right to self-determination. The logic here is straightforward: if the Turkish state does not recognize Kurds or any other ethnic minorities on the basis of their ethnicity as such, identifying all inhabitants of its territory as Turks by virtue of common citizenship, then there exists in the state's eyes no collective entity beyond "the Turkish people" on which to bestow the self-determination right. This point is supported by Butenschøn (2000, 18), who writes that the state's "linguistic-ethnic conception of Turkishness is the normative foundation of national integration to the extent that non-Turkish identities (notably Kurdish

identity) are not accepted as legitimate." The consequent treatment of Kurds, he argues, amounts to a policy of coercive integration masked as equal treatment:

> [E]veryone who accepts identification with Turkish national culture (or, rather, who does not openly defy this culture, as understood by the authorities) is recognized as full and equal members of the nation. Those who do not accept this conception of national loyalty have no legitimate rights to participate in the life of the nation. The message to the Kurdish population of Turkey is clear: either accept that you are an inseparable part of the Turkish nation and be welcome as equals or face the consequences (such as forced assimilation, political repression, forced relocation). (20)

Butenschøn's phrasing here is telling, framing the offer of "equality" that the Turkish state is extending to the Kurds essentially as a threat. It is an equality premised on Turkish terms, granting access to that privileged linguistic-ethnic identity rather than raising the Kurdish one to the same status. In this way, the state can paradoxically claim to embody an inclusive, civic form of nationalism—"anyone can be a Turk"—while in fact enforcing an exclusive, ethnocentric variety—"only Turks are welcome." The strategy thus exemplifies the use of the non-discrimination principle as a tool of national consolidation, imposing a meaning of "national" that is synonymous with the dominant ethnic group to the exclusion of minorities, with predictable consequences for those minorities' political rights.

iii. Summary

The principle of non-discrimination is a fundamental component of human rights' normative framework as conceived in the classic liberal sense. It ensures that the other rights the framework bestows apply equally to all, in this way securing the universality to which human rights lay claim. Yet due to its centrality, which often grants it precedence over potentially conflicting values such as free speech and majority rule, as well as its amenability to a number of different interpretations both in theory and practice, the principle opens up a discourse that has proven popular among illiberal regimes seeking justification for the human rights abuses in which their policies commonly result.

Thus, all states in this analysis profess commitment to the principle and subsequently pivot on it to defend numerous violations of their citizens' rights, primarily in the civil and political domains. This strategy generally takes one of two forms. In one, states apply a strong interpretation of the principle that mandates special protective measures for vulnerable groups and then exploit those measures to consolidate their own political control. This tactic is

exemplified by the general tendency evident in this analysis to restrict freedom of expression under a spurious definition of hate speech, as well as by the maneuvering of political elites in Singapore and the Philippines, who manipulate for their own political gain electoral measures officially intended to boost minority representation. In the strategy's other form, states apply a weak interpretation of the principle that considers the recognition of ethnic or religious difference to be discriminatory in and of itself, and they consequently refuse to grant such minorities the rights otherwise due them on this basis. Turkey provides an example of this tactic, enforcing a uniform conception of Turkish citizenship that acknowledges only the identity of the country's dominant ethnic group, and which compels its Kurdish minority to accept this identity for itself and thereby relinquish its collective right to self-determination. In both cases, states shroud violations of their citizens' core civil and/or political rights in non-discrimination discourse. As such, while Hopgood is likely right that this norm has become so dominant within the liberal world order that states can no longer defend discriminatory practices "on principle," it appears this has given them opportunity to defend other human rights abuses on the principle of non-discrimination.

4.2.2 Rule of law

The rule of law is another foundational component of the classic human rights framework. The centrality of this principle is also evident in the UDHR, the preamble to which states that "it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law…" (UNGA 1948). More recently, the 2005 UN World Summit Outcome described human rights and the rule of law as "universal and indivisible core values and principles of the United Nations" that are "interlinked and mutually reinforcing" (UNGA 2005a, 27). The UNHRC has similarly emphasized this link, passing several resolutions stressing the crucial role of the rule of law in upholding human rights (2012c, 2012d) and establishing numerous special procedure mechanisms dedicated to the matter, such as the Special Rapporteur on the independence of judges and lawyers. Indeed, so close is the association between the two concepts that the Rule of Law Unit (n.d.) within the Office of the UN Secretary-General (UNSG) states: "The rule of law and human rights are two sides of the same principle, the freedom to live in dignity. The rule of law and human rights therefore have an indivisible and intrinsic relationship."

Despite its importance, however, references to the rule of law in intergovernmental declarations are often vague and perfunctory, leaving the precise meaning of the term unclear. This is likely due, at least in part, to the conflicting views states hold on the principle's practical

obligations and ethical foundations. One can discern an important dimension of this disagreement in the definition that then-UNSG Kofi Annan offered in 2004, which first lists a number of institutional criteria before adding what is essentially a moral condition:

> The "rule of law" […] refers to a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, *and which are consistent with international human rights norms and standards.* (UNSG 2004, 4; emphasis added)

This definition of the rule of law stipulates not only the procedural values governing *how* a state should enforce its laws—publicly, equally, and independently—but also the substantive values regarding *what* those laws should promote, namely "international human rights norms and standards." Illiberal states, however, are prone to contest this second demand, instead espousing a strictly procedural conception of the rule of law according to which the principle is secured through the consistent enforcement of laws on the books, regardless of those laws' actual content. This disagreement consequently renders "the rule of law" a rather nebulous term.

From a theoretical perspective, it is useful to frame this disagreement as one between naturalist and positivist conceptions of law. As discussed above, human rights in the classic liberal mold are derived from the former tradition. While this doctrine encompasses myriad strains, common to them all is the contention that the legitimacy of a law depends in some way on its relation to an applicable moral standard. Classic natural law theorists like St. Augustine, Aquinas, and Blackstone generally leveled this claim in a strong form that considered any morally unjust law, however defined, to be legally invalid. Contemporary formulations of natural law tend to qualify this argument somewhat, as for instance evident in the influential version put forward by Finnis (2011, 24), who argues that reference to moral principles "justifies regarding certain positive laws as radically defective, *precisely as laws*, for want of conformity to those principles"—even if such "want of conformity" does not deprive the laws of legal force (emphasis in original). By contrast, legal positivism denies any necessary connection between law and morality. While this doctrine exists like that of natural law in many forms, in the most general sense it holds that law and morality are conceptually distinct and, consequently, that the status of a law *as law* has no bearing on its relationship to moral standards. Rather, a law is perceived as fully valid as long as it passes the "formal tests" mandated by the

legal system of which it forms a part, even if it were to "offend against a society's own morality or against what we may hold to be an enlightened or true morality" (Hart 1994, 209).

It should thus be clear that the conditions required to secure the rule of law in a given society will vary according to which of these two doctrines one applies. If one subscribes to a natural law theory, and views international (i.e. liberal) human rights norms and standards as the applicable moral criterion against which to judge the legitimacy of a legal system, then it follows that a system that fails to uphold such standards—regardless of its institutional qualities—is in some way "defective." Indeed, Finnis (2011, 273) endorses this view when he, after first providing a list of formal "desiderata" characterizing the rule of law—it must be prospective, coherent, publicly promulgated, etc.—argues that "the fundamental point of the desiderata is to secure to the subjects of authority the dignity of self-direction and freedom from certain forms of manipulation. The Rule of Law is thus among the requirements of justice or fairness." In other words, the naturalist view holds that the rule of law derives inherent moral value from its purpose, which, posited as securing individuals the "dignity of self-direction," is more or less synonymous with the protection of human rights in the liberal sense. Thus, a legal system that systematically violates such rights cannot be said to uphold the rule of law, even if it fulfills formal criteria like prospectivity, coherence, public promulgation, and so on.

If, on the other hand, one subscribes to a positivist legal theory, a society is governed by the rule of law as long as its legal system meets such formal criteria. Recalling the central importance that the transnational human rights regime ascribes to the rule of law on principle, this perspective thus permits the counterintuitive claim that the clear and consistent enforcement of a legal system comprised of rights-violating provisions in fact safeguards human rights. This is a strategy that the states reviewed in this thesis employ in a variety of ways. The most common tactic is to simply deem a right-violating practice legitimate by referencing the practice's "lawfulness" under a given domestic statute. In addition, some states go a step further and justify such practices by claiming that they actively promote a certain aspect of the rule of law, most typically the separation of powers, the fight against impunity, or public promulgation. The remainder of this section further explains each of these tactics in further detail.

i. Formal lawfulness

Attempts to legitimize an illiberal practice by appealing to its formal lawfulness appear in the UPR reports of every state in this sample. However, although their underlying logic remains the same, the attempts vary significantly in the consistency and complexity with which they are carried out. On one end of the spectrum, the appeal to lawfulness amounts to little more than a

semantic ritual by which the state attaches to its description of a policy a rather perfunctory clause noting its "provision by" or "adherence to" domestic law. Thus, in response to Ireland's recommendation that China "[f]acilitate the development, in law and practice, of a safe and enabling environment in which both civil society and human rights defenders can operate free from fear, hindrance and insecurity" (UNHRC 2014g, 22), the Chinese government stated:

> *In accordance with China's Constitution and relevant national laws*, citizens enjoy freedom of expression, the press, assembly, association, procession, demonstration, and religious belief. The Chinese government guarantees citizens' right to exercise these freedoms *in accordance with the law*. Chinese judicial organs impartially deal with all violations of citizens' personal and democratic rights *according to law*. (UNHRC 2014f, 12; emphasis added)

This response is indicative of the kind of strategy at play here. First, it ignores the recommendation's dual emphasis on both law and practice, referring exclusively to the former. Second, and more importantly in this context, even if one grants the rather tenuous claim that the laws in question are formally upheld in a manner consistent with the rule of law, the response makes no mention of what these laws in fact stipulate. With regards to freedom of religion, for instance, provisions in China's Criminal Code and Regulations for Religious Affairs create a legal framework that recognizes only five religions as lawful, allows only state-registered religious organizations to publicly congregate, and mandates prison terms for members of *xie jiao*, so-called "evil cults" like Falun Gong and The Church of the Almighty God (UNHRC 2018e, 5). Yet, given its positivist legal doctrine, the Chinese government can argue that it is upholding the rule of law, and by extension human rights, as long as it "publicly promulgates, equally enforces, and independently adjudicates" these provisions, even if the provisions themselves do not meet "international human rights norms and standards."

Other countries also frequently employ this tactic. Indeed, following the same logic, they variously claim that Saudi women "may not be prevented from marrying a man who meets the *lawful conditions* for marriage" (UNHRC 2018c, 17); no Singaporean "has ever been detained for engaging in *lawful* political activities" (UNHRC 2011b, 16); and all Syrians "have the right to freedom of peaceful assembly and protest *in keeping with the principles enunciated in the Constitution*" (UNHRC 2011c, 6; emphasis added in all quotes). Each of these statements refers to a legal definition of a certain right—to marriage, to political activity, and to public assembly—that is so narrow it amounts to a violation of the right in the liberal sense, yet implies

that the state, precisely by enforcing the legal definition as such, is upholding the full extent of its human rights obligations. In other words, no right can extend beyond its articulation in law.

For some states, the kind of rote formulations quoted above constitute the entirety of their positivist law strategy. For others, however, such phrasing is merely one aspect of a more general, highly legalistic interpretative framework that serves to define an entire class of actor or activity in such a way that its relation to the categories of "right" and "violation" is a logical given. For instance, in response to criticism from several NGOs that North Korea's ruling party governs by extralegal means in violation of its own constitution, the country contends during its first interactive dialogue that the party "can not operate outside the Constitution, as the Party itself exists within the State" (UNHRC 2014e, 12). In other words, claiming in classic illiberal fashion that "the party and the state are one," North Korea argues that it is definitionally impossible for its ruling party to act unconstitutionally, as the party's supreme position in society is stipulated by constitution itself. The Philippines make a similar albeit narrower claim, arguing with regards to the extrajudicial killings (EJK) that the Duterte administration has carried out through the course of its antidrug campaign that "[i]n the absence of a domestic law specifically defining EJK, any killing outside legitimate police operations is considered as murder or homicide" (UNHRC 2017b, 16). In its third recommendation response, the country argues further that any deaths that "occurred in the course of the implementation of the AID [anti-illegal drug campaign], are not EJKs. These are deaths arising from legitimate law enforcement operations or deaths that require further investigation following the established rules of engagement by the country's law enforcers" (UNHRC 2017c, 5). Together, these statements imply that since the category of "extrajudicial killing"—which denotes an unlawful death carried out by a state representative—does not exist in domestic Philippine law, any unlawful killing by the police must by definition be considered "murder" or "homicide"—categories describing private acts of individuals—and, moreover, that most deaths resulting from the anti-drug campaign do not even amount to the latter since they are the consequence of "legitimate law enforcement operations." In this way, positive legal categories are applied to delineate the "conditions of possibility" for a given material act in society.

A final prominent example of this tactic is found in Turkey's reports. As alluded to in the *non-discrimination* (4.2.1) section above, the country employs a rigid interpretation of both national and international law to withhold from its Kurdish population official minority status and the legal rights this status entails. The country's first report states:

> Under the Turkish constitutional system, the word "minorities" encompasses only groups of persons defined and recognized as such on the basis of multilateral or bilateral instruments to which Turkey is party. In this context, "minority rights" in Turkey are regulated in accordance with the Lausanne Peace Treaty (1923). According to this Treaty, Turkish citizens belonging to non-Muslim minorities fall within the scope of the term "minority". Turkish legislation which is based on the Lausanne Peace Treaty contains the term "non-Muslim minority" only. (UNHRC 2010a, 16)

The country explicitly spells out the implications of this particular definition of minority status in its second interactive dialogue. There the state delegation explains: "Minority rights in Turkey were regulated in accordance with the Treaty of Lausanne of 1923; only non-Muslim citizens were recognized as 'minorities'. No other definition of minority existed in Turkey" (UNHRC 2015b, 6). The primary consequence of this definition is that Turkey's Kurdish population, as a Muslim minority, cannot legally exist as such, and it therefore has no legal claim to the minority rights that the Lausanne Treaty guarantees, such as the protection of linguistic and cultural heritage and a minimum degree of local autonomy. Thus, simply by claiming adherence to the law, Turkey can deny the existence and thereby rights of its largest minority community—notwithstanding the declaration made by the Permanent Court of International Justice (1930, 22) nearly 90 years ago: "The existence of communities is a question of fact; it is not a question of law." Indeed, the core purpose that the application of positive law here serves is to establish the law *as* fact, eroding any contradictions that may arise between the two.

ii. Separation of powers

One recurring reason that the countries in this sample are considered illiberal to varying degrees is that they lack a robust system of institutional checks and balances. Either officially or unofficially, directly or indirectly, the federal branch of government in each state—with the possible exception of Nigeria—exerts undue influence on the legislative and judicial branches in order to obtain its desired political results. Yet the countries' UPR reports nevertheless invoke the principle of the separation of powers to relinquish responsibility for laws that have attracted international criticism, claiming that the executive's failure to enforce a law passed by an ostensibly independent legislature and/or upheld by an ostensibly independent judiciary would contravene the rule of law. Therefore, according to this reasoning, the government is bound to enforce the law in question simply as a requirement of good governance.

A few brief examples serve to illustrate this tactic. Addressing criticism that the country has retained article 377A of its penal code—which criminalizes sex between mutually consenting men—even after a 2007 legislative reform that repealed numerous other provisions of the same section, Singapore states in its second report: "377A of the Penal Code was thoroughly and passionately debated in Parliament in 2007. In 2013, two legal applications were made to challenge the constitutionality of section 377A and the Court of Appeal upheld its constitutionality in both cases" (UNHRC 2015a, 18). This justification of the article, however, which appeals to the integrity of the legislative and judicial processes that upheld it, makes no mention of the fact that the ruling People's Action Party has held throughout the time period in question a large majority of parliamentary seats, nor of the international consensus that the country's judicial branch "generally affirms the principles espoused by the Government" (Think Centre 2011, 4), thus rendering both these legislative and judicial outcomes a likely reflection of the state's preferred policy. Similarly, the Philippines identifies during its third review cycle no less than 99 human rights recommendations received during the previous cycle that the country generally supports, although it "cannot guarantee or commit to their fruition given that the results of processes required to implement them are beyond the sole control of any of the branches of the government" (UNHRC 2017c, 2)—this despite the fact that President Duterte's governing coalition currently holds a supermajority in the country's House of Representatives and both UN and nongovernmental agencies have called into question the judiciary's independence in recent years (UNHRC 2017a, 4; 2017d, 5). North Korea, for its part, does directly address criticism of the country's politicized judicial system, arguing against such a characterization of it, seeing as while the ruling party may at times engage with the courts, it does so only to provide them with "policy guidance to ensure independence and law observance in the judicial activities" (UNHRC 2010b, 12). In each of these cases, then, states justify a certain illiberal outcome—discrimination on the basis of sexual orientation; the failure to act on international recommendations; even, counterintuitively, close coordination between the ruling political party and the judiciary—by claiming respect for the separation of powers.

iii. The fight against impunity

One of the most crucial aspects of the rule of law is that it applies equally to all members of society, including state officials. Thus, a government can demonstrate genuine commitment to the rule of law by holding its own representatives accountable for their actions and prosecuting them for any crimes they may commit in either public or private capacities. Enforcing such accountability, however, which states often describe as an effort against "impunity," may also

provide cover for executive interference into judicial matters, allowing leaders to eliminate political rivals or independent functionaries under charges such as corruption or abuse of power, thus undermining the separation of powers that the states otherwise claim to support.

One prominent example of this tactic is the high-profile anti-graft campaign that Chinese President Xi Jingping launched upon assuming power in 2012. Since then, over 1.3 million CCP officials—both high-ranking "tigers" and low-ranking "flies"—have been arrested on a variety of corruption charges (Zheng 2019). In many ways, this is a welcomed initiative given that corruption has undoubtedly been a longstanding and systemic problem throughout China, as repeatedly noted by several UN bodies—for instance the Committee on Economic, Social and Cultural Rights (CESCR 2014, 3), according to which "prevalent and widespread corruption" among Chinese public officials has had "a negative impact on the realization of economic, social and cultural rights, particularly at the provincial and municipal levels." It is therefore not surprising that China touts in its third report the government's anti-corruption drive as an important human rights initiative and vows, in the interest of the "integrated development of rule of law," to redouble its efforts in this regard: "The fight against corruption will be resolutely carried forward, without forbidden zones and with full coverage and zero tolerance" (UNHRC 2018b, 19). However, while the international community may thus be favorably inclined towards President Xi's "zero tolerance" policy, some of the policy's implications may in fact run counter to liberal human rights principles. First, as noted in China's own report, corruption is punishable by death under domestic law, a notable fact given that the country has received sustained criticism from the international community for its extensive use of this sanction, the actual extent of which it guards as a state secret (UNGA 2012b, 11). Moreover, an issue that neither the state nor—somewhat more surprisingly—the UN compilation report mentions is that President Xi's anti-graft campaign is "deeply politicized" (Human Rights Watch 2018), as the oversight agencies charged with carrying it out have officially and openly declared that their "most fundamental mission" is to "resolutely safeguard [President] Xi's status as the core of the CCP Central Committee and the whole Party…" (Gao 2019). Thus, invoking the rule of law to prosecute party officials, many of whom are sentenced to death for their alleged crimes, appears to be one tool with which President Xi has been able to "consolidate personal power to a degree not seen in China for decades."

Saudi Arabia provides similar examples. In its second report, the country states that travel ban orders, which it claims "can be made only by a court or as provided by law," exclusively target "suspects in security and criminal cases and cases involving private claims,

effectively strengthening the fight against impunity" (UNHRC 2013c, 21; emphasis added). Numerous NGOs, however, note in their stakeholder reports that this explanation often serves as an excuse to impose travel bans on domestic human rights activists (UNHRC 2013e, 7). Further, in its third report, Saudi Arabia promotes a 2017 Royal Order that established a high-level committee chaired by Crown Prince Mohammed bin Salman with the mandate to "eradicate corruption and protect public funds…" (UNHRC 2018c, 11). Yet on the very same day it was established, this committee ordered what became known as the "Ritz-Carlton purge," during which over 200 public figures, including businessmen, political activists, and prominent members of the Saud royal family, were forcibly held at the luxury hotel in Riyadh for a period of several months, under corruption charges, without access to legal representation (UNHRC 2018f, 4). The *New York Times* later described the purge in a deeply sourced story as a "coercive operation, marked by cases of physical abuse, which transferred billions of dollars in private wealth to the crown prince's control," greatly weakening the position of his political rivals in the process (Hubbard et al. 2018). Thus, like President Xi, Crown Prince Salman appears to have further consolidated his grip on power under the guise of an anti-corruption campaign.

Syria and North Korea, finally, provide a slight variation on this theme by invoking crimes relating to the abuse of power, rather than corruption, to impose political discipline among state functionaries. In its first report, Syria demonstrates its supposed commitment to accountability by describing the strict punishment that malfeasant public officials receive: "Articles 357 and 358 [of the Syrian penal code] state that any public official who arrests or detains a person other than under the conditions provided for by law is liable to punishment. This offence is classified as a serious crime for which the penalty is a fixed term of hard labour" (UNHRC 2011c, 8). Disregarding for a moment the "widespread impunity" that the Committee against Torture (CAT 2010, 5) has observed Syrian officials to in fact enjoy, what is striking here is how the country promotes forced labor—a penalty that international law prohibits and which the International Labor Organization has urged Syria to strike from its criminal code (UNHRC 2011a, 12)—as a tool of good governance. Similarly, under the heading "The right to submit complaints and petition," North Korea states in its second report:

> Special attention was directed to complaints concerning the method and style of work of law enforcement officials. Complaints and petitions concerning their infringement of citizens' rights were rigorously dealt with and punished at the law enforcement organs at all levels, thus raising citizens' trust in the latter. (UNHRC 2014c, 7)

While presented in this paragraph as a means of citizen redress, the punishment dealt to North Korean law enforcement officials for alleged abuses of power assumes a different connotation when considered within the context of the country's actual legislation. The UN's Special Rapporteur on North Korea provides the key detail here, noting that Article 129 of the country's Criminal Code "subjects judges to criminal liability for handing down 'unjust judgements'" (UNHRC 2012a, 8), a term understood in practice as politically inexpedient verdicts rather than legally flawed ones. Consequently, the Rapporteur states that this provision "endanger[s] the independence of the judiciary" and "seriously jeopardize[s] the rendering of independent and impartial justice" (ibid., 9). Thus, a legal provision ostensibly promoting accountability in the judiciary becomes another disciplinary tool at the disposal of political leadership.

iv. Public promulgation

Public promulgation is yet another recurring component in most definitions of the rule of law. There are two principal reasons for this. First, it is an intuitive moral claim that it is fair to hold a person accountable for breaking the law only if that person has a reasonable chance of knowing what the law is. Second, specifying the conditions of and penalties for a crime is necessary to create a legal framework that is consistent, coherent, and predictable, thus ensuring that the law treats all citizens equally. Therefore, a common criticism that the transnational human rights regime levels against the legal systems in authoritarian states is that they are not sufficiently codified, permitting arbitrary arrests and sentences for acts that defendants may not even have known to be illegal. This is a criticism, however, that many of the reviewed states leverage to promote the introduction of illiberal legislation, arguing that doing so represents a form of codification that strengthens the rule of law and thus human rights protections.

In this vein, Syria's first report champions a decree that President Assad signed in 2011 to regulate public demonstrations. The report repeatedly emphasizes the ways in which the decree codifies and thereby supposedly strengthens this expression of the right to assembly:

> "[The decree] *defines* the procedures for authorizing peaceful protests and *identifies* the institutions responsible for giving such authorization. It also *specifies* which judicial body is competent to hear appeals against decisions to refuse permission to hold a peaceful protest and *defines* offences and penalties in connection with the staging of unlawful demonstrations or riots." (UNHRC 2011c, 20; emphasis added)

Each italicized word in this excerpt highlights the stipulative effects of the decree: it "defines," "identifies," and "specifies" a range of legal procedures to govern the orderly conduct of public

demonstrations. However, the excerpt makes no mention of precisely *what* these provisions stipulate. To find information on this substantive aspect of the decree, one must consult a report from the International Bar Association's Human Rights Institute (2011, 17), which claims that the decree's main effect is to restrict opportunities for political expression and public assembly by imposing "stringent licensing requirements for demonstrations." Thus, while the decree does indeed codify the regulations governing the exercise of a certain right, it does not *per se* strengthen that right, as the codified procedures are decidedly restrictive in nature.

Two additional countries further illustrate this tactic. The first is Saudi Arabia, which references in its third report the "many measures" that the country has taken to "promote gender equality within the framework of Islamic sharia law," including "the codification of judicial rulings on personal status matters" (UNHRC 2018c, 16). Yet these are the same rulings that the Committee on the Elimination of Discrimination against Women (CEDW 2018, 3) describe as "discriminatory" and recommend abolishing. The second country is China, which makes particularly stark use of this tactic by elevating it to the highest level of generality, claiming in its third report that "some 265 laws were enacted and put into effect by the end of April 2018, and the socialist legal system with Chinese characteristics is improving day by day" (UNHRC 2018b, 3). Such a maneuver, which equates a proliferation of laws with an increase in the overall quality of the legal system, neatly encapsulates this tactic's core logic.

v. Summary

The rule of law is a fundamental governing principle to which liberal and illiberal states alike claim adherence. They differ, however, in precisely what this adherence entails. In the liberal view, the rule of law encompasses both a set of institutional criteria governing a legal system's procedural conduct (public promulgation, equal enforcement, independent adjudication, etc.) and a set of moral criteria governing its substantive content (human rights standards and norms). The illiberal view, on the other hand, holds that only the institutional criteria are relevant. In other words, there exists disagreement as to whether the rule of law simply governs *how* laws are enforced or also *what* they enforce. Philosophically, this disagreement turns on the difference between natural and positivist doctrines of law. The former judges the legitimacy of a law in part by reference to an extralegal moral standard, while the latter makes this evaluation strictly on the basis of the law's formal validity within the legal system of which it forms a part. Thus, applying a positivist law doctrine, the illiberal states reviewed in this thesis commonly invoke adherence to a given legal provision as evidence of their commitment to the rule of

law—and by extension human rights—even if the effect of that provision results in human rights violations in the classic liberal sense. This analysis has uncovered four main varieties of this strategy. The first and most common seeks to justify an illiberal practice by appealing to its formal lawfulness under a domestic statute. The remaining three argue that the practice actively promotes a certain aspect of the rule of law, namely the separation of powers, the fight against impunity, or public promulgation. In each instance, the legal institutionalization and/or enforcement of a practice violating a liberal human right is presented as a human rights victory.

4.2.3 Criminal justice

Criminal justice is closely related to the rule of law but denotes a narrower set of practices pertaining specifically to the legal procedures regulating the arrest, trial, and punishment of criminal suspects. While an effective criminal justice system is clearly necessary to ensure a safe and orderly society and is thus critical to the fulfilment of many human rights, it also entails deep invasions into the privacy and liberty of the individuals it targets and can in this way also result in human rights violations. A central aim of the transnational human rights regime is thus to ensure that states deliver criminal justice in a manner that safeguards the rights of both victims and suspects. Indeed, the main intergovernmental body dealing with criminal justice issues, the UN Office on Drugs and Crime (UNODC), emphasizes in a policy paper that "the incorporation of a rights based approach" is an "integral part" of the organization's work, and while its activities offer "many opportunities for a positive impact and the promotion of human rights," it must also strive to mitigate the "small, but everpresent, risk" that law enforcement has "a *negative* impact on human rights" (UNODC 2012, 6; emphasis in original). Similarly, motivated by this same insight, the UNHRC has appointed several special rapporteurs to investigate criminal justice abuses among member states, such as the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism. Essentially, such initiatives are meant to ensure that states uphold throughout their criminal justice systems a certain procedural standard that gives due regard to the interests of the accused.

The analysis conducted for this thesis finds illiberal states vernacularizing several components of this standard in a way that results in outcomes antithetical to liberal notions of criminal justice. Such practices include leveraging the "right to counsel" that criminal defendants enjoy under international law to appoint them public and politically pliant defense attorneys who do not meaningfully challenge the prosecution's case (China and Syria), as well as giving offenders convicted of committing hate crimes against LGTBQ individuals unusually

lenient jail terms following the logic that the victim's sexual orientation constitutes a "mitigating factor" that unduly provoked the offender (Turkey). Due to space constraints, however, I will limit this discussion to the most common tactic, which pivots on punishment.

Historically, there have been three main justifications for punishing individuals who break the law: retribution, deterrence, and/or rehabilitation. Retribution as the goal of punishment is backward-looking, premised on the moral argument that punishing an individual for an offense that he or she committed in the past is necessary in order to restore justice. Deterrence is forward-looking, premised on the rationalist argument that the threat of punishment will prevent crime by altering its incentive structure. Rehabilitation, finally, is also forward-looking in that it seeks to instill or restore pro-social behavior in the offender through interventions such as cognitive therapy, education, and job training, thereby reducing the chance of recidivism. In the liberal tradition, retribution alone does not generally serve as sufficient ethical justification for punishment. Indeed, liberals are prone to associate the theory with humanity's baser instincts, an Old Testament-style mentality that is unproductive insofar as it serves as a "mere rationalization of vengeful feelings" (Rachels 2014, 469) that serve no useful purpose and which enlightened society should therefore withstand. Liberals are thus more inclined to favor the two forward-looking theories: deterrence and rehabilitation. This section will illustrate how the reviewed states vernacularize these two principles to sanction several forms of punishment that the transnational human rights regime typically opposes.

i. Deterrence

Deterrence has been the primary objective of punishment for liberals of the utilitarian variety since Bentham (1948, 170), who argued that all punishment is "evil" and "ought only to be admitted in as far as it promises to exclude some greater evil." The theory later influenced the evolution of international jurisprudence within the liberal world order, where it was identified as "the major justification" for the development of international criminal law in the postwar period, in contrast to the retributive motive, which has not figured as "a consistent factor in the making of most international penal laws" (Hassan 1983, 60). Yet it is also evident that the deterrence motive can be framed in such a way as to align it with the illiberal pursuit of a "greater cause," justifying harsh and perhaps disproportionate punishment for crime in order to maintain a law-abiding populace. This is an approach favored by several states in this analysis.

For example, Singapore declares in its second report that the "cardinal objective" of the country's criminal justice system is to "deter crime and protect society against criminals" (UNHRC 2015a, 17). To this end, it mandates harsh sentences even for non-violent offenders:

"Traffickers [of drugs] can be jailed for up to 10 years and fined up to S$100,000 for the first offence. The Court may also impose caning. We support these strong penalties because they serve as a strong deterrent against this serious crime" (ibid. 14). In this way, despite the general consensus under international law that any form of corporal punishment "amounts to cruel, inhuman or degrading treatment" and therefore "does not qualify as a lawful sanction" (UNGA 2012a, 5), Singapore leans on liberalism's traditional acceptance of deterrence as a legitimate motive for punishment to nonetheless justify caning as an institutionalized criminal penalty.

This same reasoning also informs the justification for an even more severe sentence, namely the death penalty. Saudi Arabia states during its first interactive dialogue that the country has "a clear position on capital punishment, which is considered deterrent in Islamic chari'a" (UNHRC 2009g, 15), while Nigeria goes so far as to claim that the practice in fact saves lives: "The right of man to life is the most fundamental human right. Government uses the death penalty as a deterrent to protect human life" (UNHRC 2013b, 9). While the death penalty is not prohibited under international law, Article 6 of the ICCPR restricts its application to "the most serious crimes" (UNGA 1966) and the treaty's Second Optional Protocol encourages state parties to abolish the penalty based on the belief that doing so "contributes to enhancement of human dignity and progressive development of human rights" (UNGA 1989). As both Saudi Arabia and Nigeria apply the death penalty as a legal sanction not only for the "most serious crimes" such as murder but also non-violent offenses like adultery, homosexuality, and blasphemy, they too have evidently seen fit to deploy an illiberal interpretation of the traditionally liberal deterrence paradigm in order to legitimize this practice.

ii. Rehabilitation

Rehabilitation constitutes the second liberal theory of punishment. This theory exerts perhaps an even greater influence than deterrence on contemporary Western jurisprudence, with Rachels (2014, 470) designating it the "single most important force in shaping the modern criminal justice system" in traditionally liberal countries such as the US. It has also become the predominant rationale within institutions of global governance, where it forms the centerpiece of current views on best practices in the criminal justice sector. Indeed, in the 2015 Doha Declaration adopted at the 13th Congress on Crime Prevention and Criminal Justice, UN member states committed to "implement and enhance policies for prison inmates that focus on education, work, medical care, rehabilitation, social reintegration and the prevention of recidivism…" (UNODC 2015, 4). In addition, they pledged to "promote and encourage the use of alternatives to imprisonment, where appropriate, and to review or reform our restorative

justice and other processes in support of successful reintegration" (ibid.). These provisions clearly highlight rehabilitation as a desirable objective of punishment and support its application through alternative, less-invasive approaches to incarceration such as restorative justice.

Behind this general commitment, however, the specific grounds for and means of rehabilitation remain open to interpretation. This has allowed illiberal states to also partake in the discourse in a variety of ways. Often, their rhetoric amounts to little more than lip-service references to rehabilitative vocabulary, as when the Philippines claims that a primary goal of President Duterte's anti-drug campaign is "the rehabilitation and reintegration of surrendering drug users" (UNHRC 2017b, 2), or when Syria describes its juvenile correctional facilities as "reform institutions" (UNHRC 2016c, 25). In such cases, the countries' engagement with the rehabilitation paradigm is rather superficial, limited to the semantic level without further explicating the paradigm's motivating logic. In other cases, however, countries demonstrate a deeper familiarity with rehabilitative concerns and more actively leverage them to justify the underlying rationale for their criminal justice practices. Saudi Arabia is the most consistent and characteristic voice in this context, as for instance demonstrated by the country's second report, wherein it employs rehabilitative rhetoric to defend corporal punishment under sharia:

> In the interest of supporting the correction and social rehabilitation of convicted persons and limiting the damage caused by imprisonment, it being one of the most damaging penalties, the Kingdom's judiciary has tended to opt for alternative penalties to imprisonment. In so doing, it draws on the breadth of sharia law, on which its rulings are based, and on the educational perspectives of sharia whereby punishment is a tool for correction and rehabilitation. (UNHRC 2013c, 9)

Here Saudi Arabia effectively invokes contemporary mainstream thinking within rehabilitative criminal justice to argue that corporal punishment serves as a more humane and productive alternative to incarceration. Indeed, by condemning incarceration for its "damaging" effects, the country echoes a common sentiment in the transnational human rights regime, as for instance represented by a UNODC handbook dedicated to the matter that advocates for the use of alternative sentences seeing as in many cases "imprisonment has been shown to be counterproductive in the rehabilitation and reintegration" of offenders (van Zyl Smit 2007, 3). Saudi Arabia thus appeals to such considerations in seeking to represent the sanctions that its sharia courts commonly deliver—which, according to Amnesty International (2013, 1), include

"flogging, amputations and eye-gouging"—as in tune with the most progressive tendencies of liberal criminology.

The same country employs a similarly creative interpretation of restorative justice. This is a participatory, voluntary, and community-based approach to criminal justice that is based, according to another UNODC handbook, "on the belief that parties to a conflict ought to be actively involved in resolving it and mitigating its negative consequences" (Dandurand and Griffiths 2006, 2). Restorative justice therefore tends to occur outside the courtroom, engaging the relevant parties in an interpersonal dialogue "that emphasizes relationship building, reconciliation and the development of agreements around a desired outcome between victims and offender," often applied through the "traditional practices and customary law" of local society (ibid. 6). It is one possible alternative to incarceration, considered preferable when feasible for facilitating not only the social reintegration of the offender but also broad-based community empowerment, as well as for reducing the economic and administrative burden on the formal criminal justice system. As such, it was recognized as an important plank of the international community's approach to criminal justice in the Bangkok Declaration at the 11th UN Congress on the Prevention of Crime and the Treatment of Offenders (UNODC 2005, 6).

In its second state report, Saudi Arabia implicitly taps into the restorative justice discourse when describing *qisas* crimes. This is a category of offense under sharia jurisprudence which, somewhat ironically in this context, calls for a retributivist form of justice in mandating a penalty equal to the crime committed. As murder counts as a *qisa* offense, the punishment for this crime is usually execution. However, the victim's relatives may in such cases pardon the offender if they so please. Saudi Arabia consequently describes this prerogative as the relatives' "right" and describes the general practice as a feature of sharia's "liberality" in terms that seem to evidence a distinctly Islamic vernacularization of restorative justice principles:

> In this regard, it is a feature of the liberality and breadth of sharia law that a person convicted of killing may be pardoned by the authorities (the King) in the case of *ta`zir* offences […] or, in the case of *qisas* offences, by the next of kin, it being an irrevocable personal right of theirs to do so. It is emphasized, however, that a person convicted of killing may, if the next of kind [sic] are minors, request that their wishes concerning enforcement of the sentence be determined only after they have attained majority. It also takes only one of the next of kin, irrespective of their numbers, to issue a waiver in order for the death penalty to be set aside on the strength of the words of God Almighty: "If anyone saves a life, it shall be as if he saved the lives of all humankind." (UNHRC 2013c, 10)

This is a dense passage that does significant work in attempting to narrow the cleavage between Saudi Arabia's criminal justice system and liberal human rights norms. Not only is the death penalty a controversial punishment that the arguably most important human rights treaty aspires to abolish, but Saudi Arabia applies the penalty in this context in a manner that appears to violate principles of due process insofar as deferring to the wishes of the victim's next of kin amounts to arbitrary and inconsistent enforcement. Yet this paragraph presents the practice as a liberal form of conflict resolution reminiscent of restorative justice's emphasis on community engagement and reconciliation, staking a bold claim to square the widely divergent views on punishment espoused by sharia and human rights frameworks. Interestingly, North Korea employs a similar tactic, defending its own practice of public executions by claiming that such executions are generally held at the "request" of "the families and relatives of the victims" (UNHRC 2010b, 12). As the governing ideologies of Islamic sharia and socialist *juche* depart not only from liberalism but also from one another, this commonality demonstrates the flexibility with which illiberal states can vernacularize restorative justice—particularly the role it reserves for "traditional practices and customary law"—to align their criminal justice systems with what the transnational human rights regime views as current best practice in this sector.

iii. Summary

Criminal justice is an inherently ambiguous area of governance premised on the notion that the state may legitimately punish an individual who has committed a crime—breaching his or her *prima facie* right to liberty, bodily integrity, and/or life—in order to uphold the rights of the population at large. A central aim of the transnational human rights regime is thus to ensure that states strike an appropriate balance in this endeavor, taking due account of the offender's interests throughout criminal proceedings. This stated concern, however, also provides avenues for states to tilt the proceedings in their favored direction as their cultural or political interests may dictate. While the analysis conducted for this thesis uncovered several different ways in which states do so, the above section focused on the delivery of punishment. Specifically, it detailed the manner in which states apply two traditionally liberal justifications for punishing criminals—deterrence and rehabilitation—to legitimize traditionally illiberal sentences. In this vein, Singapore justifies caning as a punishment for non-violent offenses by referencing its "strong" deterrent effect, as do Nigeria and Saudi Arabia with regards to the death penalty. The latter country also describes corporal punishment as an effective alternative to incarceration that is more conducive to the offender's rehabilitation—the central goal of a rights-based

approach to criminal justice—and echoes that approach's tendency to use restorative justice as a conflict resolution mechanism when describing the sharia customs governing the country's application of the death penalty. In each of these cases, the state in question portrays a practice constituting cruel and unusual punishment under international law in a way that seeks to render the practice consistent with the most progressive principles of transnational criminal justice.

4.2.4 Majority rule

The label "liberal democracy" has become so ubiquitous that liberalism as such is often defined as a democratic form of government. This is in part due to the post-Cold War empirical record that saw liberalism and democracy emerge hand-in-hand across large swaths of the former Eastern and non-aligned blocs, as well as to the liberal tendency to claim democracy itself as a human right. This second factor has its basis in Article 21 of the UDHR, which states first that "Everyone has the right to take part in the government of his country, directly or through freely chosen representatives" and second that "The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures" (UNGA 1948). Invoking this article, a range of political theorists including Benhabib (2013), Christiano (2011), Franck (1992), Gould (2014), and Gilabert (forthcoming) have argued that all people have an inherent claim to live in a democratically governed society.

Thus, for both empirical and theoretical reasons, it has become commonplace to portray liberalism and democracy as two sides of the same coin. Yet as Zakaria (1997) reminds us, the two words are in fact conceptually distinct: liberalism refers to the objectives of government, whereas democracy denotes the procedures by which the government is selected. In other words, the former describes a political ideology (individual freedom) while the latter describes a decision principle (majority rule). Although the two concepts are closely associated in the contemporary West, this confluence is not inevitable, nor does it describe the prevailing state of affairs in other geographic regions or in other historical periods. Indeed, the term Zakaria uses for the title of his article refers to the many "illiberal democracies" that hold at least partially free multiparty elections yet exert power through politicized courts and intrusive laws that restrict personal autonomy. By the same logic, Zakaria classifies many East Asian states as "liberal autocracies"; that is, countries that do not hold competitive elections, but which generally uphold the rule of law and respect their citizens' freedom of speech, thought, and assembly—a description that also applies to many of the political systems found throughout Europe during the 19th and early 20th centuries, such as the United Kingdom and the Austro-

Hungarian empire, which strictly limited suffrage but tolerated a considerable degree of social diversity and political dissent. As such, democracy and liberalism are not inherently linked.

Furthermore, according to Zakaria, not only are the two concepts separable, but democratic politics may in fact have a destabilizing effect on liberal governance. This is so for several reasons, chief among them the need to mobilize popular support, which often spurs sectarian appeals from political elites that increase social fractionalization, as well as the tendency of sovereigns convinced that they represent the "will of the people" to claim absolute power, both of which may result in a "tyranny of the majority" that erodes legal protections for dissenters and minorities—a hallmark of liberalism. It is therefore necessary to clearly distinguish between these two terms not only for analytical but also political purposes.

This is a distinction, however, that most states in this analysis elide. While none of these states qualifies as a fully consolidated democracy, they all commonly invoke majoritarian principles to defend the legitimacy of illiberal policies. Such arguments are enabled precisely by the tension Zakaria identifies between purely democratic decision mechanisms and effective minority safeguards, a tension which, if resolved in favor of the former, can result in violations of a minority group's rights that are justified simply by virtue of the group's numerical inferiority. Arguments seeking to validate a certain illiberal practice by asserting that it furthers a majority interest is thus a simple if dubious way to portray the practice as democratic and thereby claim an association with transnational human rights standards.

The present section will illustrate this strategy in further detail. Analysis of the state sample's UPR documentation reveals that states most often deploy this line of argument by appealing to one of two related yet distinct considerations: popular opinion and majoritarian institutions. The section is therefore structured according to these two justifications.

i. Popular opinion

Many states seek to legitimize a right-violating practice by claiming that it expresses the will of the people. Oftentimes such claims—like the appeals to criminal rehabilitation discussed above—take the form of rather perfunctory allusions that appear deliberately vague and underspecified in order to command credulity. For instance, China argues in its third report that the country's media laws are meant to "encourag[e] the media to exercise social oversight by reflecting public opinion in accordance with the law," without further expounding on what such "reflection" in fact entails (UNHRC 2018b, 6). In similarly ambiguous fashion, Syria claims in its second report the government's handling of the civil war is motivated only by its desire for a "political solution" that will "implement the will of the Syrian people" (UNHRC 2016a, 20).

North Korea also aligns its system of governance with popular sentiment by way of rote phrasing, declaring in its first report: "It is up to the people of a country to decide what type of political and economic system they wish to choose. The social and political system established in the DPRK is a socialist system of the Korean people's own choice" (UNHRC 2009b, 15). In short, these comments all seek to validate illiberal practices by portraying them as an expression of popular sentiment, dismissing discussion of any other criteria by which to evaluate their legitimacy or of the extent to which the practices do in fact reflect public preference.

Sometimes states lend more weight to such arguments by citing public opinion surveys in support of them. The Philippines, for instance, employs this tactic in its third report when defending President Duterte's anti-drug drive, stating: "Recent nationwide surveys reflect overwhelming public support for the GPH's campaign against criminality and illegal drugs. Latest statistics from Pulse Asia show that 82% of Metro Manila residents feel safer because of GPH's campaign against illegal drugs" (UNHRC 2017b, 17). Similarly, Singapore refers in its first report to surveys by two internationally respected polling institutions to defend the independence and integrity of the country's press: "A 2005-06 Gallup survey showed that 7 in 10 citizens had confidence in Singapore's media. The 2010 Edelman Trust Barometer found that 68% of the Singapore population trusted the articles they read in the newspapers as credible sources of information, the highest among developed countries in Asia, the Americas and Europe" (UNHRC 2011b, 20). In this same vein, Nigeria rejects same-sex marriage by reference to public opinion indicators, claiming without a citation that "[r]ecent polling data suggests that 92% of Nigerians support the Anti Same-Sex Marriage Bill passed by the Senate" and thereby concluding, after noting the bill's main provisions, that "same-sex marriage is not in the culture of Nigerians" (UNHRC 2013b, 9). In slight variations on this theme, Saudi Arabia and China both refer to statistics—also unsourced—to justify practices that the countries seem to acknowledge violate liberal norms, but which they argue are entrenched in traditional beliefs and are therefore not yet ripe for remedy. With regards to the country's now-lifted ban on female drivers, Saudi Arabia's delegation claims in the country's first interactive dialogue that "there is a problem of stereotyping regarding women: for instance, 80 per cent of Saudis do not believe that women should drive cars. However, there is no religious or legal impediment on the right of women to drive" (UNHRC 2009f, 14). China takes a similar tack with regards to capital punishment, as the first UN report on the country refers to a note that Chinese authorities sent to the Special Rapporteur on extrajudicial, summary or arbitrary executions, stating:

> [E]ven though attitudes towards capital punishment and understanding of the issue have undergone considerable evolution in recent years in the judicial and theoretical fields, as well as in society in general, surveys show that retaining the death penalty for [extremely serious crimes] still garners widespread approval. Some 90 per cent of the population demand application of the death penalty in very serious cases of economic and other non-violent crime […] We have also taken note of the fact that the questions of whether and when to abolish capital punishment in China are under discussion in academic circles and among the general public. The mainstream viewpoint, however, is that the practical conditions for abolition of the death penalty do not yet exist in China. (UNCHR 2006, 16)

While these comments thus express varying levels of support for the practice in question, they all defer to public preference in either promoting or excusing them, further bolstering their case by citing concrete numbers from opinion surveys. Although the origins and veracity of these surveys are not always clear, the kind of popular polling they represent is typically associated with the highly competitive and densely technical approach to electoral campaigning that is a hallmark of Western liberal democracy, and these references thus pivot on that association to garner illiberal practices ranging from draconian drug laws to capital punishment to anti-gay legislation greater legitimacy within the transnational human rights regime.

ii. Majoritarian institutions

Popular opinion, however, does not by itself command the force of law. To demand adherence, it must be aggregated and implemented through formal mechanisms. Many countries therefore design and invoke such majoritarian institutions to lend their arguments more weight. Syria is arguably the most consistent voice here, repeatedly appealing to elections and referendums as legitimizing devices. For instance, the country champions in its second report the revised constitution it adopted in 2012—which numerous domestic NGOs criticized for retaining provisions undermining the independence of the judiciary and protecting the President from accountability (UNHRC 2016d, 2)—by citing the official results of the referendum by which the revisions passed: "In a referendum held on 26 February 2012, the citizens of the Syrian Arab Republic approved a new national constitution by a proportion of 89.4 per cent, with a participation rate of 57.4 per cent of Syrian citizens at home and abroad" (UNHRC 2016a, 5). The country also takes this same approach when describing President Assad's victory in the country's 2014 election, plainly stating that he "won that election with a majority of votes of

the Syrian people" (ibid. 6)—albeit without commenting on Freedom House's (2016a) claim that "[t]he voting was conducted only in government-controlled areas and in a climate of severe repression." Further, when looking forward towards a way out of the crisis, the country reaffirms "its constant position" in similar terms, maintaining that the solution must be "a political one […] based on Syrian-Syrian dialogue under Syrian leadership and without preconditions, to be followed by the formation of a government of national unity which is entrusted with the elaboration of a constitution to be put to a popular referendum for approval…" (UNHRC 2016a, 29). The popular vote is thus portrayed here as a panacea to the country's ills.

Of course, Syria is not alone in gesturing to elections in pursuit of legitimacy. Nigeria also seeks to affirm its democratic bona fides following the fall of the country's long-ruling military junta at the turn of the millennium, declaring in its first report: "In April 2007, Nigeria held its third consecutive national elections, further consolidating the transition from military to democratic rule that began in 1999" (UNHRC 2009c, 2). Like Syria, however, the country does not comment on the integrity of this election, during which Human Rights Watch (2009b, 1) reported that "[p]owerful ruling party politicians were very credibly implicated in mobilizing armed gangs responsible for election-related violence and orchestrating the brazen rigging of the elections." Indeed, the election lends empirical credence to Zakaria's argument that democracy can breed sectarian strife and rights violations in the absence of stabilizing institutions, as political leaders "manipulated intercommunal tensions by actively sponsoring violence to advance their political positions," including by "openly recruit[ing] and arm[ing] criminal gangs that unleashed terror upon their opponents and ordinary citizens, leaving some 300 people dead" (ibid., 2). Thus, the "democratic transition" that this election supposedly "consolidated" does not appear much preferable to military rule measured in terms of causalities.

It is North Korea, however, that provides the most innovative example of this tactic, as the country employs elections not merely as an ancillary tool with which to legitimize illiberal outcomes but as a primary means of authoritarian surveillance in and of itself. In its first report, the country describes allegedly open and free elections for its national legislature: "All citizens who have reached the age of 17 have the right to elect and to be elected, irrespective of sex, nationality, occupation, length of residence, property status, education, party affiliation, political views or religion" (UNHRC 2009b, 8). Of course, as a stakeholder report from Life Funds for North Korean Refugees (LFNKR) and Human Rights Without Frontiers (HRWF) details, these elections are essentially meaningless, as only the ruling Workers' Party can field candidates and the legislature serves simply to "rubber-stamp" the Kim family's decisions, such that North Koreans in reality "have no redress to their Member of Parliament and no choice of

elected representative" (LFNKR-HRWF 2009, 3). Perhaps more surprising, however, is that North Koreans do not only have a "right" to vote in these show elections but are in fact mandated to do so. Indeed, the *New York Times* reports that the country holds elections "as an effective political census," one that provides opportunity "to check up on the whereabouts and the political allegiance of citizens, as well as the ability of local Workers' Party officials to mobilize residents" (Sang-Hun 2014). Elections fill this function by nominally allowing voters to reject their district's chosen candidate but requiring them to do so by publicly striking out the candidate's name on the unmarked ballot, a move that effectively outs them as political dissenters and renders the entire process "a monitored event" to ensure party loyalty (ibid.). Nor is simply abstaining from the vote a safer option, as local party officials have lists of all eligible voters in each district and will investigate anyone who fails to turn in a ballot. This has led to the rather curious phenomenon of North Korean defectors in China sneaking back into the country on election day to register their vote and thus avoid suspicion that could result in reprisals against themselves or their family (Hotham 2014). This illustrates the success with which the country has been able to harness elections—the core definitional feature of democracy—to maintain the supremacy of the Workers' Party and the Kim dynasty's rule.

Finally, some countries extend the use of majoritarian mechanisms beyond the paradigmatic and headline-grabbing form of national elections. Turkey, for instance, applies this principle in a less consequential yet more circumspect manner when explaining that the 15-member governing body of the country's General Directorate of Foundations—which oversees religious institutions—has only one non-Muslim member because the Council's membership is determined on the basis of "numerical ratios" according to the country's demographic makeup (UNHRC 2010a, 17). Likewise leaning on pure arithmetic, China notes a 2010 amendment to the country's election law that requires deputies to the National People's Congress to be elected "in the same proportion to the urban and rural populations" (UNHRC 2013a, 11), a reference to the fact that deputies from rural districts represented until the amendment constituencies that were many times larger than those represented by urban deputies due to the historical concentration of the country's population in rural areas (National People's Congress of China 2013). The legislative change to equalize these ratios seems innocuous until viewed within the broader context of China's urbanization policy, without which the equalization would not have been feasible, but which the UN's Special Rapporteur on extreme poverty claims has resulted in "millions of rural farmers [being] rendered landless" through "the expropriation of rural land and its conversion into urban construction land" (UNHRC 2018a, 3). Presenting the election law amendment as essentially democratic in nature thus becomes more conspicuous in this light.

iii. Summary

Liberalism and democracy are considered a natural pair for both empirical and theoretical reasons. Empirically, their coexistence in contemporary Western society has led to a close habitual association between the two. Theoretically, the increasingly prominent tendency to include democracy in the liberal batch of human rights has further cemented this association. Yet, as discussed above, democracy strictly defined refers only to the decision principle of majority rule, while liberalism denotes the political ideology to which that rule may—but need not—aspire. Indeed, in the absence of constitutional safeguards protecting minority rights, democracy can easily adjudicate political questions in an illiberal manner if a majority so desires. This is what characterizes the discourse reviewed in this section, as states justify the restriction of civil, political, and social and economic rights either by simply claiming that the violations reflect popular opinion—sometimes bolstering such claims with empirical support in the form of opinion surveys and polling data—or by appealing to the legitimacy of majoritarian institutional procedures that are meant to formally aggregate, implement, and enforce public preference. That either tactic is possible underscores the argument that liberalism is more than democracy, and it suggests that if liberals are in fact correct in their assertion that democracy is a human right, that right is liable to come at the expense of others.

4.2.5 Developmentalism

In Marshall's (1950) classic schema, social and economic rights form the third category of rights after civil and political ones. They emerged as a distinct class of claims at the beginning of the 20th century as the structural upheavals that Western countries experienced as a result of industrialization, capitalism, immigration, and urbanization exposed their populations to unprecedented economic risk and social volatility. These developments spurred calls for government to provide not only negative safeguards against the abrogation of personal freedom but also positive protections in the form of labor regulations, social security, healthcare, and so on, which were now considered necessary to secure individuals the material means required to fully enjoy the civil and political freedoms bestowed by the prior two sets of rights.

Subsequently, in the postwar period, this concept of rights percolated into the transnational sphere and intermingled with developmental discourse in the so-called Third World, linking human rights with economic modernization. In this perspective, developing countries were to pursue growth in order to attain the capacity required to provide the essential goods and services that international law now granted all peoples as a human right. This reasoning ultimately congealed in the emergence of the "right to development," which was first

recognized in the African Charter on Human and Peoples' Rights (1981) and later reaffirmed in the Declaration on the Right to Development (1986), the Rio Declaration on Environment and Development (1992), and the Vienna Declaration and Programme of Action (1993), all of which were either adopted or endorsed by UN General Assembly resolutions. Development thus became a human right in and of itself.

It is generally recognized that the kind of consistent and coherent economic policy that is most conducive to growth demands governmental efficiency and stability on a scale that is often challenging to attain in pluralistic, democratic societies. Thus, when developing states have claimed this right to development in international fora, it has often served as shorthand for the belief that social and economic rights take priority over civil and political ones and justify the latter's restriction. Yet as shown in the previous section on *vernacularization frameworks* (4.1), most states in this analysis do not explicitly make this argument in their UPR reports. They generally acknowledge the "indivisibility" and "interdependence" of all human rights and do not openly claim to privilege one class over another. Rather, they express a more general developmentalist mindset that seeks to deflect criticism for rights violations by portraying them as the result of objectively technocratic rather than normatively political considerations. Most commonly, they do so by touting a statist development model that leverages the government's privileged role as a public service provider to excuse highly centralized governing structures, politicized institutions, and/or invasive interventions into civil society. Alternatively, a state may renounce responsibility for a violation by claiming that it simply lacks the governmental capacity required to address it. These two categories thus structure the analysis in this section.

i. Statism

Statist development models emphasize the leading role that the government should play in planning, coordinating, financing, and executing modernization programs. In this paradigm, the government must guarantee all citizens a minimum standard of living by freely providing essential goods and services such as education, healthcare, and social security, and it is to induce growth through state-owned enterprises, infrastructure projects, import substitution, and other centralized policy instruments. This model consequently requires governments to assume a long-term perspective that extends beyond the next election and to build a strong state apparatus that extends its reach into most aspects of political, economic, and social life. As such, the model may also enable governments to harness and empower state institutions for political ends.

A common way to do so is through the educational system. This is one of the state's most central prerogatives, not only for the crucial role it plays in developing the human capital

necessary to drive growth but also for its socializing potential to cultivate a population with a certain set of civic values. A recurring trend in the analyzed UPR documentation is thus for states to tout their role in building an educational system that the transnational community criticizes as a tool of public propaganda. For example, China states in its third report: "The Chinese Government has adopted a series of policies and measures to strengthen the provision of educational resources in remote, rural and ethnic-minority areas. From 2014 to 2017, the Central Government financial authorities invested more than 162 billion yuan to improve the operating conditions for underperforming rural compulsory education schools, benefiting more than 60 million compulsory-education students" (UNHRC 2018b, 9). However, while presented here as a gain for rural development, a join submission from the Tibet Advocacy Coalition and International Tibet Network draws attention to the political nature of this investment, noting that "the authorities used 'Chinese-centric' schools as a mechanism for assimilating Tibetans into Chinese culture," for instance by imposing Mandarin as the primary language of instruction (JS35 2018, 8; UNHRC 2018e, 8). This same pattern is apparent in Syria's documentation as well, as the country assumes in its first report responsibility and credit for expanding access to education in line with development needs: "The State is the guarantor of the right to education. Education is free of charge at all stages and is compulsory at the primary stage. The State […] oversees and guides the delivery of education to make sure that education is linked to the needs of society and production requirements…" (UNHRC 2011c, 6). Yet, once again, this "oversight" of the educational system appears to be primarily political in nature, as the National Human Rights Organization in Syria contends that Syrian "school education was to a large extent focused on ideological goals rather than learning," while the Society for Threatened Peoples states that "teaching in Kurdish was prohibited. Due to this language ban, the number of illiterate persons had increased among Kurds, and many people who do not speak Arabic had no access to education" (UNHRC 2011e, 9). Finally, this dynamic also characterizes schooling in North Korea, with the country boasting in its first report:

> The Government has established and developed an advanced education system that is accessible and available to everyone. Universal primary compulsory education system and universal secondary compulsory education system were enforced from August 1956 and November 1958 respectively. Tuition fee was completely abolished at education institutions at all levels, making it possible to enforce universal secondary free and compulsory education. And 11-year universal free compulsory education system has been in force since 1972. (UNHRC 2009b, 11)

Yet while several UN treaty commissions "commended" the country for its compulsory school policy, which was on track to meet Millennium Development goals in the area of primary school enrollment (UNHRC 2009a, 10), the Special Rapporteur on North Korea also notes "various shortcomings" in the country's educational system, among others its practice of exploiting students as a source of forced labor, as well as the "ideological studies" they are obligated to take (UNHRC 2009d, 13). This latter point is supported by Human Rights Watch's (2009a, 3) stakeholder report, which states: "An ideological education with an emphasis on a "military first" policy takes precedence over academic education, and from an early age children are subject to several hours a week of mandatory military training and political indoctrination at their schools." Thus, in each of these three cases, states highlight as pro-growth development policy an educational investment that also serves to foster a pro-government population.

Nor is this tactic limited to the educational system. Turkey exerts control over both religious and cultural institutions to similar effect. Concerning the former, the country's first report explains: "The issues related to the training of clergy in Turkey are dealt in line with the provisions of the Constitution and the relevant legislation. Article 24 of the Constitution on the freedom of religion and conscience stipulates *inter alia* that education and instruction in religion and ethics shall be conducted under state supervision and control" (UNHRC 2010a, 10). According to the Committee on the Elimination of Racial Discrimination (CERD 2009, 5), this practice has consequently justified the violation of minority groups' right to freedom of religion, especially that of the country's Greek Orthodox community, whose properties have been systematically seized by the Turkish government. Similarly, with regards to cultural institutions, Turkey announces that it has lifted its ban on Kurdish-language TV and radio transmissions and that "a new multilingual state-run TV channel, TRT-6, has started to broadcast in Kurdish" (UNHRC 2010a, 8). While this could have constituted a liberal victory in both developmental and non-discrimination perspectives, the Turkish state's entrance into the Kurdish media market appears to have come at the expense of private actors who might challenge official narratives: the Media Pluralism Monitor reports that TRT "is operated as the government's propaganda tool" (Centre for Media Pluralism and Media Freedom 2016, 44) while the Kurdish Human Rights Project (2009, 5) notes that, unlike TRT, "privately operated Kurdish-language broadcasters have continued to be affected by oppressive regulations." In this way, the Turkish government can maintain its tight grip on the use of the Kurdish language in the public sphere while at the same time claiming to fulfil its obligations as a public service provider.

States also present more forceful forms of coercion within the same statist development logic. North Korea, for instance, extends its application of this tactic to sugarcoat the country's extensive use of forced labor. According to both UN and civil stakeholder reports, such labor is an important component of the country's centrally planned economy, with the UN country team for North Korea stating that North Koreans "were believed to have an obligation to work" (UNHRC 2014a, 8), a claim that Human Rights Watch further expounds on:

> The North Korean government requires forced, uncompensated labor from workers, including even schoolchildren and university students, as part of its economy. North Korea defectors reported that they were required to work at an assigned workplace after completing school, and that many of these jobs are either unpaid or provide minimal substitute compensation in the form of food or other rations. Failure to report to an assigned job for those who try to earn money in other ways can result in being sent to a forced labor camp for as long as two years. (Human Rights Watch 2013b, 4)

Unsurprisingly, however, North Korea characterizes its economic system in very different terms. In its first report, the country praises the system as an effective bulwark against unemployment: "Citizens have the right to work under the Constitution and the labour-related laws and regulations. All citizens choose their occupations according to their wishes and talents and are provided with secure jobs and working conditions by the State […] There are no unemployed people in the DPRK" (UNHRC 2009b, 9-10). Here, in effect, the country transforms the "obligation" to work into the "right" to work, reversing the direction of duty between state and citizen. This claim is made possible by the fact that strictly enforcing either an obligation or a right to work will in both cases lead to the same outcome, namely full employment—the holy grail of economic policy for liberal and illiberal governments alike.

Another country that forcibly manipulates its population in the name of state-led economic development is China. In its third report, the country details an extensive "project for poverty alleviation through relocation," which since 2013 has allocated "a cumulative total of more than 80 billion yuan in subsidies to support the relocation of 8.3 million registered poor people, provide safe and practical housing for them, and support the building of the necessary basic infrastructure and basic public-service facilities to enable them to escape poverty and take part in development." However, according to the Committee on Economic, Social and Cultural Rights (CESCR 2014, 10), such relocations have included "the resettlement of nomadic herdsmen in the 'new socialist villages' carried out […] without proper consultation and in most

cases without free, prior and informed consent." Moreover, a joint stakeholder report from the International Federation for Human Rights and International Campaign for Tibet claims that many of the infrastructure projects have impinged upon the land of indigenous communities and violated their "rights to livelihood and to adequate housing" (JS25 2018, 2). Indeed, one specific infrastructure project that the government claims has given "a powerful impetus to the development of ethnic minority areas" (UNHRC 2008a, 17), namely the Qinghai-Tibet railway, has according to a Brookings Institution report "hastened the influx of Han Chinese migration into Tibet," thereby reducing the proportion of the region's population that is comprised of ethnic Tibetans (Li 2008, 5). In this way, the railway has doubled as a tool of demographic management with which to consolidate control over a minority group.

Finally, China applies the statist development model in another manner that brings the entire discourse full circle. A rapidly developing country through the second half of the 20th century, the state has achieved consistent and significant economic growth on a scale that has now rendered it a major global power challenging US hegemony. It exerts this newfound influence in the international system in part by investing in other developing countries, building considerable leverage in emerging markets across the world. In its third report, China presents these initiatives as a form of international cooperation that seeks to help other countries pursue their own right to development in a responsible and environmentally friendly manner:

> Under the framework of South-South cooperation, China is steadily expanding the scale of its aid to other developing countries. It has put forward the Belt and Road Initiative, set up the Silk Road investment fund, and initiated the establishment of the Asian Infrastructure Investment Bank and, together with the other BRICS countries (Brazil, Russia, India and South Africa), the New Development Bank. China supports and assists aid-recipient countries' efforts to enhance their own development capabilities, reduce poverty, improve their people's livelihoods, and protect the environment, thereby creating better conditions for all peoples to realize the right to development. (UNHRC 2018b, 17)

The transnational community, by contrast, draws attention to other aspects of China's aid and development policy. The Independent Expert on the effects of foreign debt holds that "[a]lthough development projects supported by Chinese financial institutions had brought benefits, some had nonetheless had adverse environmental, social and human rights impact on certain individuals and communities," noting further that "a comprehensive framework for

ensuring explicitly [sic] respect and protection for human rights in international lending and outbound investment was still lacking" (UNHRC 2014d, 19-20). Similarly, a joint stakeholder submission from international environmental groups highlighted "alleged abuses by Chinese corporations in Sub-Saharan Africa involving violence against workers, poor wage and labour practices, unsafe working conditions, child labour, water pollution, and forced dislocation of communities" (UNHRC 2013d, 11). Against this backdrop, it would thus appear that China—arguably the most emblematic example of an illiberal state-led development strategy—has now expanded its exports beyond material commodities like food, textiles, and electronics to include this very strategy, deliberately serving as a model for other authoritarian regimes to emulate.

ii. Capacity

Guaranteeing the full range of economic and social rights enumerated in the UDHR and subsequent human rights treaties undoubtedly places a significant burden on governments. The provision of quality education, housing, health care, food, infrastructure, and social security, among other goods and services, is expensive, depends on a large and competent bureaucracy, and requires near-total government penetration of state territory. As such, effectively fulfilling these rights is beyond the means of many developing countries. The transnational community therefore emphasizes "capacity-building" in these states, a range of initiatives and investments meant to provide governments with the material resources and technical expertise required to uphold their rights obligations in the social and economic sphere. Indeed, during the first UPR cycle, an entire section of the UN's compilation report for each country was dedicated to issues of "capacity-building and technical assistance." This discourse consequently provides states with a vocabulary with which to relinquish responsibility for rights violations, more or less persuasively arguing that the main impediment to their remedy is a lack of ability—not will.

Countries across the entire development spectrum employ this tactic. Beginning at the spectrum's upper end, the Committee on the Elimination of Discrimination against Women (CEDW 2007, 5) reports that Singapore's Employment Act, which is the main piece of legislation regulating labor standards in the country, "does not cover foreign domestic workers," leaving that task to the Employment of Foreign Workers Act, which "deals mainly with the issue of work permits rather than providing the necessary protection of the rights of foreign domestic workers." This legal hole ultimately leaves such workers vulnerable to exploitation. Singapore, however, explains this omission in the Employment Act by reference to "the nature of domestic work," which supposedly "makes it impractical to regulate specific aspects of such work as prescribed under the Act" (UNHRC 2011b, 14). In other words, the country would

regulate domestic work under the Act if only it were feasible. Similarly, moving down the development spectrum, China lists in its third report current "challenges" to the fulfilment of the country's human rights obligations, most of which appear primarily technocratic in nature, including "deficient endogenous economic growth," "operational difficulties" in the business environment, and other "sources of dissatisfaction," such as "environmental hygiene, food and drug safety, housing, education, medical care, employment and pensions" (UNHRC 2018b, 18). Indeed, such a framing of human rights obstacles seems to be a deliberate and consistent point of policy for the Chinese government, with Human Rights Watch (2013a, 1) noting that the country's second National Human Rights Action plan (2012-2015) pledges "to implement human rights according to 'the principle of practicality,' a vague term designed to allow the government to sidestep obligations deemed "'impractical.'" Finally, at the low end of the development spectrum, Nigeria deploys a similar argument when claiming—as noted in the previous section on *vernacularization frameworks* (4.1)—that the reason the social and economic rights listed in the country's constitution are non-justiciable is because "the cost of implementing this programme was far above the means of government" (UNHRC 2009d, 19). Summarizing this view more generally, the country delegation states during its first interactive dialogue that the Nigerian government's "commitment to human rights is distinguished by its compliance with the highest universal standards. The question is therefore not one of will, but challenges reside primarily in the area of growing capacity" (UNHRC 2009e, 3).

In addition to excusing the lack of certain human rights safeguards by reference to government capacity, states also ascribe violations in which they appear to have played an active part to circumstances beyond their control. For example, in its second report in the midst its civil war, Syria writes: "Concerning the recommendations made during the discussion of its first national report, the Syrian Government wishes to clarify that it has not been able to act upon those recommendations as it would have wished, owing to the worsening crisis, which has continued until the time of writing of this report" (UNHRC 2016a, 4). The report then proceeds to discuss a number of "human rights issues arising from the crisis" (ibid.), without acknowledging its own role in perpetuating and deepening that crisis. Regarding the right to education, for example, the report states that "education infrastructure has suffered severe damage from being targeted by the terrorists […] 28 per cent of the entire stock of educational buildings has been damaged, and numerous educational staff have migrated to relatively safer governorates or districts" (ibid. 11). Further, regarding the rights of disabled persons, the report informs: "The crisis has also noticeably affected the quality of programmes in institutions

caring for the disabled, some of which have undergone sabotage and plunder, and many of which have ceased providing their services" (ibid. 12). The report then devotes five full pages to describing how "[t]errorism, unilateral coercive measures and the Israeli occupation" (ibid.) are the chief perpetrators of these and many other rights violations, while emphasizing the Syrian government's own commitment to "promoting human rights in such a way as to ensure human dignity…" (29). Read in full, the report does not concede the slightest acknowledgement that the government's own actions have contributed in even an indirect or unintentional manner to any human rights violations during the war—to the contrary, all action it has taken has been to prevent or remedy such violations to the extent it has had the capacity to do so.

Such renouncement of responsibility is evident in North Korea's documentation as well. The country employs this tactic most conspicuously when explaining two issues in particular: food shortages and the proliferation of North Korean refugees. In its first report, the country blames the former problem on environmental factors, writing that "the considerable decrease in the grain output due to serious natural disasters that repeatedly hit the country since the mid-1990s adversely affected the people's living in general, and in particular, the exercise of their rights to adequate food" (UNHRC 2009b, 11). However, while the country has undoubtedly been impacted by challenging climatic conditions, Amnesty International (2014, 2) claims in a stakeholder report that "the food shortages persist in part due to failed governmental policies." These include the appropriation of grain to support the military, a flawed currency reform, and inequities in the country's Public Distribution System, which "reportedly favours specific groups" and has thereby "worsened the inequality of access to food among North Koreans" (ibid.). Second, with regards to North Korean refugees, the country attempts to ascribe this phenomenon to a set of similarly apolitical causes, arguing during its first interactive dialogue that "the practices of illegal border crossing suddenly appeared [in the mid-1990s] due to economic reasons triggered by various factors" (UNHRC 2010b, 12)—not because of any deliberate state policy to prohibit and persecute all political dissent. During its second dialogue, the country claims further that "although those people had breached the law they were never punished, as they did so for economic reasons" (UNHRC 2014e, 11). Thereby attempting to portray these individuals as labor migrants rather than political refugees, North Korea argues that "the illegal border crossing in the northern border area of the country is, in nature, not the issue to be assessed in the light of the 1951 [Refugee] Convention or 1967 Protocol on the Status of Refugees" (UNHRC 2010b, 12). In other words, the country contends that since this

issue is not a political one, it should not be under the purview of international human rights mechanisms.

Finally, two states apply this tactic to explain a distinctive aspect of their foreign policies. Singapore and Saudi Arabia, the two countries in this study with the highest HDI ranking, both justify the relatively low number of human rights treaties they have signed by implying that they are insufficiently equipped to implement any additional ones. Indeed, Singapore claims that it "takes its treaty obligations very seriously and prefers not to sign Conventions until it is sure it can comply fully with all their obligations" (UNHRC 2011b), while Saudi Arabia explains that when deciding which human rights treaties to join, the government's "main criterion is to establish that they would be effectively implemented in line with the sharia principle concerning the fulfilment of contracts: 'Believers, fulfil your undertakings'" (UNHRC 2013c, 5). As such, the international community should interpret these countries' general reluctance to sign human rights treaties as a sign of prudence rather than a gesture of dissent.

iii. Summary

Contemporary liberalism requires the state to afford its citizens not only negative protections safeguarding their civil and political rights but also positive entitlements securing them the minimum standard of living required to make meaningful use of their personal and political autonomy. These entitlements, conceived as social and economic rights, span education, food, housing, healthcare, and a variety of other material benefits, imposing on states significant demands both in the form of economic cost and bureaucratic competence. The international community has therefore come to emphasize development as crucial to states' ability to fulfill all their human rights obligations, ultimately privileging "the right to development" as a human right in and of itself. This has consequently opened up a developmentalist discourse that authoritarian regimes have in turn invoked to present certain illiberal practices as human rights victories. Historically, the most common and prominent tactic in this context has been to first posit a trade-off between civil and political rights on the one hand and social and economic rights on the other and then to prioritize the latter over the former. The states analyzed in this thesis, however, employ the discourse in a slightly different manner. While they generally claim to attach equal weight to all three classes of rights, they sidestep any tensions that may arise between them by casting economic growth as a largely technocratic matter, eliding the political effects of the policies that the states enact in pursuit of this goal. Such a strategy typically takes the form of statist development rhetoric in which the state appeals to its role as a public service provider to extend its political reach deep into civil and social life. Alternatively, a state may

recognize a right violation as such, but renounce responsibility for it by arguing that it is the result of circumstances beyond the state's control and/or that it does not currently have the capacity to remedy the situation. Common to both tactics is that they rely on developmentalist discourse that may justify in technocratic terms like "capacity-building," "technical assistance," and "best practices" a range of policies and laws that have deeply political and potentially illiberal effects.

5. Discussion

The above analysis sought to illustrate the most common and consequential strategies by which authoritarian regimes vernacularize human rights norms in line with their extant governing values. In essence, they do so in a manner that allows them to argue that a certain practice that the transnational human rights regime has criticized as a violation of a given right in fact serves to fulfil or protect another right and is therefore both legitimate and warranted. As the kind of right that these practices most commonly infringe upon is that of an individual or minority group, while the kind of right—or interest, depending on one's perspective—that they most commonly promote is that of a collective or majority group, I have labeled these discursive maneuvers *illiberal human rights claims* on the basis of the definition of illiberalism previously established (section 2.3). In this chapter, I will discuss the possible implications of such vernacularizations for the future practice and theory of human rights in the international arena.

To set the stage for this discussion, it is illustrative to first recall the most recent trend lines characterizing the global human rights movement. In the immediate aftermath of the Cold War, as the world entered a new era of unipolarity, liberal optimism was on the rise. Indeed, Francis Fukuyama (1992) famously went so far as to argue that we had reached "the end of history." Believing that the fall of the Soviet Union had discredited authoritarian governance once and for all, Fukuyama predicted that human rights were now poised to take hold around the globe, ushering in a new era of undisputed liberalism. A large swath of the international community shared this view, which was bolstered by the UN World Conference on Human Rights held in Vienna, Austria in 1993—one year after the publication of Fukuyama's book. There UN member states unanimously adopted the Vienna Declaration and Programme of Action, which originated the since oft-quoted characterization of human rights as "universal, indivisible and interdependent and interrelated" (OHCHR 1993). This was in many ways a watershed moment, as the affirmation extracted for the first time a commitment from all states, "regardless of their political, economic and cultural systems" (ibid.), to uphold all human rights

on equal footing. As the new millennium approached, human rights thus appeared set to emerge as the single prevailing moral standard in world politics, effectively "ending" history.

Of course, the following two-and-a-half decades did not bear out this prediction. While virtually all states still voice commitment to human rights when participating in international society, Freedom House (2019b) has in fact recorded a global net decline in civil and political liberty indicators every year from 2005 until the present. Indeed, in countries as diverse as Russia, Syria, Venezuela, Turkey, the Philippines, China, Hungary, and Poland scholars have witnessed an authoritarian regression of such a scale that they have dubbed it a global "backlash" against the transnational human rights regime (Cooley and Schaaf 2017; Vinjamuri 2017).

What role has norm vernacularization played in this development? And how might the process continue to affect the global diffusion of human rights moving forward? These are the two questions I will discuss in the present chapter. They are somewhat tangled analytically, as they too are "interdependent and interrelated"—that is, the kind of answer one gives one will affect the kind of answer one gives the other—and are additionally inflected by one's stance on two separate yet related issues, namely the extent to which one views the present "backlash" as a genuine cause for concern and the precise kind of authority one imputes to human rights when labelling them "universal." The ensuing discussion will thus attempt to isolate each of these aspects in turn in order to establish the premises and implications of the questions at stake.

5.1 Backlash

The first point of order is to clarify the significance of the observed backlash against human rights. Some scholars, such as Dancy and Sikkink (2017), dismiss this recent resurgence of illiberalism as a largely spontaneous and momentary setback on human rights' path towards ideological hegemony, reminiscent of the way in which Risse, Ropp, and Sikkink (1999) originally theorized authoritarian regimes' reactive clamp-down on budding human rights movements in their "spiral model" of rights diffusion—a model that predicted the regimes would eventually progress from this stage of "denial" via a strategy of "tactical concession" to an acceptance of human rights' "prescriptive status" that ultimately led to "rule-consistent behavior." By contrast, other scholars such as Vinjamuri (2017) argue that certain forms of the backlash are in fact reflective of a sustained and deliberate resistance to the liberal world order, with potentially significant long-term consequences for human rights. Vinjamuri describes such backlash as "strategic" and writes that its "ambition is to embed new rules, practices, or, sometimes, alternative sources of authority" in international politics (120), often "work[ing]

within existing frameworks but seek[ing] to alter them in important ways" to change future practices (122). Vinjamuri refers to Cooley and Schaaf's (2017) description of regional institution-building in Central Asia as an example of this dynamic, as it provides states in the region with alternative sites in which to develop and strengthen illiberal norms under the legitimizing veneer of rule-based multilateralism. He also describes in similar terms the African Union's concerted efforts within the International Criminal Court to rehabilitate the norm of sovereign immunity. Vinjamuri believes such initiatives constitute a significant challenge to the further advance of human rights, as they threaten to fundamentally "alter the existing institutional framework of international justice by reformulating the relationship between individual accountability, state sovereignty, and regional autonomy," gaining leverage by engaging directly with and within existing institutions and norms rather than rejecting them outright (133). He concludes that when strategic backlash is successful, it may be "more consequential" than blunter and more violent forms of resistance to human rights, since it "creates a new normative framework and sets in motion a new path dependence" with sustained structural effects on outcomes in both domestic and international politics (134).

The significance one attributes to illiberal human rights vernacularizations will thus depend to a certain extent on which of these two views one takes on the current human rights backlash. If one believes that it constitutes a merely temporary dip in human rights' irreversible spread around the globe, then illiberal states' engagement with human rights discourse becomes one sign of the transnational human rights regime's underlying strength, representing the "tactical concession" stage of the spiral model that will ultimately lead to the states' genuine internalization of and compliance with these norms, all while leaving behind a paper trail contributing to the further liberal development of customary international law. If, on the other hand, one believes that at least certain expressions of the backlash have the potential to significantly stall or reverse the progress of human rights, then illiberal rights vernacularizations may become one such expression, serving not primarily to lock authoritarian regimes into a liberal rhetoric that eventually overtakes them but rather to develop an alternative interpretation of human rights that illiberal states can wield as yet another tool of authoritarian governance.

The analysis conducted for this thesis supports the latter view. This is partly due to the theoretical outlook it has assumed, which opposes the static conception of norm evolution implicit in the teleological view of human rights' future progress, a conception that in contending that illiberal states will eventually "come around" to human rights norms holds the meaning of those norms fixed. Further, this theoretical outlook is supported by the analysis' empirical findings, which evidence states reinterpreting human rights norms in such a way as

to actively promote illiberal practices, thus highlighting norms' status as "generic social facts" (Hoffmann 2010, 14) amenable to different and opposed political projects. As such, the kind of human rights vernacularizations that figure in this analysis appear less likely to convert illiberal states to liberalism than to convert human rights to illiberalism. In doing so, the vernacularizations may fuel the human rights backlash precisely in the way Vinjamuri describes, namely by seeking to "adapt rather than to reject existing institutional frameworks" (134).

5.2 Universalism

This brings us to the second issue that has bearing on how one might conceive of the role and effect of illiberal human rights vernacularizations, namely the kind of universalism to which human rights lay claim. Ever since the UDHR first formulated the principles of the modern human rights framework, claiming universality in its very title, human rights proponents have argued that all states without distinction are responsible for upholding and protecting these entitlements. In the postwar period, communist as well as many non-aligned states openly resisted the universalist claim, deigning it a form of neocolonial coercion and arguing that cultural, political, and economic differences between states could not merit any single standard of judgment. After the Vienna Declaration, most if not all states have at least nominally acceded to human rights' legitimacy as a universal normative framework—precisely why and how is an intriguing question that could be the subject of a separate thesis—yet many still do invoke relativist caveats. This is evidenced by the analyzed UPR reports, which, as discussed in the previous chapter (4.1), invariably endorse the universalism of human rights yet somewhat awkwardly hedge such affirmations against clauses seeking to preserve the saliency of "national differences" in determining what this commitment entails in practice. It is at this point that vernacularization plays an important role, providing illiberal states that are unwilling to abide by human rights' traditional obligations with the means to nonetheless claim compliance.

Yet such vernacularization raises the question of what is actually implied when calling human rights "universal." Does it simply mean that all states are required to abide by a set of norms they call "human rights," regardless of how they define those norms or what the norms entail in practice? Or is it the specifically liberal conception of human rights, the normative framework privileging individual over collective interests, which demands universal adherence? In their study on the vernacularization of women's human rights, Merry and Levitt (2017, 213-14) may appear to take the former view when they write: "The process of vernacularization converts universalistic human rights into local understandings of social justice. While

considerable scholarship on human rights sees universalism and relativism as oppositional, vernacularization bridges this divide." This is an interesting claim, one that illustrates the potential significance of vernacularization in facilitating the diffusion of human rights norms across a wide variety of governing contexts around the world. However, in order to remain coherent, this view must assume that all local human rights dialects are equally desirable. This is the only way vernacularization can truly "bridge the divide" between universalist and relativist interpretations of human rights; otherwise, if one were to judge certain local translations superior or inferior to others, one would require reference to a fixed standard that would yet again privilege one specific understanding of human rights as the appropriate point of comparison. Yet this is precisely what vernacularization scholars typically do, including not only Goldstein (2013) and Perugini and Gordon (2015), who describe the human rights interpretations that Bolivian slum-dwellers and Israeli settlers have developed as flawed distortions rather than as successful adaptations, but also Merry and Levitt themselves, who imply that certain local human rights dialects may in fact be more legitimate than others when noting that "the risk of vernacularization that deviates from human rights principles is the price of vernacularization that makes them more appealing in particular cultural contexts" (235). This is also the view I have assumed in this thesis, which generally compares illiberal rights claims unfavorably to the liberal variety (not because the latter are the "real" or "true" kind in any metaphysical sense, as previously discussed (section 2.3), but simply because I as a political liberal believe they are the most conducive to human well-being). Indeed, the conviction that one particular understanding of human rights may be more laudable than another is so intuitive it is embedded in the concept of "backlash" itself, which is predicated on the assumption that certain reinterpretations of human rights constitute a form of regression from an ideal end-point that serves as the standard by which to judge the merit of local translations. In this sense, one can restate in different terms the premise of the argument offered above that illiberal human rights vernacularizations may be a contributing factor to the backlash: this claim is motivated by an attentiveness to the inherently generic nature of norms, which is another way of saying that it is motivated by an attentiveness to human rights' potential for complete relativization.

5.3 Human Rights as a "Floating Signifier"

This point, finally, brings us to the central long-term consequence that the illiberal vernacularization of human rights may have for future human rights discourse and practice. Hopgood (2017, 297) describes human rights as an "essentially contested concept," insofar as

"the phrases 'this is a human right' and 'human rights give rise to the following binding obligations' are not just disagreements about how a concept is properly used but about what the concept entails in a more foundational sense." Indeed, the term "essentially contested concept" was originally coined by Gallie (1955, 168) to describe ideas that are the subject of perennial definitional disputes in which "there is no one clearly definable general use of any of them which can be set up as the correct or standard use." Gallie writes that such concepts, for instance "art," "democracy," and "the Christian tradition," serve "different though of course not altogether unrelated functions for different schools or movements of artists and critics, for different political groups and parties, for different religious communities and sects" (ibid.). This description would certainly seem to apply to human rights in a certain sense, as one way one might conceive of the dispute between universalist and relativist theories of human rights is that the former insist on the existence of a "clearly definable general use" of these norms that does in fact serve "as the correct or standard use," while the latter deny the propriety or even possibility of such a standard. There is, however, an important difference between disagreements concerning essentially contested concepts and contemporary debate on human rights. For, in order to correctly identify a concept as essentially contested, Gallie writes that

> …we should have to say not only that different persons or parties adhere to different views of the correct use of some concept but […] that each party recognizes the fact that its own use of it is contested by those of other parties, and that each party must have at least some appreciation of the different criteria in the light of which the other parties claim to be applying the concept in question. More simply, to use an essentially contested concept means to use it against other uses and to recognize that one's own use of it has to be maintained against these other uses. (172)

It is at this point that current human rights discourse departs from the conditions characterizing an essentially contested concept. This is because the novel and defining aspect of the present contestation over human rights lies—as this analysis of illiberal human rights vernacularization has illustrated—in a sustained insistence from the involved parties that *no contestation exists*. That is to say, the states challenging the liberal conception of human rights officially accede to the "universal, indivisible, interdependent, and interrelated" nature of these rights, which they claim to respect and fulfill, thereby positing a global consensus on their legitimacy and meaning. Granted, many states do concede that the particular manner in which they realize human rights is inflected by specific national characteristics, but, crucially, they all argue that their mode of

implementation remains premised on human rights' "universal" ethical foundation, which they too endorse. This particular argument is made possible by the states' vernacularizations, which, in justifying illiberal practices in the language of human rights, do in a sense "bridge the divide" between the different governing values in play. In other words, the distinguishing feature of illiberal human rights vernacularization is that it seeks to relativize human rights under the guise of universalism, leveraging the norms' genericity to reinterpret them while claiming that they remain fixed. It is in this manner that vernacularization manages to blur the distinction between internal and external forms of norm contestation, as previously noted (section 2.2).

In this perspective, then, the notion of an "essentially contested concept" does not capture the particular kind of contestation to which human rights is currently subject. Instead, I contend that a term that more accurately describes the kind of phenomenon human rights is—or at least may become—is that of "floating signifier." First coined by Lévi-Strauss (1987[1950]) and later popularized by Laclau and Mouffe (1985), this term refers to words lacking stable meaning. More precisely, from a semiotic perspective, a floating signifier is a signifier with no referent—no fixed object to which it points. As an example of such a word, Lévi-Strauss cites "mana"—the mythical material anthropologists have identified as the source of magic in tribal societies—which he writes is attached to "insoluble antinomies" as both "force and action; quality and state; substantive, adjective and verb all at once; abstract and concrete; omnipresent and localised" (63-64). As such, the word "mana" serves a "*semantic function,* whose role is to enable symbolic thinking to operate despite the contradiction inherent in it" (63; emphasis in original). Stated differently, by resisting fixed meaning, the word remains "a symbol in its pure state" and is therefore "liable to take on any symbolic content whatsoever" (64). For Laclau and Mouffe, the particular quality of such words depends on a "proliferation of signifieds"—that is, a proliferation of the word's referents, which renders it "overdetermined" and thereby severs its attachment to any particular one of those referents (113). Following in a Foucauldian tradition, they contend that hegemonic discursive practices seek to fix such signifiers to one particular meaning, to "articulate" it in a way that precludes alternative interpretations. A counterhegemonic mode of resistance would thus be to oppose such a semantic closure.

The concept of floating signifiers has since figured in a considerable amount of recent political science scholarship. For example, Farkas and Schou (2018) argue that the term "fake news" has now attained this status, employed by discursive participants of all ideological persuasions to discredit any argument they oppose, while Hofferberth (2015) makes a similar argument with regards to the many operative definitions that exist of "global governance." It has also been used in the context human rights, for instance by Augestad Knudsen (2013), who

demonstrates how the right to self-determination has since its conception in the contemporaneous yet conflicting formulations of Vladimir Lenin and Woodrow Wilson been linked to two different notions of freedom—a "radical" one rooted in the idea of equality and a "liberal- conservative" one rooted in the idea of peace—which have jostled for hegemony while eluding precise definition. Indeed, she contends that "self-determination" over the past century "has meant different things – conceptually and in practice – to different people at different times," thereby taking on the character of a floating signifier, which she summarizes as "a notion that does not per se denote a precise meaning that remains constant once it has been articulated, but is (re)defined in situations of change" (11). It is my argument that such a description may eventually apply to the notion of "human rights" writ large.

The logic of this argument is as follows. During the postwar period, the term "human rights" generally denoted a normative framework encompassing a specifically liberal set of governing practices. These practices constituted the term's fixed and, as such, hegemonic referent. When states contested these practices, they did so either by appealing to other terms such as "sovereignty," "non-interference," or "national security," which denoted normative frameworks generally privileging non-liberal governing practices, or by explicitly advocating for a relativist conception of human rights in line with the kind of openly recognized dispute characterizing an essentially contested concept. After the end of the Cold War, however, as the international system became unipolar and the US emerged as its unrivaled liberal superpower, the nature of this contestation began to change. The human rights framework gained a slight edge in the normative competition with alternative frameworks such as "sovereignty," "non-interference," and "national security," insofar as states could no longer persuasively apply the latter within institutions of global governance in order to justify the former's derogation, while the US and its liberal allies gained more leverage in insisting upon and enforcing a universalist conception of human rights. Consequently, states that still oppose this framework have shifted their strategy of resistance, appealing less forcefully to the alternative frameworks and nominally acceding to the universalism of human rights, yet in actual fact still interpreting them in such a way as to sanction policies and laws that contravene the liberal governing practices that have served as the hegemonic referent for the term "human rights." These interpretations are what I have called illiberal human rights vernacularizations. Now, by consistently applying the term "human rights" to justify specifically illiberal governing practices, what these vernacularizations have the potential to do is associate the term with an increasingly wide and contradictory range of referents, which may ultimately generate a "proliferation of signifieds." This proliferation, in turn, would threaten to "overdetermine" the meaning of the term "human

rights," as it displaces the term's liberal hegemonic referent and consequently renders it a floating signifier that can "operate despite the contradiction inherent in it" to assume "any symbolic content whatsoever." In this way, human rights would fall into the relativism illiberal states claim to have disavowed.

To summarize, human rights as liberally conceived are under increasing pressure in an increasing number of states around the world, a trend that scholars have dubbed a global backlash against human rights. Some regard this backlash as a momentary setback on human rights' steady march toward ideological dominance, while others consider it a significant threat to the framework's future viability as a language of political claims-making. In the former perspective, illiberal human rights vernacularizations reflect the first stage of a process in which authoritarian regimes, by employing the rhetoric of human rights, contribute to legitimize the discourse in a way that eventually forces the regimes to comply with its precepts. In the latter perspective, which is the one this thesis takes, these vernacularizations may constitute a strategy by which authoritarian regimes fuel the backlash by challenging the framework's ethical premises, pushing them in an illiberal direction. While both perspectives are rooted in a universalist theory of human rights that favors the liberal conception as the proper yardstick against which to judge local interpretations, the latter is distinguished by an attentiveness to the inherently generic nature of norms and, as such, does not take this standard for granted. In other words, it is sensitive to human rights' potential for relativization. Further, following that line of reasoning, the most consequential long-term effect of illiberal human rights vernacularizations may be precisely to relativize the human rights framework, as the repeated and consistent leveling of illiberal rights claims eventually unmoors the liberal standard. In a semiotic perspective, this may occur as states apply the term "human rights" to describe an increasingly varied and contradictory range of governing practices, semantically overburdening it such that it ultimately becomes a floating signifier with no fixed referent. In other words, as the meaning of "human rights" continues to expand, the term may cease to mean anything at all.

6. Conclusion

The introduction to this thesis quoted a series of slogans that authoritarian leaders have coined in recent years to justify their rule. The rhetorical strategy these slogans employ consists of positing both a consensus on and commitment to certain international standards of governance: "Turkish-style presidentialism" claims adherence to the "universal values" of "democracy, human rights and the rule of law"; the "Chinese Dream" envisions the same kind of society as

the American Dream; and "the Saudi way" describes a path to political objectives "that everyone agrees on." These slogans share a cryptic grammar that equivocates on the notion of difference, positing a distinct kind of relationship between global governance norms and their local interpretations in which the latter may depart from the former in style but not in substance.

This thesis has applied the concept of vernacularization to decipher that grammar specifically within the context of human rights. The premise of the thesis is that human rights as a normative framework commands a singular status in today's international system, having attained preeminence as the sole legitimate language of political claims-making and consequently compelling all states to employ that language when participating in institutions of global governance. As human rights as traditionally conceived imply a liberal political orientation, their discursive hegemony has posed a challenge for authoritarian regimes whose domestic rule remains illiberal. Consequently, in order to retain international legitimacy without significantly altering their systems of governance, such regimes have vernacularized human rights within illiberal normative frameworks, creating a vocabulary with which to describe their current political practices within the framework of human rights. In essence, this entails inverting the framework's core moral logic that privileges the individual over the collective in situations of conflicting interest, instead applying it to privilege the collective over the individual. This thesis has referred to such applications as illiberal human rights claims.

It has further illustrated the logic of these claims through a discourse analysis of the documentation that eight authoritarian regimes have submitted to the UN's Universal Periodic Review. The analysis identified five specific norms typically associated with human rights in the liberal sense that the regimes consistently vernacularize to promote a broad range of illiberal policies and laws restricting individual autonomy. Discussing the implications of such vernacularizations, the thesis argued that they serve as one expression of the current worldwide resurgence of illiberalism, as they dilute the term "human rights" of its conventional moral foundation, erode the political obligations that arise from that foundation, and ultimately render the term a floating signifier that remains in common use but with no common referent. As such, they weaken a core component of the normative framework underlying the liberal world order.

I am aware that I am here, in my concluding chapter summarizing my findings, using language that is more explicitly normative than that of the preceding analysis. Discussing the "diluting," "eroding," and "weakening" of liberal human rights norms clearly underscores the political vantage point from which this thesis has been written. My aim, however, is not to draw definite moral conclusions, nor to deny that some of these "collectivist" or "communitarian" human rights interpretations may constitute fruitful contributions to the ongoing debate about

the meaning of human rights as such. My argument is rather that these interpretations make definitively and consistently illiberal claims using the vocabulary of human rights, a vocabulary that has long been associated with liberalism in a habitual and near reflexive manner. Drawing attention to this development is thus important regardless of one's normative point of departure.

Doing so also suggests several avenues for further research. One that emerges most immediately from this analysis concerns a question that has already been mentioned, namely how global human rights discourse has ostensibly converged around certain points of consensus while the practice of human rights in countries around the world still varies dramatically. What this thesis has proposed is a mechanism—vernacularization—to explain how this discrepancy between discourse and practice is possible and potentially more significant than implied by alternative explanations that dismiss it as mere hypocrisy. However, why and how the human rights framework achieved global discursive hegemony in the absence of a prior consensus around the legitimacy of liberalism—the political ideology traditionally motivating the framework—remains an unsettled question open to theoretical and historical investigation.

On the surface, it seems intuitive that the answer to this question is at least partially related to structural factors relating to the shape of the international system. Indeed, following the end of the Cold War, the US emerged as the liberal hegemon of a unipolar system in which the sudden defusion of superpower rivalry granted more weight to normative considerations in international affairs, evident for instance in the Bretton Woods system's increasing use of aid and loan conditionality to induce governance reform in recipient states (Babb and Carruthers 2008, 18-19). Another question to consider is thus how the gradual decline of US hegemony may affect the future demand for and form of human rights vernacularization as the continued growth of China as well as other rapidly developing—and often illiberal—states renders the international system bi- or even multipolar, ushering in what Stuenkel (2016) has called a "post-Western world." It may therefore be opportune to develop predictions as to what the global status of human rights both in theory and practice could look like in such a world, as well as the kind of vernacularizations that world might deem either legitimate or illegitimate.

While work of that nature will necessarily remain speculative for the time being, further insight into current conditions can be gained by shifting the analytical focus from illiberal to liberal states and investigating how they, too, vernacularize global human rights norms in line with local belief systems. This is necessary not only because supposedly liberal states frequently fail or decline to live up to their own avowed ideals, but also because "liberalism" itself is a broad and vague term eliding considerable variation and disagreement as to the proper purpose and form of government. As such, the ideology regularly encounters dilemmas in the

interpretation and adjudication of human rights claims. France, for instance, has long enforced a strict vision of secularism—a core liberal value insofar as it prohibits the state from officially endorsing any single religion—and on the basis of this tradition passed a 2010 law banning Muslim women from publicly wearing face-covering niqabs, a ban that the UN Human Rights Committee has declared a violation of Muslims' right to religious expression (Picheta 2018). An inverted yet structurally similar example is found in the United States—also officially a secular country but one that has traditionally allowed religion to play a more prominent role in public life—where the Supreme Court found that the anti-discrimination commission in the state of Colorado had shown contempt for a Christian baker's religious beliefs when sanctioning him for refusing to sell a wedding cake to a gay couple (de Vogue 2018), thereby prioritizing religious over sexual freedom. Such cases illustrate the extent to which all countries must interpret human rights within their political and cultural traditions, indicating the usefulness of expanding the concept of vernacularization to capture this process in the Western and predominantly liberal states conventionally considered the originators of global norms.

Finally, if vernacularization is a universal process in which liberal and illiberal states alike partake, it may be fruitful to investigate what role the process plays in political regression from the former to the latter. That is to say, how may vernacularization illuminate the kind of authoritarian backsliding currently on display in seemingly consolidated liberal democracies such as Hungary and Poland? Or the kind of political rhetoric espoused in countries such as Italy, Brazil, and the US, where recently elected populist leaders endorse a brand of right-wing nationalism that to varying degrees challenges their respective countries' liberal traditions? For instance, Hungarian president Viktor Orbán claimed in his famous 2014 speech describing Hungary as an "illiberal democracy" that the time had come to "break with the dogmas and ideologies that have been adopted by the West" in order to find a "Hungarian answer" to the question of state organization. For Orbán, this entails shifting the core principle of governance from the liberal creed that "we have the right to do anything that does not infringe on the freedom of the other part" to the Golden Rule of Christianity—allegedly the country's true cultural heritage—which holds that "one should not do unto others what one does not want others to do unto you." This principle, according to Orbán, "does not reject the fundamental principles of liberalism such as freedom […] but it does not make this ideology the central element of state organisation," instead taking "a different, special, national approach" whose primary objective is to "construct" a Hungarian state in which "people's personal work and interests […] are closely linked to the life of the community and the nation" (Kormany.hu 2014). Claiming to elaborate a distinctly national vision of a global governance norm—a form of

conservative Christian democracy—Orbán's speech reads like a textbook example of vernacularization, but one whose explicit purpose is to justify a shift from liberal to illiberal rule. This differs from the majority of prior norm scholarship, which, as discussed, traditionally models normative change in the opposite direction, as well as from the focus of this thesis, which studied how illiberal states vernacularize an originally liberal norm in line with preexisting authoritarian practices. Insofar as the political organization of liberal states is likely to face increasing pressure from domestic illiberal forces in response to the sustained stresses of globalization, investigating the manner in which such forces seek to legitimize their arguments through vernacularization will likely be a relevant topic for future research.

These are some of the avenues of inquiry that this thesis points toward. While expanding on or reframing it in different ways, they remain concerned with its core motivating question, namely how human rights as a normative framework claiming universal applicability—a claim that consequently requires the framework to remain compatible with governing ideologies as varied as, for instance, sharia, socialism, and *juche*—can at the same time retain its own internal coherence and distinct political commitments. Although numerous scholars have elaborated vernacularization as a mechanism by which to reconcile these conflicting pulls, "bridging the divide" between global and local norm interpretations, this thesis challenges that view. Indeed, its findings suggest that although vernacularization may secure the longevity of a discourse we continue to call "human rights" well into the future, this discourse may not connote the same kind of politics—liberal, democratic, secular—with which the term is presently associated.

7. Reference List

Acharya, Amitav. 2004. "How ideas spread: Whose norms matter? Norm localization and institutional change in Asian regionalism." *International Organization* 58 (2): 239-275. https://doi.org/10.1017/S0020818304582024.

Aharoni, Sarai B. 2014. "Internal Variation in Norm Localization: Implementing Security Council Resolution 1325 in Israel." *Social Politics: International Studies in Gender, State & Society* 21 (1): 1-25. https://doi.org/10.1093/sp/jxu003.

Amnesty International. 2011a. *Singapore - Submission to the UN Universal Periodic Review (11th Session of the UPR Working Group).* https://www.upr-info.org/sites/default/files/document/singapore/session_11_-_may_2011/aiamnestyinternational-eng.pdf.

---. 2011b. *Syria - Submission to the UN Universal Periodic Review (12th Session of the UPR Working Group).* https://www.upr-info.org/sites/default/files/document/syrian_arab_republic/session_12_-_october_2011/ai-amnestyinternational-eng.pdf.

---. 2013. *Saudi Arabia - Amnesty International Submission for the UN Universal Periodic Review (17th Session of the UPR Working Group).* https://www.upr-info.org/sites/default/files/document/saudi_arabia/session_17_-_october_2013/ai_upr17_sau_e_main.pdf.

---. 2014. *Democratic People's Republic of Korea - Amnesty International Submission for the UN Universal Periodic Review (19th Session of the UPR Working Group).* https://www.upr-info.org/sites/default/files/document/korea_dpr/session_19_-_april_2014/ai_upr19_prk_e_main.pdf.

Augestad Knudsen, Rita. 2013. "Moments of Self-Determination: The Concept of 'Self-Determination' and the Idea of Freedom in 20th- and 21st Century International Discourse." Doctor of Philosophy, Department of International History, London School of Economics and Political Science. http://etheses.lse.ac.uk/923/1/Knudsen_Moments_of_Self-determination.pdf.

Austin, J.L. 1975. *How To Do Things With Words*. Second ed. *The William James Lectures*. Cambridge, Massachusetts: Harvard University Press.

Babb, Sarah L., and Bruce G. Carruthers. 2008. "Conditionality: Forms, Function, and History." *Annual Review of Law and Social Science* 4 (1): 13-29. https://doi.org/10.1146/annurev.lawsocsci.4.110707.172254.

Bailey, Jennifer L. 2008. "Arrested Development: The Fight to End Commercial Whaling as a Case of Failed Norm Change." *European Journal of International Relations* 14 (2): 289-318. https://doi.org/10.1177/1354066108089244.

Benhabib, Seyla. 2011. *Dignity in Adversity: Human Rights in Troubled Times*. Cambridge, UK: Polity Press.

Bentham, Jeremy. 1948. *An Introduction to the Principles of Morals and Legislation*. New York: Hafner.

Blackburn, Roger. 2012. "Cultural Relativism in the Universal Periodic Review of the Human Rights Council." International Catalan Institute for Peace, Working Paper No. 2011/3. https://dx.doi.org/10.2139/ssrn.2033134.

Butenschøn, Nils August. 2000. "State, Power, and Citizenship in the Middle East: A Theoretical Introduction." In *Citizenship and the State in the Middle East: Approaches and Applications*, edited by Nils August Butenschøn, Uri Davis and Manuel Sarkis Hassassian, 3-27. Syracuse, New York: Syracuse University Press.

Calonzo, Andreo. 2010. "'Arroyo to use party-list seats to win as House Speaker'." *GMA News Online*, March 27, 2010. Accessed December 4, 2018. https://www.gmanetwork.com/news/news/nation/187170/arroyo-to-use-party-list-seats-to-win-as-house-speaker/story/.

Capie, David. 2012. "The Responsibility to Protect Norm in Southeast Asia: Framing, Resistance and the Localization Myth." *The Pacific Review* 25 (1): 75-93. https://doi.org/10.1080/09512748.2011.632967.

CAT (Committee against Torture). 2010. *Consideration of reports submitted by States parties under article 19 of the convention: Syrian Arab Republic.* https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2FC%2FSYR%2FCO%2F1&Lang=en.

CEDW (Committee on the Elimination of Discrimination against Women). 2007. *Concluding comments of the Committee on the Elimination of Discrimination against Women: Singapore.* https://undocs.org/CEDAW/C/SGP/CO/3.

---. 2018. *Concluding observations on the combined third and fourth periodic reports of Saudi Arabia.* http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhskcAJS%2fU4wb%2bdIVicvG05RzUx5HJCvs6GLm%2fn4BpIuylk74g1MO90gFIGidqEkhl4pKVjutmT28BZIvc7YPVDi5QAIazpF8fPsOaF4BIZsLm.

Centre for Media Pluralism and Media Freedom. 2016. *Monitoring Media Pluralism in Europe: Application of the Media Pluralism Monitor 2016 in the European Union, Montenegro and Turkey.* European University Institute. http://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/#jump-to-download.

Cepeda, Mara. 2018. "Alvarez out, Arroyo in as House Speaker." *Rappler*, July 23, 2018. Accessed December 4, 2018. https://www.rappler.com/nation/207944-alvarez-ousted-gloria-arroyo-new-speaker-house-of-representatives.

CERD (Committee on the Elimination of Racial Discrimination). 2009. *Consideration of reports submitted by state parties under Article 9 of the Convention: Turkey.* http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsv7vwp5%2fFIROyMUKi4GvEwZ0GC1jhUGJZmhS9IfE4I%2by%2fbc%2fxRXdhE6gX6usxEzSdSMxi1bS7s6el1wlSiQAo9u3LAf1EiRcSpFE6eu%2bXC1d.

CESCR (Committee on Economic, Social and Cultural Rights). 2014. *Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China.* https://undocs.org/E/C.12/CHN/CO/2.

Charlesworth, Hilary, and Emma Larking. 2015. *Human Rights and the Universal Periodic Review: Rituals and Ritualism*. Cambridge, UK: Cambridge University Press.

Chayes, Abram, and Antonia Handler Chayes. 1995. *The New Sovereignty: Compliance with International Regulatory Agreements*. Cambridge, Massachusetts: Harvard University Press.

Checkel, Jeffrey T. 1999. "Norms, Institutions, and National Identity in Contemporary Europe." *International Studies Quarterly* 43 (1): 83-114. http://www.jstor.org/stable/2600966.

Chow, Jonathan T. 2017. "North Korea's participation in the Universal Periodic Review of Human Rights." *Australian Journal of International Affairs* 71 (2): 146-163. https://doi.org/10.1080/10357718.2016.1241978.

Christiano, Thomas. 2011. "An Instrumental Argument for a Human Right to Democracy." *Philosophy & Public Affairs* 39 (2): 142-176. https://doi.org/10.1111/j.1088-4963.2011.01204.x.

Cochrane, Leanne, and Kathryn McNeilly. 2013. "The United Kingdom, the United Nations Human Rights Council and the first cycle of the Universal Periodic Review." *The International Journal of Human Rights* 17 (1): 152-177. https://doi.org/10.1080/13642987.2012.720571.

Cofelice, Andrea. 2017. "Italy and the Universal Periodic Review of the United Nations Human Rights Council. Playing the two-level game." *Italian Political Science*

Review/Rivista Italiana di Scienza Politica 47 (2): 227-250. https://doi.org/10.1017/ipo.2017.6.

Commission on Human Rights of the Philippines. 2012. *Submission to the Universal Periodic Review*. https://lib.ohchr.org/HRBodies/UPR/Documents/session13/PH/CHRP_UPR_PHL_S13_2012_CommissiononHumanRightsofthePhilippines_E.pdf.

Cooley, Alexander, and Matthew Schaaf. 2017. "Grounding the Backlash: Regional Security Treaties, Counternorms, and Human Rights in Eurasia." In *Human Rights Futures*, edited by Jack Snyder, Leslie Vinjamuri and Stephen Hopgood, 159-188. Cambridge, UK: Cambridge University Press.

Cortell, Andrew P., and James W. Davis. 2000. "Understanding the Domestic Impact of International Norms: A Research Agenda." *International Studies Review* 2 (1): 65-87. http://www.jstor.org/stable/3186439.

Dancy, Geoff, and Kathryn Sikkink. 2017. "Human Rights Data, Processes, and Outcomes: How Recent Research Points to a Better Future." In *Human Rights Futures*, edited by Jack Snyder, Leslie Vinjamuri and Stephen Hopgood, 24-59. Cambridge, UK: Cambridge University Press.

Dandurand, Yvon, and Curt T. Griffiths. 2006. *Handbook on Restorative Justice Programmes*. United Nations Office on Drugs and Crime. https://www.unodc.org/pdf/criminal_justice/Handbook_on_Restorative_Justice_Programmes.pdf.

de Vogue, Ariane. 2018. "Supreme Court rules for Colorado baker in same-sex wedding cake case." CNN, October 23, 2018. Accessed April 18, 2019. https://edition.cnn.com/2018/06/04/politics/masterpiece-colorado-gay-marriage-cake-supreme-court/index.html.

Donnelly, Jack. 1998. "Human Rights: A New Standard of Civilization?" *International Affairs* 74 (1): 1-23.

Douzinas, Costas. 2007. *Human Rights and Empire: The Political Philosophy of Cosmopolitanism*. Abingdon, UK: Routledge-Cavendish.

Ekern, Stener. 2018. "Between relations and rights: writing constitutions in Mayan Guatemala." *The Journal of Legal Pluralism and Unofficial Law* 50 (2): 167-187. https://doi.org/10.1080/07329113.2018.1434724.

Epstein, Charlotte. 2008. *The Power of Words in International Relations: Birth of an Anti-Whaling Discourse*. Cambridge, Massachusetts: MIT Press.

Evans, Peter B, Harold K Jacobson, and Robert D Putnam. 1993. *Double-Edged Diplomacy: International Bargaining and Domestic Politics*. Berkeley, California: University of California Press.

Fairclough, Norman. 2003. *Analysing Discourse: Textual Analysis for Social Research*. London: Routledge.

Farkas, Johan, and Jannick Schou. 2018. "Fake News as a Floating Signifier: Hegemony, Antagonism and the Politics of Falsehood." *Javnost - The Public* 25 (3): 298-314. https://doi.org/10.1080/13183222.2018.1463047.

Finnemore, Martha. 1996. *National Interests in International Society*. Cornell Studies in Political Economy. Ithaca, New York: Cornell University Press.

---. 2003. *The Purpose of Intervention: Changing Beliefs About the Use of Force*. Ithaca, New York: Cornell University Press.
Finnemore, Martha, and Kathryn Sikkink. 1998. "International Norm Dynamics and Political Change." *International Organization* 52 (4): 887-917. http://www.jstor.org/stable/2601361.
Finnis, John. 2011. *Natural Law & Natural Rights*. Edited by Paul Craig. 2nd ed. *Clarendon Law Series*. Oxford, UK: Oxford University Press.
Franck, Thomas M. 1992. "The Emerging Right to Democratic Governance." *The American Journal of International Law* 86 (1): 46-91. https://doi.org/10.2307/2203138.
Frazier, David. 2011. "Evaluating the Implementation of UPR Recommendations: A Quantitative Analysis of the Implementation Efforts of Nine UN Member States." MPA, Maxwell School of Citizenship and Public Affairs, Syracuse University. https://www.upr-info.org/sites/default/files/general-document/pdf/-david_frazier_paper_upr_implementation_2011-2.pdf.
Freedom House. 2016a. "Freedom in the World 2016: Syria." Accessed April 1, 2019. https://freedomhouse.org/report/freedom-world/2016/syria.
---. 2016b. "Freedom in the World 2016: Turkey." Accessed March 4, 2019. https://freedomhouse.org/report/freedom-world/2016/turkey.
---. 2018a. "Freedom in the World 2018: Philippines." Accessed March 5, 2019. https://freedomhouse.org/report/freedom-world/2018/philippines.
---. 2018b. "Freedom in the World 2018: Singapore." Accessed March 4, 2019. https://freedomhouse.org/report/freedom-world/2018/singapore.
---. 2018c. "Freedom in the World 2018: Syria." Accessed March 5, 2019. https://freedomhouse.org/report/freedom-world/2018/syria.
---. 2019a. "Freedom in the World 2019: China." Accessed May 5, 2019. https://freedomhouse.org/report/freedom-world/2019/china.
---. 2019b. "Freedom in the World 2019: Democracy in Retreat." Accessed March 7, 2019. https://freedomhouse.org/report/freedom-world/freedom-world-2019.
---. 2019c. "Freedom in the World 2019: Methodology." Accessed May 6, 2019. https://freedomhouse.org/report/methodology-freedom-world-2019.
---. 2019d. "Freedom in the World 2019: Nigeria." Accessed May 5, 2019. https://freedomhouse.org/report/freedom-world/2019/nigeria.
---. 2019e. "Freedom in the World 2019: North Korea." Accessed May 5, 2019. https://freedomhouse.org/report/freedom-world/2019/north-korea.
---. 2019f. "Freedom in the World 2019: Saudi Arabia." Accessed May 5, 2019. https://freedomhouse.org/report/freedom-world/2019/saudi-arabia.
---. 2019g. "Freedom in the World Countries." Accessed May 5, 2019. https://freedomhouse.org/report/countries-world-freedom-2019.
Fukuyama, Francis. 1992. *The End of History and the Last Man*. New York: Free Press.
Gallie, W. B. 1955. "Essentially Contested Concepts." *Proceedings of the Aristotelian Society* 56: 167-198. http://www.jstor.org/stable/4544562.
Gao, Charlotte. 2019. "China's Top Anti-Corruption Organ Declares Safeguarding Xi's Status Its Top Priority." *The Diplomat*, February 23, 2019.

https://thediplomat.com/2019/02/chinas-top-anti-corruption-organ-declares-safeguarding-xis-status-its-top-priority/.
Gaskarth, Jamie. 2006. "Discourses and Ethics: The Social Construction of British Foreign Policy." *Foreign Policy Analysis* 2 (4): 325-341. https://doi.org/10.1111/j.1743-8594.2006.00034.x.
Gilabert, Pablo. forthcoming. "The Human Right to Democracy and the Pursuit of Global Justice." In *The Oxford Handbook of Global Justice*, edited by Thom Brooks. Oxford, UK: Oxford University Press.
Gilmore, Kate, Luis Mora, Alfonso Barragues, and Ida Krogh Mikkelsen. 2015. "The Universal Periodic Review: A Platform for Dialogue, Accountability, and Change on Sexual and Reproductive Health and Rights." *Health and Human Rights Journal* 17 (2). https://www.hhrjournal.org/2015/12/the-universal-periodic-review-a-platform-for-dialogue-accountability-and-change-on-sexual-and-reproductive-health-and-rights/.
Goldstein, Daniel M. 2013. "Whose Vernacular? Translating Human Rights in Local Contexts." In *Human Rights at the Crossroads*, edited by Mark Goodale. New York: Oxford University Press.
Gould, Carol C. 2014. *Interactive Democracy: The Social Roots of Global Justice*. Cambridge: Cambridge University Press.
Hafner-Burton, Emilie M, Kiyoteru Tsutsui, and John W Meyer. 2008. "International Human Rights Law and the Politics of Legitimation: Repressive States and Human Rights Treaties." *International Sociology* 23 (1): 115-141.
Hart, H.L.A. 1994. *The Concept of Law*. 2nd ed. Oxford, UK: Oxford University Press.
Hassan, Farooq. 1983. "The Theoretical Basis of Punishment in International Criminal Law." *Case Western Reserve Journal of International Law* 15 (1): 39-60.
Hastings, David A. 2009. *Filling Gaps in the Human Development Index: Findings for Asia and the Pacific.* UN Economic and Social Commission for Asia and the Pacific. https://www.unescap.org/sites/default/files/wp-09-02.pdf.
Hofferberth, Matthias. 2015. "Mapping the Meanings of Global Governance: A Conceptual Reconstruction of a Floating Signifier." *Millennium* 43 (2): 598-617. https://doi.org/10.1177/0305829814561539.
Hoffmann, Matthew J. 2005. *Ozone Depletion and Climate Change: Constructing a Global Response*. SUNY Series in Global Politics. Albany, New York: SUNY Press.
---. 2010. "Norms and Social Constructivism in International Relations." *Oxford Research Encyclopedia of International Studies* 8. https://doi.org/10.1093/acrefore/9780190846626.013.60.
Hollis, Martin, and Steve Smith. 1990. *Explaining and Understanding International Relations*. Oxford, UK: Clarendon Press.
Hopf, Ted. 1998. "The Promise of Constructivism in International Relations Theory." *International Security* 23 (1): 171-200. https://doi.org/10.2307/2539267.
Hopgood, Stephen. 2017. "Human Rights on the Road to Nowhere." In *Human Rights Futures*, edited by Stephen Hopgood, Jack Snyder and Leslie Vinjamuri, 283-310. Cambridge, UK: Cambridge Univerrsity Press.

Hotham, Oliver. 2014. "The weird, weird world of North Korean elections." *NK News*, March 3, 2014. Accessed April 1, 2019. https://www.nknews.org/2014/03/the-weird-weird-world-of-north-korean-elections/.

Hubbard, Ben, David D. Kirkpatrick, Kate Kelly, and Mark Mazzetti. 2018. "Saudis Said to Use Coercion and Abuse to Seize Billions." *New York Times*, March 11, 2018. Accessed March 15, 2019. https://www.nytimes.com/2018/03/11/world/middleeast/saudi-arabia-corruption-mohammed-bin-salman.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region&region=top-news&WT.nav=top-news.

Human Rights Watch. 2009a. *UPR Submission: Democratic People's Republic of Korea (DPRK)* https://www.upr-info.org/sites/default/files/document/korea_dpr/session_06_-_november_2009/hrw_prk_upr_s06_2009.pdf.

---. 2009b. *UPR Submission: Nigeria.* https://www.upr-info.org/sites/default/files/document/nigeria/session_4_-_february_2009/hrwngauprs42009humanrightswatch.pdf.

---. 2012. "Civil Society Denounces Adoption of Flawed ASEAN Human Rights Declaration," November 19, 2012. Accessed January 19, 2019. https://www.hrw.org/news/2012/11/19/civil-society-denounces-adoption-flawed-asean-human-rights-declaration.

---. 2013a. *UPR Submission: China.* https://www.upr-info.org/sites/default/files/document/china/session_17_-_october_2013/hrw_upr17_chn_e_main.pdf.

---. 2013b. *UPR Submission: Democratic People's Republic of Korea (DPRK).* https://www.upr-info.org/sites/default/files/document/korea_dpr/session_19_-_april_2014/hrw_upr19_prk_e_main-2.pdf.

---. 2018. "Interpol's Curious Unconcern About Its Disappeared Ex-Chief," November 19, 2018. Accessed March 13, 2019. https://www.hrw.org/news/2018/11/19/interpols-curious-unconcern-about-its-disappeared-ex-chief.

Hürriyet Daily News. 2015. "Turkish-style presidential system needed, Erdoğan repeats." February 27, 2015. Accessed January 23, 2019. http://www.hurriyetdailynews.com/turkish-style-presidential-system-needed-erdogan-repeats-78988.

Icelandic Human Rights Centre. n.d. "The Right to Equality and Non-Discrimination." Accessed December 3, 2018. http://www.humanrights.is/en/human-rights-education-project/human-rights-concepts-ideas-and-fora/substantive-human-rights/the-right-to-equality-and-non-discrimination.

International Bar Association's Human Rights Institute. 2011. *Human Rights Lawyers and Defenders in Syria: A Watershed for the Rule of Law.* https://www.ibanet.org/Document/Default.aspx?DocumentUid=84C115FA-2FB4-4A70-88EC-45637A1F67E2.

Jackson, Patrick Thaddeus. 2011. *The Conduct of Inquiry in International Relations*. Edited by Richard Little, Iver Neumann and Jutta Weldes. *The New International Relations Series*: Abindgon, UK: Routledge.

Jetschke, Anja, and Andrea Liese. 2013. "The Power of Human Rights a Decade After." In *The Persistent Power of Human Rights: From Commitment to Compliance*, edited by Kathryn Sikkink, Stephen C. Ropp and Thomas Risse, 26-42. Cambridge, UK: Cambridge University Press.

JS1 (Joint Submission 1): Think Centre, Singaporeans for Democracy, Singapore Anti Death Penalty Campaign & Humanitarian Organisation for Migration Economics. 2011. *Universal Periodic Review on Singapore for the 11th Session of UPR.* https://www.upr-info.org/sites/default/files/document/singapore/session_11_-_may_2011/js1jointsubmission1-eng.pdf.

JS6: ARTICLE 19, the Committee to Protect Journalists, English PEN, Freedom House, P24 & PEN International. 2014. *Joint Submission to the UN Universal Periodic Review of Turkey.* https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1390&file=EnglishTranslation.

JS11: Civicus & Helsinki Citizens Assembly. 2014. *The Republic of Turkey - Joint NGO Submission to the UN Universal Periodic Review.* https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1474&file=EnglishTranslation.

JS25: International Federation for Human Rights & International Campaign for Tibet. 2018. *Universal Periodic Review of the People's Republic of China.* https://www.fidh.org/IMG/pdf/fidh_ict_joint_submission_upr_china-2.pdf.

JS35: Tibet Advocacy Coalition & International Tibet Network Member Groups. 2018. *Joint Submission by Tibet Advocacy Coalition and International Tibet Network Member Groups on China's 3rd Universal Periodic Review 2018.* https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=5780&file=EnglishTranslation.

Keck, Margaret E, and Kathryn Sikkink. 1998. *Activists beyond Borders: Advocacy Networks in International Politics*. Ithaca, New York: Cornell University Press.

Kendall, Gavin, and Gary Wickham. 1998. *Using Foucault's Methods*. Introducing Qualitative Methods. London: SAGE Publications.

Kingdom of Saudi Arabia. 2000. Law of Printed Materials and Publication (Royal Decree No. M/32). https://www.saudiembassy.net/law-printing-and-publication.

Klotz, Audie. 1995. *Norms in International Relations: The Struggle against Apartheid*. Ithaca, New York: Cornell University Press.

Kormany.hu. 2014. "Prime Minister Viktor Orbán's Speech at the 25th Bálványos Summer Free University and Student Camp." Website of the Hungarian Government. Accessed September 2, 2018. http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/prime-minister-viktor-orban-s-speech-at-the-25th-balvanyos-summer-free-university-and-student-camp.

Kornprobst, Markus. 2007. "Argumentation and Compromise: Ireland's Selection of the Territorial Status Quo Norm." *International Organization* 61 (1): 69-98. https://doi.org/10.1017/S0020818307070026.

Krook, Mona Lena, and Jacqui True. 2012. "Rethinking the life cycles of international norms: The United Nations and the global promotion of gender equality." *European Journal*

of International Relations 18 (1): 103-127. https://doi.org/10.1177/1354066110380963.

Kurdish Human Rights Project. 2009. *Submission to the UN Universal Periodic Review of the Republic of Turkey.* https://lib.ohchr.org/HRBodies/UPR/Documents/Session8/TR/KHRP_UPR_TUR_S08_2010_KurdishHumanRightsProject.pdf.

Laclau, Ernesto, and Chantal Mouffe. 1985. *Hegemony and Socialist Strategy*. London: Verso.

Legro, Jeffrey W. 1997. "Which norms matter? Revisiting the "failure" of internationalism." *International Organization* 51 (1): 31-63. https://doi.org/10.1162/002081897550294.

Lévi-Strauss, Claude. 1987. *Introduction to the Work of Marcel Mauss*. Translated by Felicity Baker. London: Routledge & Kegan Paul. 1950.

LFNKR-HRWF (Life Funds for North Korean Refugees & Human Rights Without Frontiers). 2009. *Submission for the Democratic People's Republic of Korea (North Korea)* https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KP/LFNKR-HRWF_PRK_UPR_S06_2009.pdf.

Li, Cheng. 2008. *Ethnic Minority Elites in China's Party-State Leadership: An Empirical Assessment.* Brookings Institution. https://www.brookings.edu/articles/ethnic-minority-elites-in-chinas-party-state-leadership-an-empirical-assessment/.

Liese, Andrea. 2009. "Exceptional Necessity: How Liberal Democracies Contest the Prohibition of Torture and Ill-Treatment when Countering Terrorism." *Journal of International Law and International Relations* 5 (1): 17-48.

Marshall, T. H. 1950. "Citizenship and Social Class." In *Citizenship and Social Class and Other Essays*, 1-85. Cambridge, UK: Cambridge University Press.

Maynard, Jonathan Leader. 2013. "A Map of the Field of Ideological Analysis." *Journal of Political Ideologies* 18 (3): 299-327. https://doi.org/10.1080/13569317.2013.831589.

McMahon, Edward R, and Elissa Johnson. 2016. *Evolution Not Revolution.* Friedrich-Ebert-Stiftung (Geneva, Switzerland). https://library.fes.de/pdf-files/iez/global/12806.pdf.

Merry, Sally Engle. 2006. "Transnational Human Rights and Local Activism: Mapping the Middle." *American Anthropologist* 108 (1): 38-51. http://www.jstor.org/stable/3804730.

Merry, Sally Engle, and Peggy Levitt. 2017. "The Vernacularization of Women's Human Rights." In *Human Rights Futures*, edited by Jack Snyder, Leslie Vinjamuri and Stephen Hopgood, 213-236. Cambridge, UK: Cambridge University Press.

Müller, Harald. 2013. "Introduction: Where It All Began." In *Norm Dynamics in Multilateral Arms Control*, edited by Harald Müller and Carmen Wunderlich, 1-19. Athens, Georgia: University of Georgia Press.

National People's Congress of China. 2013. "New nat'l legislature sees more diversity." Last Modified February 27, 2013. Accessed May 18, 2019. http://www.npc.gov.cn/englishnpc/news/Focus/2013-02/27/content_1759084.htm.

OHCHR (Office of the United Nations High Commissioner for Human Rights). 1993. *Vienna Declaration and Programme of Action.* https://www.ohchr.org/en/professionalinterest/pages/vienna.aspx.

Permanent Court of International Justice. 1930. Greco-Bulgarian Communities Case (Series B. No 17). https://jusmundi.com/en/document/decision/en-greco-bulgarian-communities-advisory-opinion.
Perugini, Nicola, and Neve Gordon. 2015. *The Human Right to Dominatge*. New York: Oxford University Press.
Picheta, Rob. 2018. "France's niqab ban violates human rights, UN committee says." CNN, October 23, 2018. Accessed April 18, 2019. https://edition.cnn.com/2018/10/23/europe/france-niqab-ban-un-intl/index.html.
Price, Richard M. 1997. *The Chemical Weapons Taboo*. Ithaca, New York: Cornell University Press.
Price, Richard, and Christian Reus-Smit. 1998. "Dangerous Liaisons? Critical International Theory and Constructivism." 4 (3): 259-294. https://doi.org/10.1177/1354066198004003001.
Rachels, James. 2014. "Punishment and Desert." In *Ethics in Practice: An Anthology*, edited by Hugh LaFollette, 466-473. Fourth edition. Chichester, UK: Wiley-Blackwell.
Rawls, John. 2005. *Political Liberalism*. Expanded edition. New York: Columbia University Press.
Ray, James Lee. 1989. "The Abolition of Slavery and the End of International War." *International Organization* 43 (3): 405-439. http://www.jstor.org/stable/2706653.
Republic of Singapore. 1990. Maintenance of Religious Harmony Act. https://sso.agc.gov.sg/Act/MRHA1990?Timeline=On#pr8-.
Risse, Thomas, and Stephen C. Ropp. 2013. "Introduction and Overview." In *The Persistent Power of Human Rights: From Commitment to Compliance*, edited by Kathryn Sikkink, Stephen C. Ropp and Thomas Risse, 3-25. Cambridge, UK: Cambridge University Press.
Risse, Thomas, Stephen C. Ropp, and Kathryn Sikkink. 1999. *The Power of Human Rights: International Norms and Domestic Change*. Cambridge, UK: Cambridge University Press.
Rohac, Dalibor. 2018. "Hungary and Poland Aren't Democratic. They're Authoritarian." *Foreign Policy*, February 5, 2018. Accessed January 21, 2019. https://foreignpolicy.com/2018/02/05/hungary-and-poland-arent-democratic-theyre-authoritarian/.
Rorty, Richard. 1998. "Human Rights, Rationality, and Sentimentality." In *Truth and Progress*, 167-185. Cambridge, UK: Cambridge University Press.
Rule of Law Unit of the Executive Office of the Secretary-General. n.d. "Rule of Law and Human Rights." https://www.un.org/ruleoflaw/rule-of-law-and-human-rights/.
Sang-Hun, Choe. 2014. "North Korea Uses Election To Reshape Parliament." *New York Times*, March 9, 2014. Accessed April 1, 2019. https://www.nytimes.com/2014/03/10/world/asia/north-korea.html.
Schenkkan, Nate. 2018. *Nations in Transit 2018: Confronting Illiberalism*. Freedom House. https://freedomhouse.org/report/nations-transit/nations-transit-2018.
Sen, Amartya. 1999. *Development as Freedom*. Oxford, UK: Oxford University Press.

Singaporeans for Democracy. 2011. *Submission to Universal Periodic Review.* https://www.upr-info.org/sites/default/files/document/singapore/session_11_-_may_2011/sfdsingaporeansfordemocracy-eng.pdf.

Singer, J. David. 1960. "International Conflict: Three Levels of Analysis." Review of Man, the State, and War: A Theoretical Analysis, Kenneth N. Waltz. *World Politics* 12 (3): 453-461. https://doi.org/10.2307/2009401.

Stuenkel, Oliver. 2016. *Post-Western World: How Emerging Powers Are Remaking Global Order*. Cambridge, UK: Polity Press.

Syrian Observatory for Human Rights, March 15, 2019, "More than 570 thousand people were killed on the Syrian territory within 8 years of revolution demanding freedom, democracy, justice, and equality," http://www.syriahr.com/en/?p=120851.

Tan, Eugene K. B. 2005. "Multiracialism engineered: The limits of electoral and spatial integration in Singapore." *Ethnopolitics* 4 (4): 413-428. https://doi.org/10.1080/17449050500348659.

Think Centre. 2011. *Universal Periodic Review on Singapore: For the 11th Session of UPR (May 2011).* https://www.upr-info.org/sites/default/files/document/singapore/session_11_-_may_2011/tcthinkcentre-eng.pdf.

TIME. 2018. "Crown Prince Mohammed bin Salman Talks to TIME About the Middle East, Saudi Arabia's Plans and President Trump." April 5, 2018. http://time.com/5228006/mohammed-bin-salman-interview-transcript-full/.

UNCHR (United Nations Commission on Human Rights). 2006. *Transparency and the imposition of the death penalty*. Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions. E/CN.4/2006/53/Add.3. http://daccess-ods.un.org/access.nsf/Get?Open&DS=E/CN.4/2006/53/Add.3&Lang=E.

UNDP (United Nations Development Programme). 2018a. "Human Development Index (HDI)." Accessed February 25, 2019. http://hdr.undp.org/en/content/human-development-index-hdi.

---. 2018b. "Human Development Indices and Indicators: 2018 Statistical Update." http://hdr.undp.org/sites/default/files/2018_human_development_statistical_update.pdf.

UNESCO (United Nations Educational, Scientific and Cultural Organization). 2013. *Universal Periodic Review - Saudi Arabia.* https://www.upr-info.org/sites/default/files/document/saudi_arabia/session_17_-_october_2013/unesco_upr17_sau_e_main_rev.pdf.

UNGA (United Nations General Assembly). 1948. *Universal Declaration of Human Rights.* General Assembly resolution 217 A. https://www.un.org/en/universal-declaration-human-rights/.

---. 1966. *International Covenant on Civil and Political Rights.* General Assembly resolution 2200 A. https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx.

---. 1989. *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*. General Assembly resolution 44/128. https://www.ohchr.org/en/professionalinterest/pages/2ndopccpr.aspx.

---. 2005a. *2005 World Summit Outcome.* General Assembly resolution 60/1. A/RES/60/1. http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_60_1.pdf.
---. 2005b. *In Larger Freedom: Towards Development, Security and Human Rights for All: Report of the Secretary-General.* A/59/2005. https://undocs.org/A/59/2005.
---. 2006. *Human Rights Council.* General Assembly resolution 60/251. A/RES/60/251. https://www2.ohchr.org/english/bodies/hrcouncil/docs/A.RES.60.251_En.pdf.
---. 2012a. *Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.* A/67/279. https://undocs.org/A/67/279.
---. 2012b. "Moratorium on the use of the death penalty: Report of the Secretary-General." A/67/226. https://undocs.org/A/67/226.
UNHRC (United Nations Human Rights Council). 2007. "Institution-building of the United Nations Human Rights Council." Council resolution 5/1. A/HRC/RES/5/1. http://ap.ohchr.org/documents/E/HRC/resolutions/A_HRC_RES_5_1.doc.
---. 2008a. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: China.* A/HRC/WG.6/4/CHN/1. https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/CN/A_HRC_WG6_4_CHN_1_E.pdf.
---. 2008b. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Saudi Arabia.* A/HRC/WG.6/4/SAU/1. https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/SA/A_HRC_WG6_4_SAU_1_E.PDF.
---. 2008c. *Report of the Working Group on the Universal Periodic Review, The Philippines.* A/HRC/8/28. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G08/136/75/PDF/G0813675.pdf?OpenElement.
---. 2009a. *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1: Democratic People's Republic of Korea.* A/HRC/WG.6/6/PRK/2. https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KP/A_HRC_WG6_6_PRK_2_E.pdf.
---. 2009b. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Democratic People's Republic of Korea.* A/HRC/WG.6/6/PRK/1. https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KP/A_HRC_WG6_6_PRK_1_E.pdf.
---. 2009c. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Nigeria.* A/HRC/WG.6/4/NGA/1. https://lib.ohchr.org/HRBodies/UPR/Documents/Session4/NG/A_HRC_WG6_4_NGA_1_E.pdf.
---. 2009d. *Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn.* A/HRC/10/18. https://undocs.org/A/HRC/10/18.

---. 2009e. *Report of the Working Group on the Universal Periodic Review: Nigeria.* A/HRC/11/26. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/163/12/PDF/G0916312.pdf?OpenElement.
---. 2009f. *Report of the Working Group on the Universal Periodic Review: Saudi Arabia*. A/HRC/11/23. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/117/53/PDF/G0911753.pdf?OpenElement.
---. 2009g. *Report of the Working on the Universal Periodic Review: Saudi Arabia.* A/HRC/11/23. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/117/53/PDF/G0911753.pdf?OpenElement.
---. 2009h. *Report of the Working on the Universal Periodic Review: Saudi Arabia (Addendum).* A/HRC/11/23/Add.1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G09/140/47/PDF/G0914047.pdf?OpenElement.
---. 2010a. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Turkey.* A/HRC/WG.6/8/TUR/1 https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/110/17/PDF/G1011017.pdf?OpenElement.
---. 2010b. *Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea*. A/HRC/13/13. https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/KP/A_HRC_13_13_PRK_E.pdf.
---. 2011a. *Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution: Syrian Arab Republic.* A/HRC/WG.6/12/SYR/2. http://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/A_HRC_WG.6_12_SYR_2_SyrianArabRepublic.doc.
---. 2011b. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Singapore.* A/HRC/WG.6/11/SGP/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/105/40/PDF/G1110540.pdf?OpenElement.
---. 2011c. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Syrian Arab Republic.* A/HRC/WG.6/12/SYR/1. https://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/A_HRC_WG.6_12_SYR_1_Syrian%20Arab%20Republic_E.pdf.
---. 2011d. *Report of the Working Group on the Universal Periodic Review: Singapore (Addendum).* A/HRC/18/11/Add.1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G11/144/50/PDF/G1114450.pdf?OpenElement.
---. 2011e. *Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 5/1: Syrian Arab republic.* A/HRC/WG.6/12/SYR/3. http://lib.ohchr.org/HRBodies/UPR/Documents/session12/SY/A_HRC_WG.6_12_SYR_3_SyrianArabRepublic_E.doc.

---. 2012a. *Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea.* A/HRC/19/65. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/103/90/PDF/G1210390.pdf?OpenElement.
---. 2012b. *Report of the Working Group on the Universal Periodic Review: Syrian Arab Republic.* A/HRC/19/11. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G12/102/33/PDF/G1210233.pdf?OpenElement.
---. 2012c. *Integrity of the judicial system*. Council resolution 19/31. A/HRC/RES/19/31. https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/131/01/PDF/G1213101.pdf?OpenElement.
---. 2012d. *Human rights, democracy and the rule of law*. Council resolution 19/36. A/HRC/RES/19/36. https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/G12/131/66/PDF/G1213166.pdf?OpenElement.
---. 2013a. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: China.* A/HRC/WG.6/17/CHN/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/169/58/PDF/G1316958.pdf?OpenElement.
---. 2013b. *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Nigeria.* A/HRC/WG.6/17/NGA/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/160/00/PDF/G1316000.pdf?OpenElement.
---. 2013c. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Saudi Arabia.* A/HRC/WG.6/17/SAU/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/160/88/PDF/G1316088.pdf?OpenElement.
---. 2013d. *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21, People's Republic of China.* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/159/93/PDF/G1315993.pdf?OpenElement.
---. 2013e. *Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Saudi Arabia.* A/HRC/WG.6/17/SAU/3. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/158/98/PDF/G1315898.pdf?OpenElement.
---. 2014a. *Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Democratic People's Republic of Korea.* A/HRC/WG.6/19/PRK/2. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/112/23/PDF/G1411223.pdf?OpenElement.
---. 2014b. *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Turkey.* A/HRC/WG.6/21/TUR/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/194/36/PDF/G1419436.pdf?OpenElement.
---. 2014c. *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Democratic People's Republic of Korea.*

https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/106/58/PDF/G1410658.pdf?OpenElement.
---. 2014d. *Report of the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights on his mission to China.* A/HRC/WG.6/19/PRK/1. https://undocs.org/en/A/HRC/31/60/Add.1.
---. 2014e. *Report of the Working Group on the Universal Periodic Review: Democratic People's Republic of Korea.* A/HRC/27/10. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G14/072/22/PDF/G1407222.pdf?OpenElement.
---. 2014f. *Report of the Working Group on the Universal Periodic Review: China (Addendum).* A/HRC/25/5/Add.1. http://lib.ohchr.org/HRBodies/UPR/Documents/Session17/CN/A_HRC_25_5_Add-1_China_E.doc.
---. 2014g. *Report of the Working Group on the Universal Periodic Review: China (including Hong Kong, China and Macao, China).* A/HRC/25/5. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/188/55/PDF/G1318855.pdf?OpenElement.
---. 2015a. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Singapore.* A/HRC/WG.6/24/SGP/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/245/91/PDF/G1524591.pdf?OpenElement.
---. 2015b. *Report of the Working Group on the Universal Periodic Review: Turkey. A/HRC/29/15.* https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/076/33/PDF/G1507633.pdf?OpenElement.
---. 2016a. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Syrian Arab Republic.* A/HRC/WG.6/26/SYR/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/215/69/PDF/G1621569.pdf?OpenElement.
---. 2016b. *Report of the Working Group on the Universal Periodic Review: Singapore.* A/HRC/32/17. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/078/42/PDF/G1607842.pdf?OpenElement.
---. 2016c. *Report of the Working Group on the Universal Periodic Review: Syrian Arab Republic.* A/HRC/34/5. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/441/78/PDF/G1644178.pdf?OpenElement.
---. 2016d. *Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21: Syrian Arab Republic.* A/HRC/WG.6/26/SYR/3. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/187/10/PDF/G1618710.pdf?OpenElement.
---. 2017a. *Compilation on the Philippines: Report of the Office of the United Nations High Commissioner for Human Rights.* A/HRC/WG.6/27/PHL/2. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/046/97/PDF/G1704697.pdf?OpenElement.
---. 2017b. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Philippines.* A/HRC/WG.6/27/PHL/1.

https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/108/99/PDF/G1710899.pdf?OpenElement.
---. 2017c. *Report of the Working Group on the Universal Periodic Review: Philippines (Addendum).* A/HRC/36/12/Add.1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/273/53/PDF/G1727353.pdf?OpenElement.
---. 2017d. *Summary of stakeholders' submissions - the Philippines: Report of the Office of the United Nations High Commissioner for Human Rights.* A/HRC/WG.6/27/PHL/3. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G17/046/69/PDF/G1704669.pdf?OpenElement.
---. 2018a. *Compilation on China: Report of the Office of the United Nations High Commissioner for Human Rights.* A/HRC/WG.6/31/CHN/2. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/259/12/PDF/G1825912.pdf?OpenElement.
---. 2018b. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: China.* A/HRC/WG.6/31/CHN/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/254/62/PDF/G1825462.pdf?OpenElement.
---. 2018c. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Kingdom of Saudi Arabia.* A/HRC/WG.6/31/SAU/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/254/86/PDF/G1825486.pdf?OpenElement.
---. 2018d. *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Nigeria.* A/HRC/WG.6/31/NGA/1. https://documents-dds-ny.un.org/doc/UNDOC/GEN/182/589/9X/PDF/1825899.pdf?OpenElement.
---. 2018e. *Summary of Stakeholders' submissions on China.* A/HRC/WG.6/31/CHN/3. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/266/48/PDF/G1826648.pdf?OpenElement.
---. 2018f. *Summary of Stakeholders' submissions on Saudi Arabia.* A/HRC/WG.6/31/SAU/3. https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/258/40/PDF/G1825840.pdf?OpenElement.
UNODC (United Nations Office on Drugs and Crime). 2005. *Bangkok Declaration on Synergies and Responses: Strategic Alliances in Crime Prevention and Criminal Justice.* https://www.unodc.org/pdf/crime/congress11/BangkokDeclaration.pdf.
---. 2012. *UNODC and the Promotion and Protection of Human Rights: Position Paper.* https://www.unodc.org/documents/justice-and-prison-reform/UNODC_Human_rights_position_paper_2012.pdf.
---. 2015. *Doha Declaration on Integrating Crime Prevention and Criminal Justice into the Wider United Nations Agenda to Address Social and Economic Challenges and to Promote the Rule of Law at the National and International Levels, and Public Participation.* https://www.unodc.org/documents/congress/Declaration/V1504151_English.pdf.
UNSG (United Nations Secretary-General). 2004. "The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary General." S/2004/616. http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2004/616.

UPR Info. n.d.-a. "A brief history of the UPR." Accessed February 25, 2019. https://www.upr-info.org/en/upr-process/what-is-it/brief-history-of-the-upr.

---. n.d.-b. "Q&A on the modalities of the UPR process." Accessed February 25, 2019. https://www.upr-info.org/en/upr-process/what-is-it/qa-on-the-modalities-of-the-upr-process.

Van Kersbergen, Kees, and Bertjan Verbeek. 2007. "The Politics of International Norms: Subsidiarity and the Imperfect Competence Regime of the European Union." *European Journal of International Relations* 13 (2): 217-238. https://doi.org/10.1177/1354066107076955.

van Zyl Smit, Dirk. 2007. *Handbook of Basic Principles and Promising Practices on Alternatives to Imprisonment.* United Nations Office on Drugs and Crime (New York). https://www.unodc.org/pdf/criminal_justice/Handbook_of_Basic_Principles_and_Promising_Practices_on_Alternatives_to_Imprisonment.pdf.

Venice Commission. 2017. *Information note from Turkey's Ministry of Justice on issues to be handled in the visit of the Venice Commission regarding the constitutional amendments.* CDL-REF(2017)015. https://www.venice.coe.int/webforms/documents/?pdf=CDL-REF(2017)015-e.

Vinjamuri, Leslie. 2017. "Human Rights Backlash." In *Human Rights Futures*, edited by Jack Snyder, Leslie Vinjamuri and Stephen Hopgood, 114-134. Cambridge, UK: Cambridge University Press.

Wall Street Journal. 2015. "Full Transcript: Interview With Chinese President Xi Jinping." Sept. 22, 2015. Accessed January 21, 2019. https://www.wsj.com/articles/full-transcript-interview-with-chinese-president-xi-jinping-1442894700.

Waltz, Kenneth N. 2001. *Man, the State, and War: A Theoretical Analysis*. 2nd edition. New York: Columbia University Press.

Weedon, Chris. 1987. *Feminist Practice and Post-Structuralist Theory*. Oxford, UK: Basil Blackwell.

Wiener, Antje. 2004. "Contested Compliance: Interventions on the Normative Structure of World Politics." *European Journal of International Relations* 10 (2): 189-234. https://doi.org/10.1177/1354066104042934.

Williams, Paul D. 2007. "From non-intervention to non-indifference: the origins and development of the African Union's security culture." *African Affairs* 106 (423): 253-279. https://dx.doi.org/10.1093/afraf/adm001.

Wunderlich, Carmen. 2013. "Theoretical Approaches in Norm Dynamics." In *Norm Dynamics in Multilateral Arms Control*, edited by Harald Müller and Carmen Wunderlich, 20-48. Athens, Georgia: University of Georgia Press.

Zakaria, Fareed. 1997. "The Rise of Illiberal Democracy." *Foreign Affairs* 76 (6): 22-43. https://www.foreignaffairs.com/articles/1997-11-01/rise-illiberal-democracy.

Zheng, William. 2019. "No let-up for corrupt 'tigers' in 2018 as China's graft-busters claim more big scalps." *South China Morning Post*, January 1, 2019. Accessed March 15, 2019. https://www.scmp.com/news/china/politics/article/2180294/no-let-corrupt-tigers-2018-chinas-graft-busters-claim-more-big.

Zwingel, Susanne. 2012. "How Do Norms Travel? Theorizing International Women's Rights in Transnational Perspective." *International Studies Quarterly* 56 (1): 115-129. http://www.jstor.org/stable/41409826.