

DEVELOPED COUNTRIES' VOTING PATTERNS AMONG SOME
HUMAN RIGHTS RESOLUTIONS AT THE UNITED NATIONS
(1992-2019)

by

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A Dissertation submitted to the

Graduate School - Newark

Rutgers, The State University of New Jersey

In partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

Graduate Program in Global Affairs

written under the direction of

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and approved by

Newark, New Jersey

October, 2020

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ABSTRACT OF THE DISSERTATION

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This dissertation aims to answer the question: Why did developed countries tend to vote against some human rights resolutions at the Third Committee of the United Nations (UN) General Assembly, while developing countries tended to support some human rights resolutions more often than developed ones? A proposed qualitative study, designed to tackle new patterns that systematically influence the voting position of developed countries and built on scholars' arguments and findings, is the main stream of my dissertation.

The methodology differs from using data collection of some human rights resolutions, categorized under specific issues and agenda items and recorded since just after the Cold War until the 74th Session of 2019 at the UN. In addition, an intensive self-observation of informal negotiation sessions (2014-2018) to draft resolutions was held at the UN before voting took place; self-observations of official voting sessions (2014-2018); interviews with experts and specialists at UN agencies and states missions; interviews of outsider professionals from policy-oriented research centers affiliated with and specializing in UN studies, and academics.

These observations were made in tandem with theoretical frameworks based on hypotheses and postulates that were developed in other disciplinary settings.

Numerous UN bodies are tackling human rights matters from different angles. This dissertation focuses mainly on the Third Committee: Social, Humanitarian, and Cultural, at the General Assembly of the United Nations, the committee directly related to human rights resolutions in New York and on some Human Rights Council-related reports in Geneva. My selection of the Third Committee's resolutions is categorized and grouped as the following: human rights selective resolutions, freedom of religion, children's rights and women's advancement, and electoral self-determination.

Keywords

Developed countries, developing countries, United Nations, human rights, LGBT rights, resolutions, rights of children, rights to development, technology, voting, Third Committee.

Preface

The 21st century is an age of global human rights advocacy associated with unprecedented revolutions of political, economic, cultural, and social developments. While taking my courses at Rutgers University to continue my PhD, I took a course “Global Political Economy” with my advisor Professor Jun Xiang. Taking this course coincided with my acceptance of a full-time job at the UN in the summer of 2014.

Since my doctorate research is in International Relations and Human Rights and Conflicts, I have a passion to dig deeper into the different entitlements of human rights and explore how countries are using human rights nationally and internationally. Professor Jun Xiang originated and suggested the idea of analyzing developed and developing countries’ voting behavior among some human rights resolutions at the UN General Assembly. More specifically, why do developed countries vote against these human rights resolutions at the UN?

Personal observation during my job at The Permanent Mission of The State of Kuwait to the United Nations in New York from 2014-18, and my mandate to be in charge of the Third Committee for three consecutive sessions, provided me with a great understanding of how to draft a resolution and why (beside the mechanism of voting with Yes, No, or Abstain). Observations of closed negotiated meetings have been an added value to my theory. The social capital I have built during these years has provided a productive understanding of the subject as well.

As a result, in my dissertation I researched that specific topic intensively and thoroughly during these years, and writing my doctoral dissertation to uncover the

voting behavior of some developed countries, especially in an advanced and changing world with varied interpretations of human rights.

DEDICATION AND ACKNOWLEDGEMENTS

To my beloved father Khalid, mother Sabika, and children Amna and Abdul. Without you I would not be here today. I also wish to acknowledge the patience and dedication of my true advisors Prof. Xiang, Prof. Coicaud, Prof. Seiglie, and Prof. Abdellatif as I move forward in my journey.

- Hiyam Khalid Alfassam

Table of Contents

Introduction	2
Chapter 1: Literature Review	23
1) Philosophers, theorists, and their beliefs about human rights.....	24
2) Relative Topics to International Relations.....	36
3) Relative Topics to Research and Human Rights.....	44
4) Conclusion.....	67
Chapter 2: Analysis of Resolutions and Patterns	
Subchapter I: The “Right to Development” Resolution.....	70
Subchapter II: Freedom of Religion, and Religion and Racism-Related Resolutions.....	89
Chapter 3: Analysis of Resolutions and Patterns	
Subchapter III: Children’s and Women’s Advancement.....	123
Subchapter IV: Electoral Self-determination.....	143
Chapter 4: Discussion and Interviews	169
Chapter 5: Conclusion	188
Bibliography and Resources	195
Appendices	200

Introduction

Philosophical investigations of human rights often begin by asking 'What are human rights?' but it is not always clear what would count as an answer.¹

- Charles R. Beitz

What are human rights? This question can be read and interpreted in many ways, ranging from the extreme of exclusion to the other of inclusion. One may base the philosophical interpretation of an open idea of human rights on any number of considerations. Today, the global advocacy of human rights, especially among developed countries, is commonly used as a bargaining chip in the international arena. How and why is human rights advocacy moving in its current direction?

This dissertation contradicts the conventional perception that many developed countries push human rights standards/agendas globally, specifically on developing countries, while trying to be the responsive advocates for human rights practices and respects. I find that the US and other developed countries (i.e. the EU) tend to vote against some human rights resolutions at the UN General Assembly due to specific motivational patterns, for which I will argue and identify throughout this work. The interplay between human rights and bargaining chips in some resolutions defines the voting pattern of developed countries, and provides an innovative approach to exploring the hidden motivations and reasons for

¹ Charles R. Beitz, *The Idea of Human Rights* (Oxford University Press, 2009) p. 48

tendencies to vote against specific human rights resolutions – reasons distinct from those for which many scholars argue. While existing literature has identified a number of specific behavioral voting patterns, the field still needs to advance and expand its understanding of these tendencies. To test my argument, I choose the most influential and accredited body, the international governmental organization (IGO) known globally as the United Nations (UN), and propose an examination of developed and developing countries' voting behaviors among some human rights resolutions at the Third Committee of its General Assembly, and post-Cold War era resolutions until the 74th Session of 2019. These bodies and this time frame form the crux of my analysis. Since the topic of my dissertation is based on the analysis of select resolutions at the Third Committee (Social, Humanitarian, & Cultural Issues)² of the UN General Assembly, it will be useful to outline the structure of the UN, specifically the Third Committee of the General Assembly, and generally explain the organs of UN bodies and the mechanism of resolutions' processes. I outline these functions in order to give the reader a better understanding of member states' voting behaviors at the Third Committee.

The origin and history of the United Nations goes back to 1942, when the name was coined by US President Franklin D. Roosevelt during the Second World War, when representatives of 26 nations pledged to fight together against the Axis Powers.³ In 1945, representatives of 50 countries met in San Francisco at the United Nations Conference on International Organization to draw up

² <https://www.un.org/en/ga/third/>

³ <https://www.un.org/en/sections/history/history-united-nations/index.html>

the United Nations Charter,⁴ after which the Charter was signed by these countries, and the UN came officially into existence on October 24th, 1945.⁵

Currently the UN is made up of 193 sovereign member states, working together to provide a forum guided by the purposes and principles contained in its founding Charter, expressing their views in the General Assembly, Security Council, and other bodies and committees; as a mechanism for governments to negotiate different policy areas together.⁶ The head of the UN is “the UN's Chief Administrative Officer, the Secretary-General.”⁷ The main organs of the UN are the General Assembly (GA), the Security Council (SC), the Economic and Social Council (ECOSOC), the Trusteeship Council, the International Court of Justice, and the UN Secretariat.⁸ The functions and powers of each UN organ vary at the international and national arenas.

General Assembly

While the General Assembly is “empowered to make recommendations to States on international issues within its competence, it has also initiated actions—political, economic, humanitarian, social and legal—which have benefitted the lives of millions of people throughout the world.”⁹ According to the Charter, the GA may consider and approve the UN budget; elect non-permanent members of the Security Council and other UN organs; consider recommendations to maintain

⁴ www.un.org

⁵ Ibid.

⁶ <https://www.un.org/en/sections/about-un/overview/index.html>

⁷ Ibid.

⁸ <https://www.un.org/en/sections/about-un/main-organs/>

⁹ <https://www.un.org/en/ga/about/background.shtml>

peace and security, including disarmament; discuss any question related to human rights and threats to peace; and initiate studies to promote international cooperation in many areas such as social, political, economic, cultural, health, and humanitarian.¹⁰

Each member state at the GA has one vote, whether on resolutions, elections, or budgetary questions. Votes taken require a two-thirds majority of member states; sometimes issues are achieved by consensus.¹¹ Issues and topics at the UN are varied, categorized and subcategorized, wide-ranging, and diverse. Hence, these issues and topics are all distributed among many subsidiary organs (commissions, committees, boards, councils, working groups, etc.)¹² In order to make the work of the General Assembly “more focused and relevant”¹³ issues and topics have been assigned to six main committees.

Main Committees

There are six main committees in the General Assembly: the First Committee: Disarmament & International Security; the Second Committee: Economic and Financial; the Third Committee: Social, Humanitarian & Cultural; the Fourth Committee: Special Political & Decolonization; the Fifth Committee: Administrative & Budgetary; and finally the Sixth Committee: Legal.¹⁴ Each committee is assigned to specific agenda items related to its own mandates. For

¹⁰ www.un.org

¹¹ <https://www.un.org/en/ga/about/background.shtml>

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ <https://www.un.org/en/ga/maincommittees/index.shtml>

example, the Second Committee has agenda items related to “economic growth and development such as macroeconomic policy questions; financing for development; sustainable development; human settlements; globalization and interdependence; eradication of poverty; operational activities for development; agriculture development, food security and nutrition; information and communications technologies for development; and towards global partnerships.”¹⁵

The Third Committee’s agenda items are related mainly to human rights questions, including the Human Rights Council (in Geneva) reports. The Third Committee discusses issues and questions relating to “the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination. The Committee also addresses important social development questions such as issues related to youth, family, aging, persons with disabilities, crime prevention, criminal justice, and international drug control.”¹⁶

At each session of the General Assembly (which runs September to December), the six committees consider different draft resolutions, under different agenda items, for voting consideration. At the Third Committee, resolutions vary from “Rights of the Child”¹⁷ and “Right to Food,”¹⁸ to country specific resolutions on human rights situations such as “Situation of Human Rights in the Syrian Arab

¹⁵ <https://www.un.org/en/ga/second/index.shtml>

¹⁶ <https://www.un.org/en/ga/third/index.shtml>

¹⁷ <https://www.un.org/en/ga/third/74/votingsheets.shtml>

¹⁸ Ibid.

Republic”¹⁹ and “Situation of Human Rights in the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine.”²⁰

At the same time, there are some resolutions passed by consensus rather than votes, which typically means that the language of the resolution is noncontroversial among states’ national sovereignty, and that the resolutions’ content is usually watered down and/or generalized.

Third Committee

The Third Committee of the General Assembly has under its purview specific crosscutting issues related to social, humanitarian, and cultural issues. “The General Assembly allocates to the Third Committee agenda items relating to a range of social, humanitarian affairs and human rights issues that affect people all over the world.”²¹ Each agenda item has a title, and each one focuses on specific questions and matters; hence each agenda item has its own related resolutions. For example, agenda item “Social Development”²² has the “Right to Development”²³ resolution and few others. Agenda item “Advancement of Women”²⁴ has many related resolutions, one of which is “Trafficking in Women and Girls.”²⁵ Therefore, each agenda item has its own procedural plan to move forward, whether to vote for resolutions or to be adopted by consensus; such as

¹⁹ <https://www.un.org/en/ga/third/74/votingsheets.shtml>

²⁰ *Ibid.*

²¹ <https://www.un.org/en/ga/third/>

²² <https://www.un.org/en/ga/third/74/documentslist.shtml>

²³ <https://undocs.org/en/A/RES/73/166>

²⁴ <https://www.un.org/en/ga/third/74/documentslist.shtml>

²⁵ <https://undocs.org/en/A/RES/73/146>

discussing many formal UN reports, governmental and non-governmental hearings, interactions, and formal and informal meetings:

An important part of the work of the Committee will focus on the examination of human rights questions, including reports of the special procedures of the Human Rights Council which was established in 2006. In October 2019, the Committee will hear and interact with special rapporteurs, independent experts, and chairs of working groups as mandated by the Human Rights Council. The Committee also discusses questions relating to the advancement of women, the protection of children, indigenous issues, the treatment of refugees, the promotion of fundamental freedoms through the elimination of racism and racial discrimination, and the right to self-determination. The Committee also addresses important social development questions such as issues related to youth, family, ageing, persons with disabilities, crime prevention, criminal justice, and international drug control.²⁶

“The Third Committee considered over 60 draft resolutions, more than half of which were submitted under the human rights agenda item alone. These included three so-called country-specific resolutions on human rights situations.”²⁷

In my research I am not including country-specific resolutions, as they are basically politically-based. The formal meetings of voting are webcast live on UN Web TV, and past meetings are archived for reference, all available in the six available languages of the United Nations.²⁸

Resolutions

Resolutions proceed through a set of procedures; starting from structuring the elements of resolutions, to drafting of resolutions, then adoption of resolutions. Each procedure has its own rules, called “Rules of Procedures.”²⁹ There are three main principal organs that adopt resolutions: the Security Council, the General

²⁶ <https://www.un.org/en/ga/third/74/documentslist.shtml>

²⁷ <https://www.un.org/en/ga/third/>

²⁸ *Ibid.*

²⁹ <https://www.un.org/en/ga/about/ropga/index.shtml>

Assembly, and the Economic and Social Council. The nature of drafting resolutions applies equally to all three organs.³⁰

If you consider that the Charter is the basic text for the organization, the Constitution of the organization, you can also consider that resolutions adopted by the General Assembly constitute the law of the Organization. And since it is the law of the Organization, it stands to reason that the text you produce should be clear. However, today, it's not always the case; sometimes resolutions adopted by the General Assembly may be obscure and even seem to be contradictory. This is not necessarily the fault of the drafter; because, contrary to what happened in the early days when every draft resolution used to be put to the vote, nowadays, every draft resolution, is the result of informal consultations. In the process, compromises are made and the final language of the text may be sometimes unclear.³¹

Therefore, resolutions can be the goal of adopting an outcome document agreed by member states, after a back and forth of negotiated and compromised language.³² The main three steps of drafting resolutions before it goes to vote are as follows:

The Process of Structuring a Resolution

Any resolution that takes place at the beginning must have main sponsor(s), and co-sponsor(s); then “The main sponsor consults with Member States and holds informal negotiations on the draft before tabling the best version possible.”³³

The Process of Drafting a Resolution

After tabling the resolution by the main sponsor(s) and the introduction of the document, informal negotiation takes place by the main sponsor or by a facilitator appointed by the chair of the Third Committee.³⁴ During this stage of

³⁰ <https://outreach.un.org/mun/content/drafting-resolutions>

³¹ Ibid.

³² Ibid.

³³ <https://outreach.un.org/mun/content/drafting-resolutions>

³⁴ Ibid.

drafting a resolution, there are two possible outcomes. Either: a) member states reach a consensus on the text/language negotiated; hence there is no need for a process of voting among the resolution, and it will be adopted by consensus; or b) member states do not reach an agreement among text/ language negotiated, which leads to a process of voting for a resolution.

The latter stage takes a specific order of “informal meetings” for a few weeks/months; the sponsor(s) set dates to negotiate the text/language among all member states for many rounds of consultations before the adoption meeting date. Sometimes informal meetings form in three sets: a) a set of meetings for member states who oppose the text/language of the resolution, undertaken for opposing member states to request changes and amendments to the language; b) a set of meetings for member states whom are in favor of the text/language of the resolution, so that the sponsor may suggest the changes and amendments to that group as a whole; and c) a set of meetings for all member states at once, where each state/group can suggest and negotiate concerns, changes, recommendations, and amendments with the goal to reach a consensus with compromises at the same time, and resolve their differences:³⁵

The key to successful drafting of both oral proposals and/or draft resolutions is to consult widely so as to know the concerns of others before you put pen to paper, and then to factor these into your draft so as to recruit sponsors and disarm opponents. When your draft resolution is written, you should again consult widely and be ready to modify it in response to the concerns of other delegations. This process will often ensure the draft's acceptance when it is put to the committee for decision. At the very least, any points of serious disagreement will have been identified and isolated.³⁶

³⁵ <https://outreach.un.org/mun/content/drafting-resolutions>

³⁶ Ibid.

However, when member states do not reach a consensus during the negotiation processes, and all the above consultations processes fail, the sponsor will submit the draft with its maximum agreed language to a vote.

The Process of Voting for a Resolution

The Third Committee sets specific dates of meetings for each resolution to be tabled and decided, usually in October through November of each General Assembly session. When the meeting starts, the sponsor presents the resolution's goals/aims and its summarized content, and calls for member states if any have an objection. If state/s are willing to reject the resolution to be passed by consensus, then state/s press the button to indicate the request for a vote on that resolution, then the Third Committee chair calls member states to vote on the resolution. In accordance with the voting rules and procedures: "Each member of the General Assembly shall have one vote," and in order for a resolution to be passed, "decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting."³⁷

Each member state has the right to an "Explanation of Vote" before and after the vote during the day of the meeting. Each state has the right to explain the position of its government and voting behavior of Yes, No, or Abstain, (and Non-participating). "Explanation of vote should be limited to ten minutes."³⁸ In some cases, resolutions' language is agreed upon among member states, except in

³⁷

<https://www.un.org/depts/DGACM/Uploaded%20docs/rules%20of%20procedure%20of%20ga.pdf>

³⁸ Ibid.

some paragraph. In that case, the voting process will apply (with the same procedural steps) only to the paragraph itself. Given the fact that there are resolutions presented annually, and some biannually, in both situations they are sometimes voted for and sometimes adopted by consensus.

In my research, I chose human rights resolutions of the UN Third Committee. These resolutions have no Program Budget Implication (PBI) and no country-specific resolutions. Additionally, I chose human rights resolutions that developed countries tend to vote against, to investigate their voting behaviors and justifications. While there are many other human rights resolutions (which my research does not address) of which developed countries tend to vote in favor, those resolutions' language do not mention the patterns that systematically influence the voting position of developed countries for which I am arguing in my hypothesis. Because the focus is on human rights resolutions, I chose to analyze resolutions at the Third Committee of the General Assembly sessions in New York rather than resolutions of the Human Rights Council in Geneva. The reason is that, in the Third Committee, all 193 member states have the right to vote equally, while the Human Rights Council represents only 47 member states in Geneva based on periodic elections.

Moving on from an understanding of the UN, and specifically the Third Committee, I study the relationship between voting behavior of developed countries through some human rights resolutions and their voting justifications. I used a combination of different dimensions of research methodologies (resolutions and data analysis, experiential and self-observation, and interviews) to create an

advanced understanding to fully address existing paradigms. I analyze the voting outcomes of some human rights resolutions from 1992 (post-Cold War, 47th Session) until 2019 (74th Session). My selection of the Third Committee's resolutions is categorized and grouped as the following: human rights selective resolutions, freedom of religion, children's rights and women's advancement, and electoral self-determination.

Summary of the Analysis

As an example, I select the Third Committee's resolutions of the 63rd Session of the General Assembly, which had 58 resolutions in total: 20 resolutions with votes and 38 resolutions without votes. As an explanation, in the following timetable, I include all resolutions with votes in that session, and exclude: a) country-specific resolutions (i.e. Situation of human rights in Myanmar, Situation of human rights in the Islamic Republic of Iran, and Situation of human rights in the Democratic People's Republic of Korea), as they are politically-based resolutions and many countries (those which usually abstain) prefer not to interfere with domestic human rights situations; and b) resolutions with Program Budget Implications (there are no resolutions with votes at this session). Keeping in mind that there are bi- and triennially presented resolutions at each session, I pick countries from three broad categories based on a set of data that the World Economic Situation and Prospects (WESP) uses to delineate trends in various dimensions of the world economy. These data are prepared by the Development Policy and Analysis Division (DPAD) of the Department of Economic and Social

Affairs of the United Nations Secretariat (UN/DESA).³⁹ Appendix 1 of this dissertation, listing the composition of these groupings specified in Tables A (developed economies); B (economies in transition); and C (developing economies), is intended to reflect basic economic country conditions. For example, in this section, countries from developed economies were randomly chosen, based on different continents/regional representations, to clarify voting behavior among some resolutions. Through the rest of the research, I address countries based on two groups (developed and developing) for the purpose of the analysis, given the fact that these two groups are not always consistent in their voting outcomes. For analytical purposes, some countries are classified based on the measurement of their per capita gross national income (GNI), and others on their importation or exportation of fuel. However, for the purposes of my research, I follow the UN in basing my categorization on the three aforementioned groups.

(table on next page)

³⁹https://www.un.org/en/development/desa/policy/wesp/wesp_current/2014wesp_country_classification.pdf

63rd Session Voting Outcomes

Resolutions	General Votes	Developed Countries											Developing Countries								
		Australia	Canada	France	Germany	Japan	Netherlands	Norway	Sweden	UK	USA	Colombia	China	Cuba	India	Kuwait	South Africa	Mexico	Nigeria	Egypt	Turkey
		Y - N - A																			
Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action	109-13-35	N	N	A	A	A	N	Y	A	N	N	Y	Y	Y	Y	A	Y	Y	N	Y	
Rights of the child	159-1-0	Y	Y	Y	Y	Y	Y	Y		N	Y	Y	Y	Y	Y	N	Y	Y	N	Y	
Towards an arms trade treaty: establishing common international standards for the import, export and transfer of conventional arms	133-1-19	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	A	Y	A	A	A	Y	Y	N	Y	
Promotion of a democratic and equitable international order	124-55-7	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	A	Y	Y	N	
Respect for the right to universal freedom of travel and the vital importance of family reunification	121-4-60	A	A	A	A	A	A	A	A	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	A	
The right to food	184-1-0	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	
Extrajudicial, summary or arbitrary executions	127-0-58	Y	Y	Y	Y	Y	Y	Y	Y	A	Y	A	Y	Y	A	Y	Y	A	Y	A	
Human rights and unilateral coercive measures	132-54-0	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
The right to development	182-4-2	Y	A	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Globalization and its impact on the full enjoyment of all human rights	129-54-4		N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	A	N	
Combating defamation of religions	86-53-42	N	N	N	N	A	N	N	N	N	A	Y	Y	A	Y	Y	A	Y	Y	Y	
Moratorium on the use of the death penalty	106-46-34	Y	Y	Y	Y	N	Y	Y	Y	N	Y	N	A	N	N	Y	Y	N	Y	Y	
Equitable geographical distribution in the membership of the human rights treaty bodies	128-55-2	N	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	
The right of the Palestinian people to self-determination	173-5-7	A	A	Y	Y	Y	Y	Y	Y	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	125-52-5	N	N	N	N	N	Y	N	N	N	Y	Y	Y	Y	Y	Y	Y	Y	N	N	
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	129-2-54	A	A	A	A	A	A	A	A	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Report of the Human Rights Council	121-7-58	A	N	A	A	A	A	A	A	N	Y	Y	Y	Y	Y	Y	A	Y	Y	Y	

Among these countries, the voting outcome demonstrates that developed countries are more likely to abstain and/or vote against some human rights resolutions, while developing countries are more likely to vote in favor. In another words, developed countries are not supporting as many human rights resolutions as developing countries because of certain patterns which are outlined elsewhere in this dissertation. In the dissertation, I categorize countries following the timetable, and analyze their voting behaviors from the 47th (1992) to the 74th (2019) Sessions.

Snapshot: Religion-Associated Resolutions

Religion is one of the various topics related to voting behavior in this research. The “Combating Defamation of Religion” resolution demonstrates how and why developed countries vote as shown in the timetable. Among ten chosen developed countries, Japan abstained and the rest voted against, while six developing countries voted in favor and the rest abstained except Montenegro, which voted against. This resolution was sponsored by the Organization of Islamic Conference (OIC), and part of its language calls for “a deep concern that Islam was frequently and wrongly associated with human rights violations and terrorism, and would reiterate the commitment of all States to the implementation of the United Nations Global Counter-Terrorism Strategy.”⁴⁰ In retaliation, the EU introduced the “Elimination of all forms of Intolerance and of Discrimination based

⁴⁰ <https://www.un.org/press/en/2008/ga10801.doc.htm>

on Religion or Belief”⁴¹ resolution (eight resolutions with vote, and three resolutions without vote after the events of 9/11, annually from the 58th Session in 2003 until 65th Session in 2010), which was adopted by consensus at the same 63rd Session. The resolution “would have States ensure that their constitutional and legislative systems provided adequate and effective guarantees of freedom of thought, conscience, religion and belief, without distinction, by providing effective remedies in cases of violations of the right to freedom of thought, conscience, religion or belief, or the right to practice one’s religion freely, including the right to change one’s religion or belief.”⁴²

Based on the motivations behind both resolutions, states’ justifications during the informal negotiation meetings, and states’ behaviors before and after the vote, I find that heated discussion is based on splintered human rights views among developed and developing countries. Developed countries justify their voting by the importance of “freedom of speech/expression” and “freedom of assembly.” During the voting session, the US representative stated, “The United States would not agree that prohibiting speech was the way to promote tolerance, such prohibitions were sometimes used for discrimination, and governments might abuse individual rights in the name of this resolution and the United Nations.” Developing countries see obstacles in the definitions of “freedom of speech/expression” and “speech of hate.”

Human rights is a controversial issue, particularly between developed and developing countries, at the distinction between incitement to religious hatred and

⁴¹ <http://www.un.org/en/ga/search/view> doc.asp?symbol=A/RES/64/164

⁴² <https://www.un.org/press/en/2008/ga10801.doc.htm>

defamation of religions, and the right to “freedom of speech expression.” Developed countries believe that restricting “freedom of speech/expression” can create extremism, while developing countries ask for preventing that kind of freedom around the world because it creates hatred and violence. I argue that resolutions related to religious topics are related to fighting terrorism and extremism around the world; consequently, developed countries are more likely to vote against such resolutions. Resolutions related to religious topics will be discussed more in details in Subchapter II.

Summary of the Chapters

Developed countries tend to vote against some human rights resolutions among various related topics and issues. My treatment of these resolutions will be discussed in detail throughout of this dissertation. There are five chapters associated with topics/issues and subtopics/issues detailed through Chapters 1-5, ranging from literature reviews to the justification of mixed-method approaches associated with qualitative data sources. I give a background of the system of the United Nations in general. The Third Committee of General Assembly is my main focus: specifically, resolutions related to human rights and the corresponding votes. I provide a justification for choosing specific resolutions, as well as an explanation of how to draft resolutions, the negotiation processes, and voting. This dissertation’s added value lies in the detailed justification I provide, which details voting outcomes and patterns among different categories of countries. In Chapter 1, I examine the existing literature to provide the proper context for this

dissertation, as many scholars have identified specific behavioral voting patterns at the General Assembly. I also give an overview of the literature of international law and human rights theories in International Relations science. In Chapters 2 and 3, I analyze different kinds of resolutions, identify patterns, and explain in detail the tendencies and why these patterns arose. My findings are organized by subchapters categorized according to resolution groups categories.⁴³ An outline of the subchapters follows. Subchapter I of Chapter 2 focuses on “The Right to Development” resolution and how human rights and development are both inherently intertwined. I argue that the bargaining chip of “Right to Development” resolution voting pattern is of economic rather than of human rights interest. Patterns of economic and social interests were found throughout all “Right to Development” resolutions’ texts. This trend is discussed in detail through sections (a) and (b), indicating a specific global distribution consequence of “zero-sum dimension.” Other resolutions in this chapter will be discussed in detail as well, such as the “Right to Food” and “Globalization and its Impact on the Full Enjoyment of Human Rights” resolutions (as shown at the timetable of 63rd Session above). Subchapter II of Chapter 2 focuses on resolutions related to religion and freedom of expression, and racism. Subchapter III of Chapter 3 focuses on two categories of resolutions: children’s rights and women’s rights, of which a number of voted resolutions are related. Some are discussed in this subchapter, and others will be detailed throughout this dissertation. The first strand of this subchapter focuses on

⁴³ C.B. Primiano and Jun Xiang, “Voting in the UN: A Second Image of China’s Human Rights”, *Journal of Chinese Political Science* 21 (3), (2016) 301-319. <https://doi.org/10.1007/s11366-016-9399-x>

the processes of the advocacy dilemma as the “modern day slavery and reproductive human trafficking”⁴⁴ associated with advanced technology, such as the fertility global business. The second strand stresses the legal aspects of children’s and women’s rights as baseless new rights, that are not internationally recognized and agreed upon by consensus. I argue that developed countries are trying to convert the advocacy of international “norms” via international law into a “right.” This subchapter discusses resolutions focused on the agenda of Children’s Rights and Women’s Advancement. Subchapter IV of Chapter 3 discusses human rights resolutions related to electoral self-determination and topics of indigenous peoples and self-determination for certain citizens under foreign territories. Each category has its own human rights resolutions, some of which developed countries tend to vote against for different reasons, which will be examined and demonstrated in support of the central argument. In Chapter 4, I analyze general discussion associated with interviews. In Chapter 5, the conclusion and summary are tabled.

Conclusion

It is important to understand the wide interpretation of the concept of human rights at the United Nations, and how human rights have become a tool to achieve the national and international interests of sovereign states. The United Nations is an international institution that mirrors international intentions and the preferences of each and every individual government. I argue that developed countries are in

⁴⁴ C-Fam briefing on CSW61 Challenges and Opportunities. C-Fam, Center for Family & Human Rights.

a powerful position to influence the norms of international law via human rights resolutions, as long as human rights are a human privilege to be changed and converted through UN resolutions. Furthermore, my research distinguishes the contrast between developed countries' voting behavior and their global human rights advocacy. I recognize that developed countries tend to vote against some human rights resolutions due to economic and social interests of their own. Therefore, I acknowledge that developed countries are cautious about the background of human rights resolutions, as well as other texts which follow national and international commitments, even if the UN General Assembly's resolutions are not legally binding.

This dissertation mostly focuses on human rights resolutions at the Third Committee. It examines the voting behavior of developed countries among voted resolutions, and provides associated explanations based on the following considerations and foundations: a) analyzing language changes/requests developed countries required during the informal meetings of the resolution drafting (meetings that take place weeks before the voting date, which are meant to negotiate a compromising language to all member states at the UN, in order to pass a resolution by consensus or at least to pass it by the maximum supported votes); b) finding variables in resolutions according to the voting outcome of developed and developing countries (Yes, No, or Abstain); c) examining developed and developing countries' explanations of their votes before and after the vote; d) reviewing self-observations taken during the informal negotiation meetings for both developed and developing countries on draft resolutions at the UN (usually

separate meetings to groups and alliances due to different demands).; and e) interviewing relative experts at the UN and outsider experts, keeping in mind the relative reports and recommendations of the UN Secretary-General, and the Third Committee's independent experts and rapporteurs. All of these emphases and considerations would evidence the variables in my pattern analysis (throughout each subchapter) of the analyzed resolutions at the Third Committee, associated with scholars' supportive arguments and literature. In order to test my argument, I suggest an approach that examines developed countries' voting behavior on some selected human rights resolutions. The approach is to contrast the conventional perception of developed countries' reputations with respect to human rights, with the political, economic, and social aspects that determine developed countries' UN voting behaviors. To answer the main question of this dissertation, my novel reasoning involves, beyond simple data analysis, an examination of developed countries' demands and justifications through the formal and informal statements, supportive data, and interviews of highly ranked experts at and outside the UN.

Chapter 1

Literature Review

“Voting patterns in the United Nation General Assembly provide an exceptionally good set of evidence for observing issues and alignments of states in international politics.”⁴⁵

-S. Kim and B. Russett

Many scholars identify patterns that systematically influence the voting positions of member states at the Security Council, General Assembly, and Human Rights Council. Building on scholars’ arguments and findings, I will identify new patterns that systematically influence the voting behavior of developed countries to vote against some human rights resolutions at the Third Committee. This will form the backbone of the dissertation. The following subsections will address the historical background of the main related issues and the connection between international organizations, international law, and the UN, all in the context of International Relations theory. There are also focused subsections of literature review that are relevant to interdisciplinary aspects of my study. Finally, as this study aims to develop, employing the latest frameworks, a theory of developed countries’ voting behaviors at the Third Committee of the General Assembly of the

⁴⁵ Soon Y. Kim and Bruce Russett. The new politics of voting alignments in the United Nations General Assembly. *International Organization*, 50(4) pp. 629-652

UN, philosophically contradictory notions of human rights, divergent political standards, and international order via the United Nations are all detailed.

1. Philosophers, theorists, and their beliefs on Human Rights

An extensive track of theoretical research in human rights highlights the significance of its origins, legal aspects, and relationship to international institutional orders or national sovereignty, especially regarding the implementation and entitlement of human rights, which can be argued along many lines, incentives, and justifications. This section addresses the implications of some existing theoretical arguments and models of human rights, which approach the topic from markedly divergent perspectives. Scholars differ in their description of the character of human rights' substance and features; however, many predecessor scholars describe human rights in relation to canonical political theories and philosophies:

The obvious "solution" is to present and defend a theory of human nature linked to a particular set of human rights. Few issues in moral or political philosophy, however, are more contentious or intractable than theories of human nature. There are many well-developed and widely accepted philosophical anthropologies: for example, Aristotle's *zoon politikon*; Marx's "human natural being" who distinguishes himself by producing his own material life; Mill's pleasure-seeking, progressive being; Kant's rational being governed by an objective moral law; and feminist theories that begin by questioning the gendered conceptions of "man" in these and most other accounts.⁴⁶

In general, Chris Brown correctly notes that "virtually everything encompassed by the notion of 'human rights' is the subject of controversy....the idea that individuals have, or should have, 'rights' is itself contentious, and the idea that rights could be

⁴⁶ Jack Donnelly, *Universal Human Rights in Theory and Practice* (Cornell University Press, 1989), p. 18

attached to individuals by virtue solely of their common humanity is particularly subject to penetrating criticism.”⁴⁷ Hence, ideas are subjected to controversial justifications. Ultimately, “human rights can be readily derived from a considerable variety of moral theories. For example, they can be seen as encoded in the natural law, as political means to further human good or utility, or political institutions designed to produce virtuous citizens.”⁴⁸

In this chapter I will touch on theories of morality, politics, international relations and international law in order to construct a theoretical foundation to answer my dissertation’s research question. These theories may be a foundational base for developed countries’ behavior among human rights advocacy and voting on specific human rights resolutions, theories of how human rights started globally and its many implications nationally and internationally. All of these theories will provide a better understanding of why developed countries tend to vote against human rights resolutions at the Third Committee of the General Assembly at the United Nations.

According to Donnelly, “Human rights have no single philosophical or religious foundation. Instead they have many foundations—and thus much greater practical resonance than could be provided by any particular philosophy or religion. Christians, Muslims, Confucians, and Buddhists; Kantians, utilitarians, pragmatists, and neo-Aristotelians; liberals, conservatives, traditionalists, and radicals, and many other groups as well, come to human rights from their own particular paths. Today, almost all the leading paths to social justice and human

⁴⁷ Ibid. p. 22

⁴⁸ Donnelly, p. 58

dignity centrally involve human rights.”⁴⁹ Some scholars find the contemporary project of human rights “simultaneously at a range of fundamental crossroads of theory and practice.”⁵⁰ Arguing that this is true, especially after the end of the post-Cold War era, which is “after the end of a two-decade period of transition and ambiguity, after the emergence of human rights as the most significant globalized moral lingua franca and logic of social and political change – demonstrates that the normative redifferentiation of the present has not led to the kind of clarity and sense of resolution that many human rights activists and advocates for the liberalizing benefits of globalization had hoped for.”⁵¹ By comparing and contrasting contesting theories, I will clarify the relevance of my main argument with an explicit theoretical foundation.

a) **Natural Law Theory**

Natural law theory refers to both a type of moral theory and a type of legal theory, which intersect in a logical, independent manner. The moral standards that control human behavior arise from the nature of human beings and the world, while the legal standards derive from considerations having to do with the moral merit of legal standards.⁵² Cicero describes natural law as “a law that is universal in scope, identically the same in all times and places, and unalterable, in such a way as not to admit of abolition, exceptions, or dispensations.” Of natural law Cicero explicitly says, “it is God who is ‘the author, the promulgator, and the judge of this law’ and

⁴⁹ Ibid, pp. 58-59

⁵⁰ Mark Goodale, *Human Rights after the Post-Cold War* (University of Lausanne, 2014) p. 34

⁵¹ Goodale, p.33

⁵² <https://www.iep.utm.edu/natlaw/>

in this way he links God's sovereignty over all peoples to the natural law."⁵³ A theological approach was formerly the foundation for moral norms. Hence, "It is therefore not surprising to find that many modern and contemporary interpreters of the natural law have regarded their patristic and medieval forebears as confused, and have celebrated the modern emergence of the natural law as "an independent and rationalist system."⁵⁴ Nevertheless, many relative theories still consider a theological approach as the foundation of human natural law.

The theory of Thomas Aquinas, of classical natural law, focuses on the overlap between natural law moral and legal theories.⁵⁵ Later centuries developed approaches via philosophical justifications based on the theory of natural law. This theory formed the basis of notions of human dignity in medieval times, especially for Aquinas.⁵⁶ "The natural law is usually regarded as a universal morality, accessible to all rational persons whatever their particular metaphysical or religious commitments (if any), and therefore most appropriately studied through philosophical analysis."⁵⁷ Ernest Baker describes the natural law transformation through the early modern period, and its detachment of religions and different cultures thus: "Allied to theology for many centuries...the theory of natural law had become in the sixteenth century, and continued to remain during the seventeenth and eighteenth, an independent and rationalist system, professed and expounded

⁵³ Jean Porter, *Nature as Reason: A Thomistic Theory of Natural Law* (Wm. B. Eerdmans Publishing, 2005), p. 3

⁵⁴ Porter, p. 5

⁵⁵ <https://www.iep.utm.edu/natlaw/>

⁵⁶ <https://www.iep.utm.edu/aq-moral/>

⁵⁷ Porter, p. 1

by the philosophers of the secular school of natural law.”⁵⁸ Hence, natural law has developed through centuries in one way from cultural and religious foundations into philosophical and irreligious paradigms.

b) The Kantian Theory

It is common for Kant's rights-based liberalism to be contrasted with the communitarian authoritarianism of the later Fichte and of Hegel, and it is the concept of autonomy that is generally regarded as the theoretical fount of Kant's theory of natural rights, providing the analytical link between Kant's moral philosophy and his political and legal theory:⁵⁹

Only with Immanuel Kant (1724–1804) do we finally find a fully formed account of human dignity that is very similar to that of the Universal Declaration and is placed at the center of moral and political theory. Kant draws on Cicero and the broader Stoic tradition, as well as Samuel Pufendorf (1632–1694), who made significant use of the concept of human dignity (Cancik 2002: 30–35). Kant's conception, however, not only was more comprehensive but has had considerable impact on later ideas—including the Universal Declaration of Human Rights. It almost certainly is no coincidence that Kant wrote at roughly the same time that early practices of human rights were being implemented through the American and French Revolutions. Kant in effect democratized dignity much as, and at the same time that, the American and French Revolutions democratized politics. Universal rights and universal dignity, in other words, developed in tandem and reinforced one another in the late modern Western world.....The Kantian conception, however, is an historically important source of the idea that human rights rest on the inherent dignity of the human person and was one of the inspirations for the Universal Declaration.⁶⁰

Standards of rationality apply to the justification of rights. “Other philosophers, such as Hobbes, Locke and Aquinas, had also argued that moral requirements are based on standards of rationality. However, these standards were either instrumental principles of rationality for satisfying one's desires, as in Hobbes, or

⁵⁸ Ernest Barker, quoted by Gerard Watson. *Problems in Stoicism* (London: Athlone, 1971) p. 216

⁵⁹ Gunnar Beck, “Immanuel Kant's Theory of Rights,” *Ratio Juris* 19, no. 4 (December 2006): pp. 371-401

⁶⁰ Donnelly, pp.126-127

external rational principles that are discoverable by reason, as in Locke and Aquinas. Kant agreed with many of his predecessors that an analysis of practical reason reveals the requirement that rational agents must conform to instrumental principles.”⁶¹ Since Kant’s theory is the motivation of the Universal Declaration of Human Rights, I argue that the UDHR is based on a notion of natural rights combined with moral philosophy and political and legal theories.

c) The Universal Declaration Model

“The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 as a common standard of achievements for all peoples and all nations.”⁶² Donnelly argues that “the Universal Declaration model treats internationally recognized human rights holistically, as an indivisible structure of rights in which the value of each right is significantly augmented by the presence of many others.”⁶³ Donnelly based part of his model on both “interdependency” and “indivisibility” as functional relations between rights, which was recognized in Article 5 of the 1993 Vienna Declaration as “All human rights are universal, indivisible and interdependent and interrelated.”⁶⁴ “For example, the right to life and the right to food are together worth far more than the sum of the two rights

⁶¹ <https://plato.stanford.edu/entries/kant-moral/>

⁶² <https://www.un.org/en/universal-declaration-human-rights/>

⁶³ Donnelly, pp. 31-32

⁶⁴ Ibid, p. 39

enjoyed separately.”⁶⁵ This point will be discussed in detail, via UNGA resolutions, in subsequent chapters:

During the Cold War, this doctrine was regularly challenged. In particular, the relationship between civil and political and economic, social, and cultural rights was a matter of intense and lively, although not particularly productive or illuminating, controversy. Commentators and leaders in all Soviet bloc and most Third World countries regularly disparaged most civil and political rights. Conversely, many Anglo-American conservatives and philosophers—but, among states, significantly, only the government of the United States—disparaged most economic and social rights. Although such debates have largely receded from international discussions, in the United States a lingering suspicion of economic and social rights persists.⁶⁶

The interconnection of the economic and social rights of developed countries will be touched on during my discussion of some of the relevant human rights resolutions, such as “The Right of Development” resolution. In addition to the foundation to the model, it emphasizes the relationship between universal human rights standards and state sovereignty. “Although human rights norms have been largely internationalized, their implementation remains almost exclusively national....With power and authority thus doubly concentrated, the modern state has emerged as both the principal threat to the enjoyment of human rights and the essential institution for their effective implementation and enforcement.”⁶⁷ This applies to both developed and developing countries.

d) Moral Theory, Political Theory, and Human Rights

Some scholars argue that human rights fall within the domain of moral theory, while others argue that human rights fall more or less within that of political theory. Donnelly argues that “overlapping consensus suggests that human rights

⁶⁵ Donnelly, pp. 31-32

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*, p. 32

fall more in the domain of political theory (political conceptions of justice) than moral theory (comprehensive doctrines). This suggestion is reinforced by the place of human rights in modern Western moral theory.”⁶⁸ Some argue that the very existence of human rights may cause difficulties to some moral theories:

Any moral theory that claims to be right-based ought to be able to derive all the ethical relevant notions from that of rights. Moreover, a theory of human rights has to define clearly what it means by human rights, in what way each individual is a bearer of those higher and universal rights to life, freedom and well-being which seem to need only their ‘naturalness’ as justification. That is, any ethical theory of human rights, as noticed, will have to answer precisely the question whether human rights are to be based on history or nature. Historically, the most influential moral theories of human rights have been those belonging to the tradition of the Law of Nature. In these theories, human rights depend directly on the natural order and are subject to a universal moral law, superior to positive law.⁶⁹

One may argue as well that ethics, culture, history, and other influential factors are all deterministic views of human rights. The common classifications of moral theories into categories such as “deontological (duty-based) theories, such as Kant’s categorical imperative, [and] teleological (ends-, goals-, or consequence-based) theories, such as Bentham’s utilitarianism or (neo-Aristotelian) virtue-based theories...posit radically different relationships between the right and the good; they tell us little about human rights, and Human rights logically may be, but in fact rarely have been, taken to be a moral primitive,” Jack Donnelly argues.⁷⁰ On the other hand, some political theorists consider human rights an inclusive aspect of deliberative democracy, and their recognition a means to other political justices.⁷¹ Referring to the Universal Declaration of Human Rights’ consensus,

⁶⁸ Donnelly, p. 60

⁶⁹ Barbara de Mori, “What moral theory for human rights? Naturalization vs. denaturalization,” *Ethics and Politics* 1 (2000)

⁷⁰ Donnelly, pp. 60-61

⁷¹ Donnelly, pp. 60-61

regardless of the Declaration's differences in its conceptions of justice and political principles, the UDHR and political conceptions of human rights are compatible and overlapping:⁷²

Human rights may provide a focal point for forging such a consensus or for negotiating mutual recognition. Certainly, there is no other substantive ideal that has come even close to such widespread international endorsement by both governments and movements of political opposition across the globe.... Internationally recognized human rights today provide a standard of political legitimacy. In the contemporary world—the world in which there is an overlapping consensus on the Universal Declaration model—states are legitimate largely to the extent that they respect, protect, and implement the rights of their citizens.⁷³

Some scholars argue that although “The United Nations universal declaration of 1948 celebrated the belief in human rights as a great moral value,”⁷⁴ the belief in human rights caused difficulties and controversial discussions to moral theorists. Hence, scholars draw different conclusions regarding the justifications of human rights:

In this way, what is good or proper for man would be, as it has been observed, something like Aristotle's *eudaimonia*, that is it should come within the category of activity and, as “people differ radically about the kinds of life that they choose to pursue [...] and they choose successively to pursue various activities from time to time, not once and for all” the concern of rights would be, first of all, to guarantee to each person to choose progressively how to live. Nature and history could overlap here: if human nature is ‘a moral description of human possibilities’ and if ‘people differ radically about the kinds of life that they choose to pursue’, historical and social development becomes an essential part of the realization of human nature in its highest values, human rights.⁷⁵

Other scholars “found it theoretically useful to distinguish between two types of moral power in the way the idea of human rights is deployed in practice.

⁷² Ibid, p. 64

⁷³ Ibid, p. 62

⁷⁴ de Mori, www.units.it

⁷⁵ de Mori.

‘Connotative’ power refers to the many ways in which the idea of human rights is appropriated as a kind of moral gesture; “denotative” power refers to more specific efforts to harness human rights laws and institutions in the course of ongoing struggle.⁷⁶ In “Confronting the Pathology of Power,” Goodale explains the instrumental power of human rights internationally:

As international relations scholars of human rights, in particular, have demonstrated, there is a power to the way in which international institutions, transnational advocates, and opposition social and political movements have been able to draw on different dimensions of human rights to check— however slightly—the most excessive abuses of some nation-states (see, e.g. Risse, Ropp, and Sikkink 1999). As we have seen, this instrumental power against the state was envisioned from the beginning as the principal mechanism of the postwar human rights system—despite remaining latent for decades—and it was, in a sense, codified through the broader Westphalian architecture of the UN system itself. And beyond international human rights and the conduct of nation-states, there is a moral power to the idea of human rights that offers both a new instrumentality of social and political action and the possibility of a new logic of self-constitution.⁷⁷

e) **Group Rights**

The UDHR model talks not only about individual rights but also about group differences: “There is not merely a place for group difference within the structure of individual human rights, the protection of many forms of difference is one of the most important objectives of the Universal Declaration model—because (but only to the extent that) citizens value and seek to create for themselves lives that produce such diversity. Nondiscrimination, however, is only one part of an individual rights approach to group difference. Remedying systematic discrimination usually requires collective action, which in the Universal Declaration

⁷⁶ Goodale, p. 25

⁷⁷ Ibid.

model is enabled by rights to freedom of association and to economic, social, cultural, and political participation. Nondiscrimination protects a sphere of personal and group liberty and offers protection against suffering imposed for group membership.”⁷⁸ In this research, specific groups rights-related resolutions (for example, that related to LGBT rights) are discussed in the following chapters.

The Universal Declaration Model addresses group human rights, giving an example of the rights of people to self-determination and indigenous people (look at Subchapter IV in details), and its relation to colonialism:

For a group right to be a human right, it must be universal in the sense that all groups of the specified type have that right. Although few candidate groups meet this test, international human rights law does unambiguously recognize one group human right: the right of peoples to self-determination. I have stipulated international human rights law as providing an authoritative list of internationally recognized human rights. Therefore, I am committed methodologically to recognizing the right of peoples to self-determination. But there is also a strong substantive argument to be made for a group right to self-determination. In a system of national implementation of internationally recognized human rights, one enjoys one’s human rights through the agency of “one’s own” state. Overseas colonialism has, in virtually every instance, failed to provide a state that protects the equal human rights of subjected peoples. Colonialism, in other words, is a well-recognized standard threat to human dignity. Decolonization thus is a practical prerequisite to the enjoyment of internationally recognized human rights. And it is the subjected people as a group that have this right. (This is part of the reason why decolonization, although a prerequisite for the enjoyment of other human rights, often did not produce or even improve enjoyment of internationally recognized human rights. It puts to an end a particular vile injustice but is only a first step on the way to the protection of human rights.) There may be other group human rights. The rights of indigenous peoples are perhaps the strongest example.⁷⁹

The so-called “right of peoples to self-determination” is the right of peoples subject to colonization by distinct power to a state with the same boundaries as the colonial entity (for example: Western overseas empires; Tuvalu under the British Commonwealth, Papua New Guinea, Solomon Islands, St.

⁷⁸ Donnelly, p. 47

⁷⁹ Donnelly, pp. 48-49

Vincent and the Grenadines, etc.) At the same time, since bottom-to-top strategies of citizens standing up to their governments have faced oppression and control, the dilemma has been since inverted (top-down). “In recent decades, most human rights advocates, as symbolized by the work of groups such as Amnesty International, have focused on preventing state abuses of individual rights. Given the immense power and reach of the modern state, this emphasis on controlling state power has been (and remains) both prudent and productive.”⁸⁰

f) **Liberal Theory of Human Rights**

Many political doctrines endorse human rights standards relatively, with many scholars employing a liberal approach to international relations and international law:

...the most fundamental influence on international cooperation is not relative power, as Realist theory asserts, nor the institutionalized contractual environment for structuring international bargaining, as Institutionalist (sometimes termed neoliberal) theory maintains. In the liberal view, the most important factor defining the opportunities for and constraint on cooperation is the level of convergence of national preferences, which in turn reflect the demands of those domestic groups represented by the state.⁸¹

Jack Donnelly argues, “A particular type of liberalism provides a strong and attractive normative foundation for the Universal Declaration model—although, as the idea of overlapping consensus indicates, many other

⁸⁰ Donnelly, pp. 33-34

⁸¹ Andrew Moravcsik, “Explaining International Human Rights Regimes: Liberal Theory and Western Europe,” *European Journal of International Relations*, Vol. 1, no. 2 (1995) 157-189.

foundations are also possible.”⁸² As many scholars hold, “in the classical liberal view, the good society is based on respect for the equality and autonomy of individuals, which is assured through the recognition and application of the fundamental legal rights of the person.”⁸³ Forsythe argues that liberalism is a synonym for attention to personal rights, while realism is a synonym for attention to state interests – foremost among which is security and state power. The subject of international human rights thus projects liberalism into a realist world – a world dominated for several centuries by states and their collective interests.⁸⁴

2) Relative Topics to International Relations

a) International Organizations and International Relations

International relations theorists argue relatively that international organizations are of crucial importance to certain global issues. Randall Schweller and David Priess combine the views of traditional realism and neorealism among international institutions, explaining the practice of state power and interests on international institutions, the global order that will be produced, and the level of global institutionalization that can be expected.⁸⁵

Pease (2012) referencing Schweller & Preiss (1997) writes that “First, international organizations provide a mechanism for great-power collusion. Great powers

⁸² Donnelly, p. 65

⁸³ David P. Forsythe, *Human Rights in International Relations 3rd Ed.* (Cambridge University Press, 2012), p. 7

⁸⁴ Ibid.

⁸⁵ Randall L. Schweller and David Priess, A Tale of Two Realisms: Expanding the Institutions Debate, *Mershon International Studies Review* Vol. 41, no. 1 (1997) p. 13

usually benefit from the existing order and have an interest in maintaining it. After all, the fact that they are great powers suggests that they are doing well under existing rules and institutions. International organizations may not be useful if great-power interests collide, but do permit great powers to control other states in international systems. Second, international organizations are useful for making minor adjustments within the existing order, while the basic underlying principle and norms remain uncompromised. An enduring international order must be flexible to account for changes in national interest and for rising and declining states. Third, international organizations can be agents of international socialization. International organizations legitimize the existing order, thereby gaining the acceptance of the status quo by those who are dominated. Finally, 'international institutions are the 'brass ring' so to speak: the right to create and control them is precisely what the most powerful states have fought for in history's most destructive wars."⁸⁶

In terms of liberals, "The international relations theory of liberalism takes a very different position regarding international organizations and international law. For a liberalist who advocates the possibility of cooperation in international relations, international organizations are quintessential, as they not only allow a physical platform and space for state cooperation, but within the international organizations' charter is often a set of requirements that states and non-state actors have regarding this cooperation in international affairs."⁸⁷ In fact, Kelly-Kate Pease argues, not only do international organizations allow actors to come together to solve issues, but their presence more specifically helps to circumvent the "collective action problem" issue, where, by working together, much more can be accomplished than if each state or actor works individually.⁸⁸ "Liberalists argue that the more interdependent countries become with one another, the more of a need there will be for international organizations to help in the sharing of information, and with regards to coordination and cooperation efforts."⁸⁹ On the other side,

⁸⁶ <http://www.internationalrelations.org/international-organizations>

⁸⁷ <http://www.internationalrelations.org>

⁸⁸ Kelly-Kate S. Pease, *International Organizations: Perspectives on Global Governance* (New York: Routledge, 2012) p. 24

⁸⁹ *Ibid.*

economics and economic power play critical roles in the international system, including in international organizations. In terms of Marxism, the attention is not only on how the state and non-state actors are carrying out economic exploitation, but also how people can fight against this exploitation and free themselves from this control.⁹⁰ In other words, the economic system itself, in the case of capitalism today, is viewed by some as another form of exploitation and control, in order to promote capitalism.

a) **International Organizations and Literature Review**

There is no doubt that international organizations (IOs) play significant roles in international affairs, and those roles are carried out by influential and powerful actors. As Ian Hurd argues, “As interdependence increases, the importance of international organizations increases with it. We find international organizations in one form or another at the heart of all of the political and economic challenges of the twenty-first century.”⁹¹ Hurd also explains how international organizations are basically functions and constituted by “international law as independent entities, separate from states that make them up as their founders and their members. The practical expression of this independence varies greatly across organizations, but in a formal sense they are corporate ‘persons’ much like firms are ‘persons’ in domestic commercial law. This means that they have legal standing, with certain

⁹⁰ Ibid.

⁹¹ Ian Hurd, *International Organizations: Politics, Law, Practice* (Cambridge University Press, 2010) pp.1-14

rights and obligations, and can sue and be sued.”⁹² Hence, an international organization reflects and mirrors the national and international collective political and economic interests of member states, especially the dominant ones. Nevertheless, there are the non-state actors (NGOs) in international organizations that are playing a role in international affairs. A consideration on how each international organization was formed, when, and why, is one of the essential aspects to consider for this dissertation.

Ian Hurd summarizes three themes of interpretations around international organizations: a) questions regarding the obligations of these created international organizations; b) the level of state compliance within the expectations and mission of the international organizations; and c) the level of the international organizations to enforce their own charters and rules. All obligations, compliances, and enforcements vary depending on the nature of international organization’s effectiveness or ineffectiveness, and its degree of state commitments. In terms of states’ compliance, Hurd argues that it is “their decision to comply or not often has to do with the level of power that a state has, as well as the number of incentives that a state benefits from by complying, or the benefits they can receive or gain by not adhering to the obligations of the international organizations that they are a part of.”⁹³ Additionally, “sometimes the evolution of the international organizations’ norms and activities have led to a more specified environment where states have to comply within these new norms.” On the other hand, Robert Keohane explains,

⁹² Ibid.

⁹³ Hurd, pp.1-14

“compliance sometimes has to do with issues of credibility, as states can see other states who engage with the rules of international organizations as more credible than states who are not a part of the IO, or that choose not to comply with the conditions of the international organization.”⁹⁴

Part of the international organization’s mandate is to ensure the compliance with its obligations between states and the organization through a specific mechanism. The degree of enforcement varies through that mechanism. At the UN Hurd explains, “For many international organizations, it is the threat of reputation, and not other punishments that can be applied towards states. States do in fact adhere to many obligations of the international organizations, even if they are not made to do so.”⁹⁵ Hurd continues the reasoning of why international organizations are essential in the international relations, saying, “They may also feel that the international organization can serve as an effective third party for any potential disputes that they (the state) needs settled.”⁹⁶ There were questions on just how great a role the United Nations had (and would have) in international affairs. Decolonization, the Cold War, oil politics, among other issues put the United Nations at the forefront of international politics.⁹⁷

a) International Law and International Relations

International law is the foundation of international organization, depending on its effectiveness and degree of enforcements among states:

⁹⁴ Robert Keohane, <https://internationalrelations.org/international-organizations>

⁹⁵ Hurd, pp.1-14

⁹⁶ Ibid.

⁹⁷ Robert Keohane, <https://internationalrelations.org/international-organizations>

Today, a new type of international agreement flourishes that has added new dimensions to foreign policy and international law, (i.e. arrangements among a large number of nations to promote cooperation for some common aim, such as intergovernmental organizations and institutions - the UN, the World Bank, the OECD, the GATT, NATO and the European Union). On this view then, international relations and foreign policy depend on a legal order, operate in a legal framework, and assume a host of legal principles and concepts, which shape the policies of nations and limit national behavior.⁹⁸

Realists believe that the validity and legitimacy of international law lies in its enforcement, and because it has no insurance of compliance, international law is not really a law.⁹⁹ “International law is either ‘irrelevant’ to a realist, or only serves to benefit the state and their objectives of power and security.”¹⁰⁰ In contrast, “for liberals, the rule of law is the foundation of society and international law is the foundation of global society.”¹⁰¹ “In the ensuing half century since the end of the Second World War and the creation of the UN, international law and international relations scholars have been seeking to study and reconcile these two streams of thought in the interstate political system. The suggestion today is that international law and international relations have “rediscovered each other” and there is a wealth of new competing theories on these questions of international law, politics, regimes, relations and institutions.”¹⁰²

Scholars in both IR and IL are developing an approach that might be called “embedded institutionalism”: a focus on the domestic origins of international institutions and the domestic possibilities for enforcing international rules. From this perspective, international institutions are but the tip of a vast iceberg of relationships, calculations, and processes of interest definition and identity formation below the surface of the state. Theories of institutional formation, duration and impact must thus analyze domestic, as well as international, politics and focus on the crucial interrelationship between the two levels. From the IL side, a wide range of possibilities exist for strengthening formal and informal links between international and domestic institutions in ways that blur the distinction

⁹⁸ Hurd, pp. 1-14

⁹⁹ Ibid.

¹⁰⁰ Hurd.

¹⁰¹ Keohane.

¹⁰² [http://ccnmtl.columbia.edu/projects/mmt/udhr/preamble section 4/concept history.html](http://ccnmtl.columbia.edu/projects/mmt/udhr/preamble%20section%204/concept%20history.html)

between international and domestic law and hence make international law more enforceable.¹⁰³

b) Universal Declaration of Human Rights

The Universal Declaration of Human Rights was crafted after two full years of negotiable and controversial processes that ended up by its adoption at the Third Session of the General Assembly just about midnight on December 10, 1948, with a vote of 48 Yes 0 No and 8 Abstain.¹⁰⁴

Johannes Morsink discusses in his book “The Universal Declaration of Human Rights: Origins, Drafting, and Intent,” the ideological outcome of the imbalanced text that favors and protects the Westerners more than others: “The process used to draft the Declaration was a very inclusive one. That is true, but it also has to be admitted that this process was dominated by nations from around the North Atlantic (with their friends and former colonies) and from Latin America, and that large regions of our world, such as Asia and Africa, were grossly underrepresented at the drafting table.”¹⁰⁵ Morsink also discusses what lies at the heart of the moral consensus about human rights that was born in the 1940s and has expanded ever since: “It is inevitable that a document like the Universal Declaration of Human Rights should raise questions about the possibility of there

¹⁰³ Anne-Marie Slaughter et al. “International Law and International Relations Theory: A New Generation of Interdisciplinary Scholarship”, *The American Journal of International Law* Vol. 92, no. 3 (1998): 367

¹⁰⁴ Pease, p. 72

¹⁰⁵ Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (University of Pennsylvania Press, 2000), 36.

being universal values. This questioning started before the document was even finished, has continued to this day, and will probably never end.”¹⁰⁶

At present, “The Declaration has become the moral backbone of more than two hundred human rights instruments that are now a part of our world. The result of a truly international negotiation process, the document has been a source of hope and inspiration to thousands of groups and millions of oppressed individuals.”¹⁰⁷ “A Declaration, on the other hand, is by comparison a relatively simple matter. The parties need to agree on the principles to be proclaimed and then proclaim them.” Additionally, “That fact by itself does not turn a declaration into a detailed, binding covenant. The truth is that nations can walk away from a declaration far more easily than from a signed covenant.”¹⁰⁸

Some scholars argue that “Universal Declaration of Human Rights did not seem particularly promising when it was adopted by unanimous vote,” because it “was definitely not understood, despite its language of rights, as obligatory in a legal sense, or as expressing morally and politically the spirit of the time,”¹⁰⁹ a time of influential international political actors at a certain time of conflicts, wars, and colonialism. However, “We can appreciate the significance of human rights by reference to its major role in three epic transnational struggles that have strongly affected the political imagination since 1945: the struggles against colonialism, against Soviet bloc oppression, and against apartheid.”¹¹⁰

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

¹⁰⁸ Morsink, p. 36

¹⁰⁹ Ibid.

¹¹⁰ Ibid.

Relative Topics to Research and Human Rights

a) Colonialism

That the instrument of the United Nations is used to perpetuate the ideology of colonialism is one the main arguments of this research. I argue that colonialist ideologies and doctrines persist via policies and behavior. On the relationship between the “pathology of power” and human rights, Rhoda Howard-Hassmann’s essay explores what she calls “the ‘historical amnesia’ that both perpetuates a series of false binaries—such as oppressor/ oppressed—and prevents the lessons of human destruction *within* the colonial West from informing our broader understanding of the causal relationship between the deprivation of rights and genocide.”¹¹¹ For Howard-Hassman, the phrase “pathologies of power” has two meanings; a) “the power of intellectual critics of human rights, who have, minimized the political importance and potential universal resonance of the postwar project of human rights by locating it along an ‘unbroken chain of Western conceptual and cultural dominance [that stretches] over the past several centuries’”¹¹² and b) “what might be called the pathology of imperial guilt: the ethical and intellectual paralysis that accompanies a historical process of earnest critical reflection on collective sins of the past.”¹¹³ In both meanings, however, the colonial legacy and heritage exist relatively and in different forms:

As Howard-Hassman explains, the recognition of collective responsibility for the historical tragedies of colonialism, slavery, capitalist exploitation,

¹¹¹ Morsink, p.36

¹¹² Richard A. Falk, *Human Rights Horizons: The Pursuit of Justice in Globalizing World* (New York: Routledge 2000), p. 5.

¹¹³ *Ibid*, p. 6

and imperial war makes it difficult for Western critics of human rights to acknowledge the full implications of a simultaneous legacy of “liberalism, social democracy, labor agitation, feminism, gay rights advocacy, and antiracism that [also] characterize much of the social history of the West in the last two centuries.” Among other (largely unintended) consequences, this pathology of imperial guilt leads critics to deny what Fabian (1983) would call the “temporal coexistence” between Western oppressors and their non-Western victims, since the dichotomy Western oppressor/non-Western oppressed is built on a rejection of coevalness that keeps the non-Western Other categorically locked into a reductive, and even imaginary, past. The denial of coevalness is fatal to the project of human rights. As Howard-Hassmann puts it, the alternative principles of radical temporal and ontological equality that form the foundation of human rights are not (*pace* many critics) “actually hegemonic ... They should be.”¹¹⁴

In subsequent Chapter 2, I will touch on one of the collective responsibilities of colonies, and that is “capitalist exploitation.” Some of the human rights resolutions developed countries vote against contain the language of recollecting capitalist exploited valuables and/or compensations. For example, one of the paragraphs of the “Declaration on the Rights to Development” states: “The need to eliminate the massive violations of the human rights of the peoples and individuals affected by colonialism, neocolonialism, apartheid, all forms of discrimination, foreign domination and occupation, threats against national sovereignty (preambular paragraph).”¹¹⁵

The revolution of human rights has also been driven by shifting coalitions of states during the UN Charter drafting, resulting in a UN Charter promising human rights for all “without discrimination.”¹¹⁶ Later on, “The first human rights initiatives were brought before the UN General Assembly not by Western states, but by

¹¹⁴ Ibid, p. 4

¹¹⁵ Goodale, p. 29

¹¹⁶ Ibid, p. 46

Egypt, India and Panama, challenging racial and religious persecution and South African racial practices as violations of the UN Charter."¹¹⁷ Developing countries and post-independent countries took the opportunity of their memberships at the UN to claim new human rights such as self-determination, economic, social, and cultural development, before shifting support. Most former colonies neglected their support for human rights during the Cold War:

The principal UN human rights treaties were rescued from Washington and Moscow only by the arrival of newly independent African and Asian states in the UN General Assembly in the 1960's. Their struggle against racism and overthrow of colonialism energized and reshaped the UN human rights agenda. Thus, the first UN-administered human rights treaty was the convention against race discrimination, adopted in 1965 and entered into force in 1969. Their stamp is also imprinted on the two Covenants. The first article of each identically proclaims, "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Moreover: "All peoples may, for their own ends, freely dispose of their natural wealth and resources."¹¹⁸

If, beyond resolutions, we consider legally binding covenants, conventions and treaties, developed countries tend not to fully commit to their obligations, and similarly justify their positions based on the aforementioned explanations. It is worth noting that, during the crafting of all UN relative commitments and laws since the UN's creation, developed/pre-colonized countries oversaw the ideologies of domination. Is this pattern still present in the new UN texts? Is the struggle against colonialism still ongoing? I intend to demonstrate how the language of colonialism, or any indirect reference to colonialism legacies/commitments would be case-

¹¹⁷ Ibid.

¹¹⁸ Goodale, p. 46

sensitive to the voting pattern of human rights resolutions at the Third Committee. Might this explain why the US and some developed countries did not ratify one or two of the 1966 covenants? “The coalition of states supporting the UN human rights program has... shifted [the Cold War]. Nowadays its core support consists mainly of democratic and democratizing states.”¹¹⁹

A relative global justice at least can be achieved via international institutions, including the UN, which reflects a certain degree of human rights implementation. Hence, “International institutions definitely promote and consolidate the ends of global justice in various respects, but they are also vulnerable to manipulation and control by political forces that are responsible for some of the worst forms of injustice, including patterns of domination, exploitation, and victimization. International institutions, while they merit appreciation for their achievements, must also be criticized for their deficiencies.”¹²⁰ On the other hand, Jack Donnelly and Daniel Whelan argue that going back to drafting The Covenants (in the 70s), which is what many of the GA resolutions’ language rely on, the drafting Commission members significantly disagreed over monitoring and adjudicating the mechanism of reporting procedure for economic, social, and cultural rights.¹²¹ Additionally, “Many on the commission - mostly Western states - believed that the new draft should be divided into separate covenants. Others from the postcolonial global South disagreed, arguing that the indivisibility of human

¹¹⁹ [http://www.un.org/en/ga/search/view](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/41/128) doc.asp?symbol=A/RES/41/128

¹²⁰ Douglass Cassel, “The Globalization of Human Rights: Consciousness, Law and Reality,” *Northwestern Journal of International Human Rights* 2, no. 2 (Spring 2004)

¹²¹ Cassel, 212-14

rights was paramount.”¹²² At the United Nations Commission on Human Rights (which functioned from 1946 until it was replaced by the UN Human Rights Council in 2006), after a long argument on how to implement human rights on member states, the US argued that the best way to ensure human rights implementation is through the provision of technical assistance and support to countries, rather than through binding treaties.¹²³ Relatively, until the current day, the US has not yet ratified the “International Covenant on Economic, Social, and Cultural Rights.”¹²⁴

b) The Cold War

The Cold War period implied more serious violations of human rights around the world. “According to many scholars in the West, the Cold War caused greater violations of human rights by hindering the spread of democracy and preventing globalization of the world capitalist system.”¹²⁵ By implication, “the end of the Cold War should have changed the propensity of governments around the world to respect human rights.”¹²⁶ But did respect for human rights change? If so, to what degree? Have human rights actually retreated in some aspects over the last three decades?

Many scholars argue that the end of the Cold War intensified hope for international cooperation via international organizations to address a set of global issues, such as economic inequality, social injustice, armed conflict, and other

¹²² Ibid.

¹²³ Cassel, 212-14

¹²⁴ Falk, p. 14

¹²⁵ Donnelly, Whelan.

¹²⁶ Forsythe, p. 7

newer issues of environmental degradation.¹²⁷ Particularly “after the end of a two-decade period of transition and ambiguity, after the emergence of human rights as the most significant globalized moral lingua franca and logic of social and political change”¹²⁸ human rights is still the most controversial matter globally:

By directly affecting democratization, globalization, domestic conflict, and interstate conflict, the end of the Cold War was hypothesized to exert an indirect effect on the propensity of governments to respect the human rights of their citizens. The finding for a sample of 79 countries showed that torture, disappearances, and extrajudicial killings continued at about the same rate even after the Cold War ended. However, after the end of the Cold War, there was significant improvement in government respect for the right against political imprisonment.¹²⁹

Although the Universal Declaration of Human Rights was established in 1948, human rights principles were noted noticeably only few decades ago through foreign policies and nationally:

Even more notable is the penetration of human rights into bilateral, multilateral, and transnational diplomacy. In the 1970s, controversy still raged over whether human rights were even an appropriate concern of foreign policy. As late as 1980, only a handful of states had explicit international human rights policies. Today, however, human rights are a standard subject of bilateral and multilateral diplomacy. Most national societies are also increasingly penetrated by human rights norms and values. Both governments and their opponents appeal to human rights much more frequently and more centrally than just a few decades ago. Compare, for example, the terms of debate and the range of political options seriously considered nationally and regionally today in Latin America, Africa, and Asia with those of the 1960s and 1970s. The Arab Spring of 2011 indicates the substantial penetration of these ideas into the Middle East as well. The collapse of the Soviet Union and its empire, and the retreat of dictatorial regimes in all areas of the world, suggests that, when given a chance, people in the contemporary world usually choose human rights.¹³⁰

Currently, many countries, even dictatorships, are careful to consider aspects of human rights nationally and internationally. “Nonetheless, the need to appear to

¹²⁷ Ibid.

¹²⁸ <http://indicators.ohchr.org>

¹²⁹ David L. Cingranelli and David L. Richards, “Respect for Human Rights after the End of the Cold War” *Journal of Peace Research* 36, no. 5 (September 1999) pp. 511-534.

¹³⁰ Cingranelli, Richards.

be acting on behalf of human rights tells us much about dominant values and aspirations.”¹³¹ Every phase of an international and political turning point has its own consequential international relations. “If the Axis powers had won World War II or if the communist alliance had won the Cold War, international relations would be different than it is today – and much less supportive of human rights.”¹³² At the same time, it does not mean that every democratic government supports human rights nationally and internationally:

France and United States, the two western states most prone to present themselves to the rest of the world as a universal model for human rights, have compiled a quite mixed record on the practice of human rights in international relations. France actively supported various repressive regimes within its former African colonies, even in the 1990s after the demise of Soviet-led communism. During the Algerian war of 1954-1962, it operated a torture bureau as part of its military structure. The United States, to put it kindly, did not always interest itself in various individual freedoms in Central America during much of the Cold War.¹³³

In his article “Human Rights after the Post-Cold War,” Mark Goodale explains some clusters of the human rights dilemma in the post-Cold War era. Those were, generally: a) the idea of human rights remained contested; b) the project of human rights confronted after the end of the post-Cold War, with its origins in the set of compromises necessary to establish the UN from the ashes of WWII; and c) the continuation of challenges in protecting human rights found at the crossroads where the legal, political, and discursive logics of human rights confront scholars and their different interpretations of human rights practices. Drafters of the Universal Declaration of Human Rights believed at that time that the practice of human rights would not be a set formula. “When Eleanor Roosevelt

¹³¹ <https://journals.sagepub.com/doi/abs/10.1177/097492849805400111?journalCode=iqqa>

¹³² Goodale, p. 34

¹³³ Cingranelli, Richards, pp. 511-534.

anticipated a time when a grapevine of human rights would entangle itself into the very fiber of societies around the world, even she understood that there was never going to be a straight line from the UDHR to the realization of a world made new.”¹³⁴

As Mary Ann Glendon has argued, the creation of the human rights movement in the broader postwar settlement was only possible because it was seen as a marginal and largely symbolic gesture within the more central process of reestablishing the foundations of international relations—that is, reorganizing the hypocrisy. As she explains: So far as the Great Powers ... were concerned, the main purpose of the United Nations was to establish and maintain collective security in the years after the war. The human rights project was peripheral, launched as a concession to small countries and in response to the demands of numerous religious and humanitarian associations that the Allies live up to their war rhetoric by providing assurances that the community of nations would never again countenance such massive violations of human dignity. Britain, China, France, the United States, and the Soviet Union did not expect these assurances to interfere with their national sovereignty.¹³⁵

The human rights system, in some developed and developing countries, emerged only relatively in the post-Cold War era: “the fact that important aspects of states’ and citizens’ responsibilities change as human rights law and discourse become more relevant within a nation’s legal and political life.”¹³⁶ Apparently, during the post-Cold War era, “As hypothesized, it was found that governments that became more democratic or increased their participation in the global economy after the end of the Cold War tended to manifest higher levels of respect for the right of their citizens not to be politically imprisoned.”¹³⁷ However, is this an organic human

¹³⁴ Goodale, p. 34

¹³⁵ Charles Beitz and Michael J. Perry, *The Idea of Human Rights: Four Inquiries* (New York: Oxford University Press, 1998) pp. 140-141

¹³⁶ Goodale, p. 19

¹³⁷ Cingranelli, David L., and David L. Richards. “Respect for Human Rights after the End of the Cold War.” *Journal of Peace Research* 36, no. 5 (September 1999): 511-34. <https://doi.org/10.1177/0022343399036005002>.

rights application? Or is it only relative to some degree?

Relatively, some argue that “the formal array of international institutions is also sometimes backed up by powerful external economic leverage. In the post-Cold War era the US occasionally used trade leverage to support human rights. In recent years the World Bank and other international financial institutions have sometimes intervened at key moments, citing if not ‘human rights,’ then ‘transparency’ or other conceptual cousins as justifications to suspend flows of funds.”¹³⁸ For the purposes of my analysis, it is crucial to note that, instead of suspending flows of funds, developed states voted against some human rights resolutions. That is one way of how I am going to analyze voting behavior among human rights resolutions, especially, when developed states justify their opposition by claiming transparency first in certain developing countries, or other claims irrelative to human rights. As ever, establishing a clear causation is impossible. Regardless of the abovementioned post-Cold War human rights elaboration, one should keep in mind that:

Despite our historical claims to copyright on the concept of rights, and our comparatively good domestic records, the revolution is by no means an Anglo-American state enterprise. If left to the good graces of Washington and London, the revolution would be delayed at the least. Our governments proposed a UN Charter that scarcely mentioned human rights. They led others in downgrading the Universal Declaration from a treaty to a mere statement of aspiration. Since then, as noted earlier, British and American paths diverged. Whereas London joined the European Convention, the Eisenhower administration promised Senator Bricker not to ratify any human rights treaties. Washington kept the UN human rights covenants in the deep freeze for the first two decades of the Cold War.¹³⁹

¹³⁸ Douglass Cassel, *The Globalization of Human Rights: Consciousness, Law and Reality*, 2 *Nw. J. Int'l Hum. Rts.* 1 (2004). p. 17 <http://scholarlycommons.law.northwestern.edu/njihr/vol2/iss1/6>

¹³⁹ Cassel. p. 19

c) Human Rights as a Tool of Interests at the UN

Human rights agenda at the UN varies relatively in its organic implications, whether in resolutions, declarations and conventions, or even policies. “The move from a world of “rights” to “remedies” and then to “basic needs,” and on to “transnational enforcement” reflected less a changing set of problems in the world than a changing set of attitudes among international legal elites about the value of legal formalism.”¹⁴⁰ David Kennedy, in his article “The International Human Rights Movement: Part of the Problem?” indicates how the exercise of state authority in human rights vocabulary among developed countries to developing countries is more of political interests than its own emancipatory human rights agenda. Thus, “far from being a defense of the individual against the state, human rights have become a standard part of the justification for the external use of force by the state against other states and individuals.”¹⁴¹ Some researchers argue and call it the linguistic wars at the UN.

In Dinah Shelton’s explanation of soft law and GA resolutions, the author emphasizes the essential impact of GA resolutions on states; although GA resolutions are legally non-binding and just a recommendation. The author says, “In some instances a given text may be hard law for some states and soft law for others.”¹⁴² The reason why GA resolutions are essential is because of the commitment that follows the resolution. “As a general matter, soft law may be

¹⁴⁰ David W. Kennedy, *The International Human Rights Movement: Part of the Problem?* (Boston: Harvard University Press, 2012). p. 118

¹⁴¹ Kennedy. p. 119

¹⁴² Dinah L. Shelton, *Handbook of International Law* (New York: Routledge Press, 2008) p. 5

categorized as primary and secondary. Primary soft law consists of those normative texts not adopted in treaty form that are addressed to the international community as a whole or to the entire membership of the adopting institution or organization. Such an instrument may declare new norms, often as an intended precursor to adoption of a later treaty, or it may reaffirm or further elaborate norms previously set forth in binding or non-binding texts.”¹⁴³ The preceding quote explains the further long-term commitment that states may get involved in; whether through recommendations, an emphases, concerns, or a welcoming text at the resolution, it will intensify additional obligations on states. Kennedy argues that every human rights movement issue or act has its own costs and benefits, and both effects must be considered. Consequently, Kennedy continues, “we should need to assess, from a more particular point of view, who would win and who would lose from human rights initiative.”¹⁴⁴ In Kennedy’s description of the highly structured and unequal relations between the “West and the Rest,” he emphasizes that the form of modernization promoted by the human rights movements in the Third World societies is too often based only on a fantasy about the modern/liberal/capitalist West: “The insistence on more formal and absolute conceptions of property rights in transitional societies than are known in the developed West is a classic example of this problem using the authority of the human rights movement to narrow the range of socioeconomic choices available in developing societies in the name of ‘rights’, that do not exist in this unregulated

¹⁴³ Ibid. p. 4

¹⁴⁴ Kennedy, p. 106

or compromised form in any developed western democracy.”¹⁴⁵ In Subchapter I of Chapter 2, I present an example of the “Right to Development” resolution, which most developed countries vote against, explaining the justification of that behavior accordingly. As Robert Rowthorn explains in his article, “The Impact on Advanced Economies of North-South Trade in Manufacturing and Services,” the nature of North-South trade relations has been changed for the last few decades, constantly changing patterns of trade in terms of advanced and sophisticated activities:

This is, of course, an old argument, which has appeared throughout history when established economies are challenged by rising commercial or industrial powers. It raises two distinct, although related issues. Success in international competition does not depend on absolute strength alone, but also on the strength of one's rivals. If the objective is to succeed in international competition, this can be done by preserving or increasing the absolute strength of one's own economy or by inhibiting the development of rival economies. Such behavior is routine in commercial life. Indeed, as Karl Marx pointed out long ago, the struggle to create and undermine intellectual monopolies is the essence of competition in a knowledge-based economy. What goes for firms is also true, up to a point, for countries. The transfer of knowledge abroad may simultaneously weaken the sending country and strengthen recipient countries, thereby shifting the balance of competitive power at both ends. This is the kind of fear to which many of the opponents of offshoring appeal. Free traders typically dismiss such fears as unfounded on the grounds that international trade is a process from which all gain. A "win-win situation" as they put it. In general, I think they are right, but it would be foolish to deny that there is also a zero-sum dimension. As Paul Samuelson (2004) has recently shown, there are situations in which one country's gain is another's loss. If offshoring does result in the large-scale transfer of knowledge and skills to other countries, then it could theoretically weaken the sending countries by undermining their capacity to compete. The standard answer is that they should become even more inventive and even more skilled to make up for what they have lost to their rivals.¹⁴⁶

As an example of how rights to development are no more meant for development than as a political agenda of the global elite, Kennedy says: “Think of the right to development, born less in response to global poverty than in response to an internal political conflict within the elite about the legitimate balance

¹⁴⁵ Ibid, p. 116

¹⁴⁶ Robert Rowthorn, “The Impact on Advanced Economies of North-South Trade in Manufacturing and Services,” *Brazilian Journal of Political Economy* Vol. 25, no. 2 (2005) p. 60-73.

concerns on the institutional agenda and to an effort by some more marginal members of that elite to express their political interest in the only available language.”¹⁴⁷

d) Globalization

Some argue that violations of human rights can be found in the structure of the global political economy, by legitimating the economic actors and practices at the heart of globalization rather than supporting the interests of the vulnerable:

The main human rights challenge in the current century is to translate global consciousness, law and institutions into reality. The legacy of the second half of the 20th century is that we are better positioned to meet that challenge. We now have many of the necessary tools. But our capacity to wield them will be shaped in many ways—some positive, some negative—by overriding forces of economic and technological globalization, more powerful than any nation. ¹⁴⁸

There is an ongoing debate as to whether globalization is a win-win phenomenon for all states. “Globalization, however, tends to weaken national governments. Competitive pressures in global markets, and policies imposed by international financial institutions, lead to privatization of public services and deregulation of private activity. Entry into national markets is gained by huge multinational corporations whose revenues dwarf those of most governments. Taxes on these enterprises are limited by competitive pressures, while fiscal targets may force increases in consumption taxes on the poor, even as government expenditures on health and food subsidies are cut.” ¹⁴⁹

¹⁴⁷ Kennedy, p. 118.

¹⁴⁸ Douglass Cassel, *The Globalization of Human Rights: Consciousness, Law and Reality*, 2 Nw. J. Int'l Hum. Rts. 1 (2004). P. 6 <http://scholarlycommons.law.northwestern.edu/njihr/vol2/iss1/6>

¹⁴⁹ Cassel. p. 23

e) Economic and Social Rights

There is no question that the “Right to Development” resolution is a human rights call, but when it comes to the definition of development and its entitlements, and to the language and commitments included in the resolution’s text, the question of whether the right to development is a human right is a point of contention not only among states, but scholars as well. “A dichotomous division of any complex reality is likely to be crude and easily (mis)read to suggest that the two categories are antithetical. This is especially true because this particular dichotomy was born of political controversy, first in working-class political struggles in the nineteenth and early twentieth centuries and then in Cold War ideological rivalry. The argument against economic and social rights, however, has also been philosophical. And it is of considerable immediate political relevance, especially in the United States.”¹⁵⁰ At the same time, some scholars argue that “Our lives—and the rights we need to live them with dignity—do not fall into largely separate legal-political and socioeconomic spheres. Economic and social rights usually are violated by, or with the collusion of, elite-controlled political mechanisms of exclusion and domination. Poverty in the midst of plenty is a political phenomenon.”¹⁵¹ This is one of the bases of my argument in the “Rights to Development” section: that developed countries justify their rejected voting behavior with controlling unrealistic rules and conditions. Even rules and conditions established by developed countries (such as green technology, green economy,

¹⁵⁰ Jack Donnelly, *Universal Human Rights in Theory and Practice*, Cornell University Press, 2013. p. 40

¹⁵¹ *Ibid.* p. 45

and private sector engagements) require developed countries to apply them. In transcending the dichotomy of economic and social rights, how one thinks about human rights “cannot determine political practice. Nonetheless, certain ways of thinking, such as the traditional dichotomy, can help to support widely prevalent patterns of human rights violations. In every country where ruling elites have been able to enforce such a dichotomization, the consequence has been the systematic violation of a wide range of internationally recognized human rights.”¹⁵² Donnelly notes “that this (kind of violation) includes the United States, where economic and social rights are systematically violated in significant measure because they still are seen as not really matters of basic rights but considerations of justice, charity, or utility.”¹⁵³ That is why my research identifies dominant voting behavior patterns in the same set of resolutions presented systematically.

Whether or not the “Right to Development” is part of the Universal Declaration of Human Rights, the milestone document of the history of human rights, it is the most controversial issue to developed and developing countries when it comes to voting at the General Assembly. Richard L. Siegel’s article “A Policy Approach to Human Rights Law: The Rights to Development” explains how Westerners often use human rights for transnational companies; at the same time, “it also needs to be recognized that some UN member states apparently seek to blur any lines separating international economic policies and human rights.”¹⁵⁴

¹⁵² Donnelly. p. 45

¹⁵³ Donnelly, p. 54

¹⁵⁴ Richard L. Siegel, “A Policy Approach to Human Rights Law: The Right to Development,” *Human Rights Theory and Management* (ed. Cingranelli) Palgrave MacMillan (1988)

In his article “The Human Right to Development: Between Rhetoric and Reality,” Stephen Marks describes the US objection to the Right to Development:

People suffering repression and oppression have aspired to fair and equitable treatment for millennia. Liberation from slavery and colonialism—based on premises similar to those of the so-called third generation rights—was expressed in terms later reflected in human rights language. Religious freedom was a human rights concern well before the mid-twentieth-century separation of civil and political rights from economic, social, and cultural rights. Nevertheless, the formal articulation of the RTD in the form of texts using the human rights terminology is a phenomenon of the late twentieth century, beginning in the early 1970s. The UN General Assembly proclaimed development as a human right in its 1986 Declaration on the Right to Development. The United States cast the only negative vote; eight other countries abstained.¹⁵⁵

Within the context of this extremely politicized issue, Marks continues: “the Reagan Administration made it clear to the other members that the RTD Declaration should not be used as a means of resuscitating NIEO. Nor would the United States allow the Declaration to create any entitlement to a transfer of resources; aid was a matter of sovereign decision of donor countries and could not be subject to binding rules under the guise of advancing every human being’s RTD.”¹⁵⁶ On the other hand, while Stephen Marks describes the US opposition to the Right to Development in policy and its politics between developed countries and developing ones at the UN, Marks declares that “efforts to use the UN to advance the idea of a New International Economic Order (NIEO) had emboldened Third World delegations. But the challenge to the prevailing order favoring Western industrialized countries generated a reaction that ranged from cautious support among Western European delegations to outright hostility for the idea of a human

¹⁵⁵ Stephen Marks, “The Human Right to Development: Between Rhetoric and Reality,” *Harvard Human Rights Journal* Vol 17: (2004) pp.137-168

¹⁵⁶ Stephen Marks, “The Human Right to Development: Between Rhetoric and Reality,” *Harvard Human Rights Journal* Vol 17: (2004) p. 138

RTD from the United States and a few others (pre-colonized states).¹⁵⁷ “In part this is due to the difficulty of measuring human rights conditions in general, but it is also a reflection of the lack of agreement about the precise nature of the expected linkage. With few exceptions, the existing empirical work tests the impact of economic development on socio-economic rights.”¹⁵⁸ Some argue that:

Initially common in political science was the argument that political and civil rights are prerequisite for economic development. This belief was based on the assumption that political and social conditions play a decisive role in assisting or impeding advances in per capita income. Conversely, economic development has been viewed as both a means of obtaining, and an excuse for repressing, civil and political rights. More widely accepted today, however, is the belief that economic and political systems are interdependent and that human rights conditions are often the result of this interaction. Still, arguments remain about precisely which rights are affected by this interaction.¹⁵⁹

For example; Sakiko Fukuda-Parr’s chapter “Human Rights and Politics in Development” describes the conceptual nexus of human rights politics and development, indicating how “development is not only about economic growth but also about how the benefits of economic growth are distributed among people— income groups, ethnic groups, racial groups, women or men, young or old, regional populations, rural or urban populations, workers in different occupations, and so on. It is also about how the resources generated by economic growth are put to use by government. How budgets are allocated among different sectors and uses has important consequences.”¹⁶⁰ Furthermore, “the struggles of poor people for their rights are at least in part about those government policies and legal

¹⁵⁷ Marks. p. 143

¹⁵⁸ Marks, p.141

¹⁵⁹ Kathleen Pritchard, “Human Rights and Development: Theory and Data,” *Political Science*, Vol 11, no. 3 (1989): 330

¹⁶⁰ Sakiko Fukuda-Parr, “Human Rights and Politics in Development,” *Human Rights: Politics and Practice*, ed. Michael Goodhart (Oxford University Press, 2016): 171

institutions that would advance the realization of their human rights—economic, social, cultural, political, and civil.”¹⁶¹ In terms of the relationship between human rights and development, Kathleen Pritchard argues, “It is a tenet of faith among politicians, financiers, and academicians that economic development enhances human rights conditions. This common assertion, however, masks a great deal of debate regarding the precise relationship between development and human rights. In fact, there is lack of agreement about which particular rights are affected by economic development and even whether human rights are to be considered the cause or the effect of the relationship. The debate stems from different ideological perspectives, academic propensities and definitions of concepts.”¹⁶² In following chapters, I touch on different patterns that arise in different human rights resolutions, patterns which are, to some degree, relative to each other, such as lesbian, gay, bisexual and transgender (LGBT) rights, the rights of the child, and the rights of women.

f) LGBT Group Rights

Donnelly raises seven skeptical questions about group human rights, and which groups deserve to have their claimed rights granted or recognized. “This is,” he argues, “ultimately a question that must be handled on a case-by-case basis.”¹⁶³

How do we identify the groups that ought to hold human rights? Unless we can restrict the range of collective right-holders, we are likely to be swamped in a wild proliferation of human rights that would devalue the

¹⁶¹ Ibid. p. 171

¹⁶² Pritchard, abstract.

¹⁶³ Jack Donnelly, *Universal Human Rights in Theory and Practice*, Cornell University Press, 2013. p. 49

practical force of claims of human rights. Certainly not all groups ought to have human rights. Consider, for example, states, multinational corporations, gangs, and barbershop quartets. Suppose that we were to agree that it would be desirable for, say, minorities to have group human rights. By what criteria could we legitimately grant rights to minorities but not to other groups? Although not an intractable problem, it is an important one that advocates of group rights have largely ignored. The most obvious criterion, namely, a long history of ongoing, systematic suffering, would yield group human rights for women; racial, ethnic, religious, and linguistic minorities; indigenous peoples; homosexuals; disabled people; seniors; children; and poor people—to mention just some of the more prominent groups. Pretty much everyone except prosperous white Western males—and many of them as well—would have group human rights. Such a radical expansion of right-holders and associated claims of rights seems to me extremely problematic.¹⁶⁴

If a human rights group claims certain rights which would partially threaten the UDHR basic entitlements, in spite of a healthy social and political environment, the advocacy of a human rights group would not be justified because they are simply a group:

Such support, however, reflects a more or less voluntary decision of justice or policy that a state or society is free (not compelled) to make for particular groups of its choosing. No group is entitled to such support simply because it is a group (or even a group of a particular type, such as a racial minority). There is a real loss when a community dies out, but if its members freely choose another way of life, we must be prepared to accept that loss. If a group's survival requires the systematic denial of the internationally recognized human rights of its members, it is unlikely to deserve even our toleration, let alone our respect or support.¹⁶⁵

Ultimately, as long as group human rights is controversial nationally and internationally, “we should insist on clarity in specifying the ‘gap’ in the Universal Declaration model that is being addressed and how the group human right in question would provide an effective remedy.”¹⁶⁶ In Subchapter III of Chapter 3, I explain in detail how the advocacy of LGBT groups would devalue the provision of Universal Declaration of Human Rights, and how, at the present, “there is still an important space for

¹⁶⁴ Donnelly, p. 49

¹⁶⁵ Donnelly, p. 54

¹⁶⁶ Ibid. p. 51

scholars of human rights who understand the ethical stakes involved but who also are willing to push up against the conceptual and empirical boundaries that have grown up around human rights over the last 20 years.”¹⁶⁷

Although “the international human rights revolution to date—an achievement of historic magnitude—remains far from complete,”¹⁶⁸ the purpose of my research is simply to highlight why human rights progress is not genuinely moving in the right direction. Douglass Cassel evidences the global struggle against such rocky realities with the example of the inter-American system: “Caught between an unwilling superpower in the north, and weak or authoritarian governments in the south, the inter-American system lacks the political backing and economic resources to cope with patterns of gross violations of human rights left unremedied by dysfunctional national judicial systems.”¹⁶⁹

For instance, today, under the pressure of many member states, alliances, and associated civil society groups, there is no doubt that the UN is making a progress toward the global inclusion of LGBT rights in the basic human rights standards.¹⁷⁰ Although “evidence from around the world highlights that sexual and gender minority patients experience discrimination, stigmatization, and even denial

¹⁶⁷ Goodale, p. 34

¹⁶⁸ Douglass Cassel, “The Globalization of Human Rights: Consciousness, Law, and Reality,” *Northwestern Journal of International Human Rights*, Vol. 2, no. 1 (Spring 2004)

¹⁶⁹ Douglass Cassel, “The Globalization of Human Rights: Consciousness, Law, and Reality,” *Northwestern Journal of International Human Rights*, Vol. 2, no. 1 (Spring 2004)

¹⁷⁰ Juneau Gary and Neal S. Rubin, UN Matters: “Are LGBT Rights Human Rights? Recent Development at the United Nations” *Psychology International*, June 2012
<https://www.apa.org/international/pi/2012/06/un-matters>

of care in the health system due to their sexual orientation and gender identity,”¹⁷¹ many countries and NGOs have made strategic decisions not to propose language/initiatives going beyond Cairo, Beijing, and other international agreements, assuming it would be unrealistic to expect progressive change, or believing that the more offensive the approach the more of a backfire effect it could have.¹⁷² However, I will examine how this approach is no longer relevant in the current decade.

Regarding the Rights of the Child resolution, there are many elements that affect the voting behavior of countries, the text of the resolution itself varies in its obligations and commitments. For instance, in some states children and adults are treated equally at criminal justice system, and they want to keep their legislation strong, and/or there are other factors such as:

Poverty: As of 2010, the U.S. ranked 30th out of 34 OECD countries in terms of child poverty. 21.2% of children in the United States live in poverty. The average for OECD countries is 13.3%. Only Chile, Turkey, Mexico and Israel had higher child poverty rates. **Maternal Leave:** The US is the only high-income country not to grant paid maternity leave. But ratification of any treaty in the United States requires a two-thirds majority vote in the Senate to pass, and a number of Republican senators, claiming concerns about U.S. sovereignty, have consistently opposed ratification.¹⁷³

Another example that I touch on in Chapter 3 is gender equality and how it could be a factor to some developed countries to vote against. Although it is a relative issue among states, especially to the US, “the issue of gender equality once again

¹⁷¹ Alexandra Müller, “Health for All? Sexual Orientation, Gender Identity, and the Implementation of the Right to Access to Health Care in South Africa,” *Health and Human Rights* Vol 18, no. 2 (2016): 196

¹⁷² Wanda Nowicka, “Sexual and Reproductive Rights and the Human Rights Agenda: Controversial and Contested” *Reproductive Health Matters* Vol 18, no. 2: 119-128

¹⁷³ Karen Attiah, “Why won’t the US ratify the UN’s child rights treaty?” *The Washington Post*, November 21 2014.

became a major issue on the global agenda.”¹⁷⁴ “Although there has been substantial progress toward gender equality in much of the world, great disparities persist, as systematic indicators demonstrate.”¹⁷⁵

Developed countries, which tend to rate higher in gender equality, commonly proclaim that women’s rights are human rights as a whole based on the Human Rights Bill. Some developed countries are ranked number one such as Sweden, and some developed countries are ranked less favorably. “The US rates 28th out of 145 countries in an annual world ranking of equality for women. The World Economic Forum "Global Gender Gap Report 2015" bases its equality ranking on economic, educational, health-based and political indicators.”¹⁷⁶ Although the US made a slight improvement in gender disparities at the workplace, an Accenture reports adds:

The bad news is that women's health in the US is under constant threat, especially their access to comprehensive sexual and reproductive health and family planning. The campaign against Planned Parenthood, and the way states like Texas are making it harder for women to access abortion clinics. These are direct threats to our ability to make informed choices freely about whether, when and how many children we want to have.¹⁷⁷

On the other hand, during the Commission on Status of Women (CSW) 61st Session of 2017, there was heated discussion during the meeting of the adopted Agreed Conclusion regarding LGBT rights and reproductive health. Noticing that the US position changed in 2017 (due to the new Trump administration), in an

¹⁷⁴ Ronald Inglehart and Pippa Norris, *Rising Tide: Gender Equality and Cultural Change Around the World* (Cambridge University Press, 2003), 3

¹⁷⁵ Inglehart and Norris.

¹⁷⁶ Mia Bush, “US Women Make Strides Toward Equality, but Work Remains” www.voanews.com/a/international-womens-day-us-women-gender-equality-work-remains/3223162.html, March 8th 2016.

¹⁷⁷ Bush.

article called “Pro-Life Pro-Family Turn Rocks Europeans at UN Commission on Women,”ⁱⁱ Stefano Gennarini, of Catholic-based NGO C-Fam, describes the shift in Trump’s administration and the EU’s reaction to the subject, saying:

The world witnessed the United States returning to the pro-life fold after years of abortion advocacy from the Obama administration yesterday during the UN Commission on the Status of Women. International consensus on UN policy on “sexual and reproductive health” is that “it does not create new international rights, including a right to abortion,” the U.S. said. This year, the agreement not only omitted abortion, but qualified all references to “sexual and reproductive health,” “sexual and reproductive health-care services” and “reproductive rights” by referring to UN previous agreements saying abortion is not a right, committing nations to help women avoid abortion, and precluding them from promoting it as a method of family planning. The agreement dealt a hard blow to European and Nordic countries that promote “comprehensive sexuality education” that teaches children younger than 4 about “early childhood masturbation,” LGBT rights, and legal prostitution. Spain, speaking on behalf of the EU, expressed the disappointment and frustration of some in the EU ranks. “We regret that the link between economic empowerment and sexual and reproductive health and rights could not be made stronger by better reflecting the human rights components,” said the Spanish delegate.¹⁷⁸

Touching on the importance of the position of developed countries at the UN, and their influence upon other countries, resolutions, voting behavior and/or other policies, James Hall, in his article “The UN Works For US,” describes how essential the position at the UN is to the US: “The loss of these seats should warn us that there are those who would be quite happy to see America leave the UN, freeing them to work their will on us and our friends, backed by the rest of the world. Outside the UN we would have little or no influence on new international laws and regulations that might influence our trade and actions with the rest of the world. We would experience a direct loss of US power to influence the rest of the world and command its ideological high ground.”¹⁷⁹

¹⁷⁸ Stefano Gennarini, Pro-Life Pro-Family Turn Rocks Europeans at UN Commission on Women” Center for Family & Human Rights www.c-fam.org/pro-life-pro-family-turn-rocks-europeans-un-commission-women/, March 24th 2017

¹⁷⁹ James Hall, “The U.N. Works for Us” <http://batr.org/twins/id1.html>,” 2001

Conclusion

In spite of many justifications, demands, and claims of entitlements to human rights, and in spite of the contradictories of philosophical attempts to defend human rights, there is a remarkable international normative consensus on the list of rights contained in the Universal Declaration and the 1966 International Human Rights Covenants (the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights). The only two major controversial issues to date, Jack Donnelly argues, are economic and social rights, and group human rights. However, “the demands of human rights thus are constantly escalating.”¹⁸⁰

In my research, I presuppose my analysis of axioms, to a certain degree supported by theorems, due to the relativity of its range, rather than attempting to defend a theory. “Given that philosophical anthropologies are so controversial, there are great dangers in tying one’s analysis of human rights to any particular theory of human nature.... Ultimately, however—in fact, rather quickly—we must move on to a substantive theory. And as soon as we do, we must confront the notorious problem of philosophical foundations.”¹⁸¹ By the same token, one of the foundations of my analysis is the Universal Declaration of Human Rights, which makes an apparently foundational appeal to “the inherent dignity...of all members of the human family.” Needs and capabilities, as we saw before, are often

¹⁸⁰ Donnelly, p. 18

¹⁸¹ Ibid.

advanced today as an objective foundation. Such grounds have often been accepted as persuasive. None, however, can through logic alone compel the agreement of a skeptic. Beyond the inevitable internal or epistemological challenges, foundational arguments are vulnerable to external or ontological critique. “The Universal Declaration, however, is unquestionably the foundational document of international human rights law. It establishes the basic parameters of the meaning of ‘human rights’ in contemporary international relations—and in national discussions as well.”¹⁸² At the same time, “the Universal Declaration may not be the only valid framework. It is, admittedly, an incomplete framework. Nonetheless, it does represent a realistically utopian cross-cultural vision of the demands and possibilities of our moral nature, a vision that has something like universal validity for us today.”¹⁸³ Hence, “these ‘foundational’ commitments define the range of views that must be taken into account in cross-cultural and cross-philosophical discussions.”¹⁸⁴

Part of my argument on human rights resolutions relies on subjective analysis. Other resolutions rely on objective truths of analysis, given their many pluralist aspects. For instance, many developed countries, when voting against specific human rights resolutions, justify their voting behavior during the explanation of vote before or after the vote, as in contradiction with national sovereignty and/or domestic jurisdiction. Scholars argue that in UN law and

¹⁸² Donnelly, p. 39

¹⁸³ Ibid, p. 18

¹⁸⁴ Ibid, p. 19

practice, and in terms of human rights violations within domestic sovereignty, that “although recalcitrant nations even now yelp ‘national sovereignty and domestic jurisdiction’ when called to international account, their legal argument is no longer credible. No government believes it, except perhaps the one attempting to resurrect it as a defense. In international law, human rights have won the war against exclusive domestic sovereignty.”¹⁸⁵

¹⁸⁵ Donnelly, p. 26

Chapter 2

Analysis of Resolutions and Patterns

Subchapter I: The “Right to Development” Resolution

As mentioned in the previous section, the “Right to Development” resolution was presented for the first time at the Third Committee in 1986. It stressed “the importance of critical issues related to development, including poverty eradication, the need to strive for greater acceptance, and a realization of the right to development at the international and national levels, calling upon states to institute the required measures, the importance of identifying and analyzing obstacles impeding the full realization of that right at both the national and international levels, and the principle of international cooperation between developed and developing countries towards achieving the goal.” Additionally, the resolution urges developed countries that have not yet committed towards “meeting the targets of 0.7 percent of their gross national product for official development assistance to developing countries and 0.15 to 0.2 percent to least developed countries, while encouraging developing countries to ensure that the assistance is used effectively.”¹⁸⁶

The resolution further called for the implementation of a desirable pace of meaningful trade liberalization. The draft stressed the need for the integration of the rights of children in many policies and programs, especially in health, education

¹⁸⁶ Donnelly, p. 60

and the full development of their capacity. Furthermore, it stressed that additional measures must be taken at the national and international levels to fight HIV/AIDS and other communicable diseases. It also emphasized the urgent need for measures to fight corruption.¹⁸⁷ In this section, I focus on the voting outcome of “Right to Development” resolutions, from 1992 until 2019. During this time, there were 28 resolutions presented: 22 with votes and 6 without a vote. All of the resolutions were sponsored and presented by the Non-Aligned Movement (NAM).

As an example of the voting process at the day of meeting, and clarifying how the “Right to Development” resolution is voted for at the Third Committee we turn to the 72nd Session. In October 2017, the resolution was presented by Cuba on behalf of the (NAM), stating: “if there is a political will by developed countries, we would be in a more well-being lives to too many people whom are suffering around the world... etc.” The US then requested a vote on that resolution (each country has the right to request a vote on any presented resolution), which they usually do. In explanation of vote before the vote, the US representative explained their position by saying, “We commit to development around the world, since 1944 until today to all aspects, we strongly link between human rights and development, but we have concerns about the definition of development as human rights. It is held by individuals by their governments. The development has been defined by stakes in some individuals rather than the contrary.”¹⁸⁸ As a result, the floor was open for voting, the resolution passed with 133 Yes, 10 No, and 38 Abstain, and

¹⁸⁷ Donnelly, p. 70

¹⁸⁸ Cassel.

then the resolution was adopted. In explanation of vote after the vote New Zealand, on behalf of a few countries, explained their vote by stating that they “recognize[d] the right of declaration in 1986, and program of action, the Vienna Declaration, it might have justified the right, but we reaffirm that human rights today is the duty of each government to address their own challenges.”¹⁸⁹ Another explanation of vote after the vote was Estonia, on behalf of the EU, stating that: “Development requires the full realization of civil and political and cultural rights, right of development is concerned by its own people. That resolution takes us away from the consensus of that issue, unhelpful narrative to slow the process of human rights; for example, “democracy” was deleted from the Vienna Declaration. For these reasons no one of EU members would agree to vote in favor of that resolution. Right of development cannot be applied unless a fulfillment of all human rights aspects is applied. 2030 agenda gave us opportunity, gave us a path to consider development and pursue consensual approach to all.”¹⁹⁰ In the explanations of votes before and after the vote for the same resolution but at the HRC, India specified that “the question of the right to development was as relevant to the Global North as to the Global South in terms of achieving the practical realization of the right to development,”¹⁹¹ while the Netherlands (speaking on behalf of the EU), said that “the primary responsibility for the realization of the right to development and its enjoyment by citizens was with states.”¹⁹² Hence the result of the vote for the “Right to Development” resolution at the HRC, was as follows:

¹⁸⁹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16562&LangID=E>

¹⁹⁰ Ibid.

¹⁹¹ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16562&LangID=E>

¹⁹² Ibid.

In favor (31): Algeria, Argentina, Bangladesh, Bolivia, Botswana, Brazil, China, Congo, Côte d'Ivoire, Cuba, El Salvador, Ethiopia, Gabon, Ghana, India, Indonesia, Kazakhstan, Kenya, Maldives, Morocco, Namibia, Nigeria, Pakistan, Qatar, Russian Federation, Saudi Arabia, Sierra Leone, South Africa, United Arab Emirates, Venezuela, and Vietnam. **Against** (14): Albania, Estonia, France, Germany, Ireland, Japan, Latvia, Montenegro, Netherlands, Portugal, Republic of Korea, The former Yugoslav Republic of Macedonia, United Kingdom, and United States of America. **Abstain** (2): Mexico, and Paraguay.¹⁹³

These explanations of vote bring us back to the debate described in this subchapter of whether the right to development is in fact a human right and the degree and extent to which the two interact, is a debate that is very much alive in policy discussions at the UN.

During one of the seminars that was held in 2017, while working for the Kuwait Mission and just before Kuwait's entry to the Security Council, Ian Martin, the Executive Director of the Security Council Report Department, gave a lecture on issues related to SC and GA resolutions. During the meeting he said, "Resolutions are either to be precise and push for it to get its purpose, or kill it directly, or make it very broad where it loses its essence and then kill it."¹⁹⁴ Hence, the language of the resolutions, which varies from treaties and conventions to demands and policy reformations, is case-sensitive to states' voting positions. In any case, "whether the General Assembly denominates a text of declaration, set of guidelines, or charter, the text remains a recommendation. Nonetheless, the choice of titles is significant."¹⁹⁵ Hence, the "Right to Development" resolution is an

¹⁹³ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16562&LangID=E>

¹⁹⁴ Ian Martin, UN Security Council Report, August 22nd 2017.

¹⁹⁵ Dinah L. Shelton, *Soft Law in Handbook of International Law* (Routledge Press, 2008)

essential resolution in demonstrating how not just the title of that resolution is substantial, but also the content is case-sensitive to developed countries. I argue here that the “Right to Development” resolution is very precise in its language, with the intent of being used as a bargaining chip, which I will discuss.

This returns us to the key debate between developed and developing countries on the issue of whether Right to Development is part of the UDHR or not. Human rights and development are both “inherently intertwined,”¹⁹⁶ and one can easily justify the position of whether the development process is linked with human rights or unlinked. It can either be sided with developed countries’ justifications on how governments should respond to the allocation of their resources, institutional and law-wise, and fight corruption to enhance human rights, or it can be sided with developing countries’ justifications for the call of international cooperation and partnerships in many development aspects, and the fulfillment of Official Development Assistance (ODA) for instance, to enhance human rights.

The dilemma of “evidence of convergence”¹⁹⁷ versus “reasoning of divergence,”¹⁹⁸ or causes versus effects between development and human rights, is a causality dilemma that has never been and is not likely to be agreed upon between developed and developing countries at the Third Committee. Regardless of which condition is prerequisite, and which case of developing or developed

¹⁹⁶ Fukuda-Parr, p. 171

¹⁹⁷ Siobhan McInerney-Lankford, “Human Rights and Development: A Comment on Challenges and Opportunities from a Legal Perspective,” *Journal of Human Rights Practice*, Vol 1, no. 1 (March 2009),

¹⁹⁸ Ibid.

countries is right or wrong in their explicit and implicit justifications, I argue in the next sections that the bargaining chip of the “Right to Development” resolution voting pattern follows economic interests rather than human rights implications, in addition to the security and social concerns/interests which override the human rights principle. I will later identify and analyze these bargaining chips through the mentioned language/text of the resolution in detail.

It is widely acknowledged that the advocacy of human rights around the world originated in developed countries. Patterns of economic and social interests were found throughout all the “Right to Development” resolution’s text, which will be discussed in detail through subsections (a) and (b), which indicate a specific global distribution consequence of “zero-sum dimension.” Subsections (a) and (b) are both interlinked with each other in their explanations via the “colonialism” pattern and colonialism’s extension in the 21st century, and interlinked in a way that justifies the overriding argument of economic and social interests of the current era to human rights implications.

(a) Advocacy of Private Sector Engagement is the New Colonialism of the 21st Century

Based on my findings, after breaking down voting blocs of the 22 voted “Right to Development” resolutions, the voting outcome, and the language mentioned in these resolutions, I have found variables which are repeatedly addressed in these 22 resolutions. Each variable has its own background and

explanation of why a developed country refuses its inclusion in the language/text of the resolution, and hence, why they voted “No.” Given these, the “Declaration on the Right to Development” has been mentioned 22 times in 22 resolutions out of 22 voted resolutions. In association with that, the term “colonialism” has been mentioned 22 times in 22 resolutions out of 22 voted resolutions, because the term “colonialism” is included in the declaration’s language. The “Declaration on the Right to Development” (non-legally binding) was adopted in 1986 during the 41st Session. Since then, in every “Right to Development” resolution, the “Declaration on the Right to Development” has been mentioned in its language (22 times, since 1992 until the 74th session of 2019). It is important to emphasize that, in Marks’ description of the US ideological objections based on political economy, “The US delegation stressed the idea that development occurs thanks to economic liberties and private enterprise rather than a claimed right to development.”¹⁹⁹

(b) Green Technology/Economy is the New Colonialism of the 21st Century

Based on my observation of UN meetings, statements, panel discussions, and closed meetings, the intensive call for advanced private sector engagement with the UN’s mandates and implementations has been noticed by developing countries. Developed countries, specifically the US, continually ask for New International Economic Order (NIEO) agendas through compromised language during informal negotiations. For instance, an Iranian diplomat highlighted, during a one-on-one conversation at an informal session, after a demand by developed

¹⁹⁹ McInerney-Lankford, p. 141

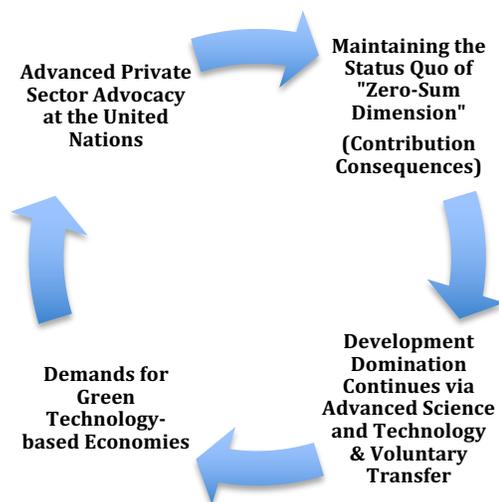
countries to include “technology” in the resolution’s text, the US then asked to add the term *green* technology. It would be an immature act for a developing country to function as a green economy without Western partnership and assistance. The (NAM) representative at the negotiation session could not include *green* technology, as the majority of states (mostly developing) disagreed. Given the fact that the term “private sector” has been mentioned 19 times in 19 resolutions out of 22 “Right to Development” resolutions. In that regard, resolutions related to fair trade in the triangle of North-South-South are impossible to be agreed upon, or voted in favor at the general assembly as long as there are some hurdles to the flow of controllable global trade between developed and developing countries.

In my research, I find that the offshoring act among developed countries is an instrument to maintain the status quo of a zero-sum dimension of distribution consequences via green technology. Therefore, the “Right to Development” resolution has its own costs and benefits in its content, and the content/language determines each country’s voting position. That is exactly the case when developed countries justify their voting position, before and after the vote, by conditioning and calling for unrealistic national demands and concerns imposed on developing countries to implement first. Human rights could be a harmful method more than a useful one; if human rights implications are interlinked with resources.

Using the continued competitive power of monopoly to dominate developing countries’ economies is one of the bargaining chips that I find in the “Right to

Development” resolution. For example, as I just mentioned, developed countries keep asking to change developing countries’ economies into green technology economies, while it is impossible to approach green economies without the transfer of science and technology from developed countries via private sector. The term “technology” has been mentioned 8 times in 8 resolutions out of 22 “Right to Development” resolutions. This is what I call “sustaining the colonialism ideology” through the instrument of the United Nations:

Sustainable Colonialism Ideology Cycle



(c) “Right to Development” Resolutions vs. Other Relative UN

Commitments

A more recent observation at the UN, which indicates how developed countries are very careful about their obligations and technology transfer, is the

remarkable GA resolution 70/1 “Transforming our World: The 2030 Agenda for Sustainable Development.” This is a historic 15-year plan resolution that was adopted unanimously in September 2015, calling for sustainable development goals. These goals were adopted under “The Addis Ababa Action Agenda” in Ethiopia, in July 2015 and provide concrete measures and policies related to finance, technology, innovation, trade, debt, and data.²⁰⁰ During the Addis Ababa intergovernmental negotiation, the US delegation expressed their concerns by saying: “On technology transfer in paragraph 38, we would insert the word ‘voluntary’ before the reference to the transfer of technologies and call for the deletion of the phrase ‘favorable terms, including preferential terms for developing countries.’”²⁰¹ Additionally, developed countries stressed that the declaration was not to be taken as legally binding. Some were saying that the outcome document of that conference is a “non-binding document,” “does not create rights or obligations under international law,” and “access/transfer to technology is voluntarily transfer based on mutual agreed terms and conditions between transferees and recipients.”²⁰²

Sustainable Development Goal 17 intends to “Strengthen the means of implementation and revitalize the Global Partnership for Sustainable Development” of the declaration containing information about finance and technology. This goal calls on developed countries to fully cooperate internationally in terms of ODA commitments, attaining long-term debt sustainability, and

²⁰⁰ <https://sustainabledevelopment.un.org/content/documents/16213usa.pdf>

²⁰¹ <https://sustainabledevelopment.un.org/content/documents/16213usa.pdf>

²⁰² <https://sustainabledevelopment.un.org/memberstates.usa>

improving North-South, South-South and triangular regional and international cooperation on approaching science, technology and innovation. Given the fact that one of the unfulfilled commitments is the Official Developed Assistance (ODA), many developed countries have not yet met their target assistance of 0.7 percent of donor gross national income as aid. Based on the UN and World Bank data in year 2014, the gap between ODA commitments and delivery is \$191.1 billion, or 0.41 percent of developed countries' GNI.²⁰³ The extent to which developed countries must meet the 0.7 percent target varies because of circumstantial conditions for commitments: "The predominant world views, societal values, norms and traditions within the individual DAC countries may also be relevant, as may the political basis of the governments in the countries concerned."²⁰⁴ The call of ODA fulfillment has been mentioned 20 times in 20 resolutions out of 22 of the "Right to Development" resolutions. The table on the next page shows the net ODA total commitments as a percentage of gross national income from 2000-2017.²⁰⁵

(table on next page)

²⁰³ <http://iif.u.org/content/official-development-assistance>

²⁰⁴ Olav Stokke, *International Development Assistance: Policy Drivers and Performance* (New York: Palgrave-MacMillan, 2019), 6

²⁰⁵ <http://data.oecd.org/oda/net-oda.htm#indicator-chart>

Data table for: Net ODA, Total, % of gross national income, 2000 – 2017

Location	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Australia	0.267	0.252	0.256	0.247	0.245	0.248	0.295	0.323	0.316	0.294	0.323	0.344	0.361	0.331	0.314	0.291	0.266	0.232
Austria	0.234	0.342	0.255	0.202	0.233	0.522	0.469	0.498	0.428	0.302	0.322	0.267	0.280	0.274	0.284	0.354	0.424	0.300
Belgium	0.358	0.368	0.432	0.602	0.410	0.526	0.499	0.426	0.479	0.550	0.640	0.536	0.475	0.453	0.463	0.416	0.499	0.450
Bulgaria											0.087	0.093	0.080	0.097	0.090	0.086	0.134	0.112
Canada	0.255	0.217	0.279	0.238	0.268	0.337	0.294	0.289	0.325	0.303	0.336	0.320	0.316	0.275	0.241	0.280	0.261	0.264
Chinese Taipei						0.139	0.144	0.134	0.111	0.130	0.101	0.093	0.062	0.054	0.050	0.047	0.060	0.056
Cyprus						0.092	0.145	0.170	0.165	0.196	0.227	0.158	0.114	0.098	0.094	0.090		
Czech Republic	0.033	0.048	0.065	0.111	0.107	0.114	0.120	0.110	0.124	0.120	0.127	0.125	0.121	0.114	0.112	0.118	0.142	0.150
DAC Countries	0.220	0.210	0.230	0.240	0.250	0.320	0.300	0.270	0.300	0.310	0.310	0.310	0.280	0.300	0.300	0.300	0.320	0.310
Denmark	1.061	1.030	0.964	0.838	0.847	0.812	0.798	0.808	0.817	0.880	0.909	0.852	0.830	0.852	0.856	0.847	0.752	0.737
Estonia				0.046	0.077	0.089	0.080	0.102	0.099	0.102	0.115	0.106	0.127	0.145	0.154	0.190	0.165	
Finland	0.311	0.324	0.352	0.348	0.367	0.461	0.396	0.394	0.438	0.542	0.550	0.531	0.534	0.535	0.594	0.550	0.440	0.424
France	0.305	0.309	0.375	0.403	0.412	0.474	0.468	0.380	0.385	0.471	0.495	0.460	0.453	0.406	0.368	0.368	0.384	0.430
Germany	0.270	0.271	0.268	0.284	0.276	0.360	0.356	0.367	0.383	0.355	0.387	0.387	0.372	0.381	0.419	0.523	0.699	0.670
Greece	0.202	0.172	0.207	0.209	0.157	0.172	0.173	0.162	0.211	0.189	0.171	0.147	0.131	0.099	0.105	0.122	0.189	0.156
Hungary			0.027	0.074	0.107	0.130	0.077	0.075	0.095	0.092	0.108	0.099	0.103	0.109	0.134	0.166	0.111	
Iceland	0.104	0.132	0.152	0.167	0.177	0.175	0.269	0.265	0.356	0.325	0.259	0.199	0.203	0.228	0.221	0.240	0.284	0.284
Ireland	0.295	0.331	0.402	0.395	0.389	0.420	0.541	0.552	0.590	0.545	0.523	0.512	0.470	0.462	0.375	0.318	0.319	0.317
Israel		0.081	0.124	0.100	0.071	0.075	0.063	0.069	0.069	0.065	0.069	0.087	0.073	0.071	0.067	0.079	0.111	0.120
Italy	0.128	0.150	0.199	0.167	0.147	0.290	0.197	0.190	0.218	0.158	0.148	0.198	0.137	0.167	0.187	0.221	0.275	0.301
Japan	0.281	0.232	0.228	0.203	0.187	0.281	0.248	0.170	0.190	0.183	0.196	0.182	0.173	0.225	0.198	0.202	0.204	0.228
Korea	0.042	0.055	0.051	0.060	0.062	0.095	0.051	0.072	0.086	0.097	0.116	0.119	0.141	0.134	0.131	0.138	0.159	0.144
Latvia			0.008	0.062	0.066	0.060	0.060	0.066	0.074	0.064	0.068	0.075	0.076	0.080	0.086	0.109	0.105	
Liechtenstein							0.436	0.525	0.676	0.621	0.693	0.751	0.643	0.504				
Lithuania			0.011	0.042	0.062	0.077	0.112	0.110	0.111	0.105	0.125	0.127	0.114	0.098	0.121	0.139	0.130	
Luxembourg	0.696	0.774	0.783	0.857	0.791	0.793	0.890	0.924	0.968	1.043	1.047	0.973	1.004	1.002	1.064	0.952	1.001	0.996
Malta									0.182	0.180	0.248	0.234	0.204	0.202	0.174	0.199	0.212	
Netherlands	0.837	0.822	0.811	0.795	0.733	0.819	0.806	0.808	0.805	0.821	0.815	0.753	0.710	0.669	0.635	0.749	0.649	0.604
New Zealand	0.252	0.254	0.222	0.226	0.234	0.271	0.268	0.266	0.304	0.278	0.255	0.276	0.277	0.262	0.269	0.265	0.253	0.230
Norway	0.764	0.797	0.888	0.919	0.874	0.940	0.885	0.952	0.889	1.059	1.051	0.964	0.929	1.075	1.000	1.046	1.122	0.993

Data table for: Net ODA, Total, % of gross national income, 2000 – 2017

Location	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Poland	0.018	0.020		0.013	0.049	0.068	0.089	0.101	0.075	0.089	0.084	0.084	0.090	0.096	0.086	0.096	0.147	0.135
Portugal	0.261	0.251	0.272	0.220	0.627	0.211	0.212	0.220	0.270	0.234	0.294	0.309	0.281	0.227	0.190	0.158	0.171	0.179
Romania									0.090	0.076	0.071	0.087	0.085	0.074	0.108	0.091	0.110	0.106
Russia											0.033	0.029	0.024	0.034	0.049	0.090	0.101	0.077
Slovak Republic	0.031	0.041	0.024	0.046	0.072		0.103	0.093	0.100	0.087	0.085	0.091	0.089	0.093	0.086	0.101	0.121	0.132
Slovenia						0.106	0.119	0.120	0.129	0.149	0.127	0.129	0.130	0.130	0.125	0.149	0.187	0.159
Spain	0.216	0.303	0.263	0.234	0.239	0.272	0.315	0.367	0.447	0.459	0.428	0.286	0.156	0.174	0.134	0.117	0.343	0.195
Sweden	0.801	0.766	0.836	0.795	0.777	0.942	1.025	0.935	0.980	1.121	0.970	1.019	0.974	1.014	1.094	1.405	0.941	1.019
Switzerland	0.324	0.331	0.317	0.362	0.386	0.422	0.375	0.371	0.422	0.442	0.393	0.458	0.468	0.459	0.505	0.514	0.531	0.457
Thailand							0.036	0.036	0.090	0.019	0.001	0.007	0.003	0.010	0.018	0.017	0.046	0.033
Turkey	0.041	0.043	0.041	0.038	0.113	0.166	0.179	0.091	0.105	0.115	0.131	0.165	0.322	0.403	0.449	0.501	0.755	0.954
United Arab Emirates										0.370	0.145	0.207	0.204	1.342	1.260	1.182	1.208	1.027
United Kingdom	0.317	0.319	0.309	0.342	0.363	0.473	0.514	0.355	0.430	0.508	0.573	0.562	0.562	0.705	0.701	0.705	0.700	0.699
United States	0.100	0.113	0.127	0.149	0.169	0.226	0.177	0.156	0.183	0.206	0.203							

Bearing in mind that since the “Declaration on the Right to Development” was adopted in 1986, the term “Declaration on the Right to Development” has been included in the text of all the followed voted “Right to Development” resolutions. The declaration (A/Res/41/128) calls for international collaboration in resolving international problems of an economic, social, cultural or humanitarian nature, and for respecting human rights and fundamental freedoms for all. To be precise, the declaration mentions the following:

- a) The need to eliminate the massive violations of the human rights of the peoples and individuals affected by colonialism, neocolonialism, apartheid, all forms of discrimination, foreign domination and occupation, threats against national sovereignty (preambular paragraph);

- b) The call to the full realization of the right to peoples to self-determination, which includes, the right to full sovereignty over all their natural wealth and resources (Article 1.2);
- c) Ensuring access to basic resources, education, healthcare services, food, housing, employment, the fair distribution of income, and women have an active role in the development process (Article 8.1).²⁰⁶

Poverty is one of the main obligation components of the “Right to Development” resolution. Relatively, the Report of the Special Rapporteur on extreme poverty and human rights on his mission to the US was released by the Human Rights Council on Jun 18th, 2018 (a few days before the US withdrawal from the HRC in Geneva), indicating that “the United States has the highest rates of youth poverty, infant mortality, incarceration, income inequality and obesity among all countries in the developed world, as well as 40 million people living in poverty.”²⁰⁷ Hence, in comparing the poverty issue at the HRC report and its essential effect on the US reaction, we can be assured that the “Right to Development” resolution implicitly has some other variables, which would cause a country to vote against it. The sentence “eradicating poverty, hunger, and diseases” has been mentioned 21 times in 21 resolutions out of 22 of the “Right to Development” resolutions.

Building upon the notions of eradicating poverty, hunger, and diseases, as mentioned at the “Right to Development,” the “Right to Food” resolution concerns the impact of natural disasters and diseases on massive losses of life, and threats to agricultural production and food security. Additionally, it stresses the continuing decline of ODA to agriculture, the world’s 852 million undernourished people, the disproportionate number of women affected by hunger, food insecurity, and

²⁰⁶ <https://www.ohchr.org/en/professionalinterest/pages/righttodevelopment.aspx>

²⁰⁷ Jeff Stein, “I think I was being sent a message: US warned UN official about poverty in America” *The Washington Post*, June 22, 2018.

poverty, as well as the rapid response to the food crisis across Africa.ⁱⁱⁱ As evidence of how both resolutions are linked to external variables, during the voting meeting at the HRC for the “Right to Development” resolution, the US justified their vote before the vote saying: “the United States had a long-standing commitment to alleviating poverty throughout the world. As President Obama had noted...the active engagement in the 2030 Agenda for Development was a part of a larger United States commitment to development. The United States called for a vote and would vote against this text.”²⁰⁸

The “Right to Food” resolution has been presented by Cuba, on behalf of the NAM, 18 times (that is, since 2001 until 2019), 10 times with votes and 8 times without vote. Once resolutions came to a vote, the US and Israel voted against 8 times. Only rarely did other US territories and states (namely the Marshall Islands) vote against; no European or other developed countries voted against. In the explanation of vote before and after the vote, the US explains their position thus:

We agree that poverty and malnutrition is devastating to world hunger, for more than a decade the US has been the largest food donor to reduce hunger; however, this resolution contains problematic and inappropriate language that does not go along with resolutions focused on HR... As well as the US considers any agreement would undermine WTO consensus is invalid, which explains how the UN is disconnected in its trade’s mandate. The US does not agree on technology transfer, the US agrees to transfer technology only if it is voluntary bases and mutually agreed terms, and that para does not serve for any future negotiating document, and this text applies to all resolutions asks for technology transfer.²⁰⁹

The resolution in general stresses “the need to make efforts to mobilize and optimize the allocation and utilization of technical and financial resources from all sources.”²¹⁰ “It would also urge states to give adequate priority in their

²⁰⁸ www.ohchr.org/EN/NewsEvents/Pages/DispalyNews.aspx?NewsID=16562&LangID=E

²⁰⁹ 54th Meeting at 71st Session, November 21st, 2016.

²¹⁰ <https://www.un.org/press/en/2004/ga10321.doc.htm>

development strategies and expenditures to the realization of the ‘Right to Food’^{iv} to fight hunger and poverty.”²¹¹ The reason why I am not examining the “Right to Food” resolution in depth is because only two or three countries voted against, with few abstentions (one or two states, no developed countries, and mostly territory states); however, it is worth mentioning as a supportive example of the relative pattern of opposing technology transfer, and an indication of the unwillingness to let go of global trade barriers (via WTO).

Based on the abovementioned circle of private sector and technology dominated by developed countries, a relative pattern of the “negative effect of globalization” has been mentioned 16 times in 16 resolutions out of 22 “Rights to Development” resolutions. To evidence that specific pattern, there is another resolution called “Globalization and its Full Impact on the Enjoyment of Human Rights” (mentioned at the resolutions table), explaining why developed countries support the idea of zero-sum dimension. The resolution “underlines the urgent need to establish an equitable, transparent and democratic international system to strengthen the participation of developing countries in international economic decision-making and norm-setting,”²¹² and “reaffirms the commitment to create an environment at both the national and international level, and the enjoyment of full HR would be when narrowing the gap between rich and poor countries as an explicit goal.”²¹³ Some of this resolution’s language overlaps with that of the “Right to Development” and “Right to Food” resolutions, as one of its operative

²¹¹ https://www.un.org/en/ga/search/view_doc.aspx?symbol=A/RES/63/176

²¹² <https://digitallibrary.org.un.record//673601?ln=en>

²¹³ Ibid.

paragraphs “focuses on the liberalization of agricultural trade and its impact on the realization of the right to development, including the right to food,”²¹⁴ and alleviating poverty. The “negative effect of globalization” pattern will be discussed implicitly and explicitly through other resolutions in Chapter 3; Subchapter IV: Electoral Self-Determination, at Promoting Democracy, Equitable International Order, and Strengthening the Role of the UN in Genuine Elections relative resolutions. The resolution is sponsored mainly by Egypt, and has been presented 14 times during the post-Cold War era until 2017. At the 71st Session of 2016, the US asked for a vote for that resolution. In the explanation of vote before and after the vote, Slovakia stated on behalf of the EU that:

We will not support that resolution; we are clearly stated that the effect and implication of globalization should be conceived in a more complex manner. In our view, generalizing globalization within HR is inaccurate as globalization has an impact on HR, the EU believes that globalization has implication of full enjoyment of HR and has fundamental freedom, and yet not all HR is affected by globalization. Globalization has widespread impact on HR; therefore, there should be an assessment case by case for the impact of globalization on HR by approaching that issue in a more balanced manner. Unfortunately, that resolution focuses on only the negative impact of globalization, while failing to take note of the positive ones.²¹⁵

As a result, with similar results in each of the 14 resolutions, developed countries voted against the resolution. For example; at the 71st Session of 2016, the resolution “Globalization and its impact on the full enjoyment of all human rights” was adopted by a recorded vote of 135 in favor to 53 against, with 1 abstention (Greece). Countries voting in favor and against were:

In favor: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cabo Verde, Cambodia, Cameroon, Central African

²¹⁴ <https://www.un.org/en/ga/search/view-doc.asp?symbol=A/RES/63/176>

²¹⁵ <https://www.un.org/press/en/2016/ga11879.doc.htm>

Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Fiji, Gabon, Ghana, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nauru, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, South Sudan, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Tajikistan, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe

Against: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Micronesia (Federated States of), Monaco, Montenegro, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America

At an interactive dialogue of the Tenth United Nations Conference Trade and Development (UNCTAD X) in Bangkok; discussing the impact of globalization on various areas of the world, Yves Berthelot, Executive Secretary of the Economic Commission for Europe (ECE), said, "Globalization is either viewed as a trend or as the political program of a group of countries, such as the Group of Seven Industrialized Countries. In Europe, we observe a regionalization and not a globalization, both for trade and movements of capital."²¹⁶ To conclude this section, the "Right to Development" resolution's language stresses many interlinked factors that could work against developed countries' interests and

²¹⁶ <https://www.un.org/press/en/2000/20000214.tad1908.doc.html>

concerns. This includes issues related to poverty, food insecurity, education, debt burden, trade barriers and fair trade (environmentally-friendly trade and green technology/economy), negative effects of globalization (unfair wealth distribution and consequences), ODA, and gender inequality. These issues will be further discussed in detail in my analysis of other relative human rights resolutions (i.e. “use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination,” and few others) that developed countries tend to vote against.

In assuring that the “Right to Development” resolution has too many crucial elements in creating the whole resolution as a human rights categorized resolution at the United Nations, the independent expert in his Fifth Report of the Third Committee explained that: “The right to development is a composite right to a process of development; it is not just an ‘umbrella’ right, or the sum of a set of rights. The integrity of these rights implies that if any one of them is violated, the whole composite right to development is also violated.”²¹⁷ The controversial dilemma of dependency between developed and developing countries, of whether development or human rights must be achieved first in order to pass the “Right of Development” resolution, continues for implicit reasons to bother developed countries. At the same time, for developing countries it is a dead end to approach global interdependency, as long as the dilemma is the “unfair global economic distribution consequences” of “losers vs. winners” and a “zero-sum equation” controlled by developed countries as an extension of colonialism’s ideology. The

²¹⁷ Report of the Working group on the Right to Development on its fifteenth Session. Geneva, May 12-16 2014. <https://www.ohchr.org/EN/Issues/Development/Pages/Documents.aspx>

continued efforts to advance the New International Economic Order (NIEO) at the United Nations is a new umbrella under which unconventional and progressive “private sector” engagement is used to further Westernized economic interests.

Subchapter II: Freedom of Religion

Religion and Racism-Related Resolutions

This chapter reveals the divergence of religious aspects into certain kinds of voting behaviors based on political reasons associated with different beliefs. This examination offers a possible explanation for the patterns that I identify. Furthermore, this chapter is intended to examine these behaviors according to political phenomenon, the correlation between the behavior and its association with religion, and the voting outcome of some specific resolutions. For instance, I argue in this chapter that when there is an indication of Islamophobia, and its relative consequences in a certain resolution, developed countries tend to vote against that resolution. I examine the robustness of the relationship between specific codified topics in respect to human rights, and the voting behavior of both developed and developing countries, while finding patterns that may have an effect on the voting behavior. Under this classification of resolutions, issues of codified topics are very much intertwined in a way that resulted in many kinds of related resolutions in the post-Cold War and post-9/11 era. Some resolutions are presented from developed countries (mostly the EU and US), and some

resolutions are presented by developing countries (mostly by the Organization of Islamic Cooperation, the NAM, and G77 and China), which I will touch on in detail in the following sections. One important observation, in particular, must be addressed here: that all resolutions presented at the Third Committee in the post-Cold War era and before 9/11, under classification of religion and racism are without vote (by consensus only and/or with some reservations). Resolutions vary under different titles and purposes; such as: Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities; Elimination of All Forms of Religious Intolerance; Ethnic Cleansing and Racial Hatred; Status of the International Convention on the Elimination of All Forms of Racial Discrimination; Measures to Combat Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance; Status of the International Convention on the Elimination of All Forms of Racial Discrimination; Religious Intolerance; and so forth. After 9/11, some of the aforementioned resolutions, albeit with adapted texts and language, were adopted by votes. This had the effect of splitting some resolutions into two contrasting groups: those presented by developed countries and those presented by developing countries. Each group falls under the purview of human rights. Before moving to an analysis of the resolutions, I would like to touch briefly on two prominent textual components of these resolutions, which almost every resolution has to mention in its preambular paragraphs. One is the “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” and the other is the “International Convention on the Elimination of All Forms of Racial Discrimination.” The former,

the “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” met in Durban, South Africa in 2001, mainly recalling the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and the two World Conferences to Combat Racism and Racial Discrimination, held in Geneva in 1978 and 1983. 2001 was a year of mobilization against all kinds of racism and discrimination and welcoming the dialogue among civilizations, with the recognition of the period of 2001-2010 as the decade for a Culture of Peace and Non-Violence for Children; the United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples of 1960; and so on. Every UN member state except the US and Israel agreed on the “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.” These two countries did not adopt the convention due to the following two paragraphs:

1) Article 63: We are concerned about the plight of the Palestinian people under foreign occupation. We recognize the inalienable right of the Palestinian people to self-determination and to the establishment of an independent State and we recognize the right to security for all States in the region, including Israel, and call upon all States to support the peace process and bring it to an early conclusion.

2) Article 151: As for the situation in the Middle East, calls for the end of violence and the swift resumption of negotiations, respect for international human rights and humanitarian law, respect for the principle of self-determination and the end of all suffering, thus allowing Israel and the Palestinians to resume the peace process, and to develop and prosper in security and freedom.²¹⁸

The second component is the “International Convention on the Elimination of All Forms of Racial Discrimination,” which is a treaty opened for signature and ratification by states. The entry date into force was 1969. The treaty asserted “that

²¹⁸ <https://www.un.org/WCAR/durban.pdf>

any doctrine of superiority based on racial differentiation is scientifically false, morally condemnable, socially unjust and dangerous, and that there is no justification for racial discrimination, in theory or in practice, anywhere, and reaffirm[ed] that discrimination between human beings on the grounds of race, color or ethnic origin is an obstacle to friendly and peaceful relations among nations.”²¹⁹ The treaty has 181 state parties, four signatory states, and twelve no-action states (Brunei Darussalam, Cook Islands, Democratic People’s Republic of Korea, Kiribati, Malaysia, Micronesia, Myanmar, Niue, Samoa, South Sudan, Tuvalu, Vanuatu).

In the following sections of this chapter, I touch on two groups of resolutions presented by both developed and developing countries. Both groups fall under the same category with almost identical content, except in each group there is a pattern that distinguishes each from the other, which makes parties vote against each other. Upon these patterns, I build my argument to support my main hypothesis.

Resolutions Analysis

I start with groups of resolutions sponsored and presented by developing countries. I do so because in 2002, after the events of September 11th 2001, there was obvious pressure to change some of the language and texts of resolutions by both developed and developing countries. This is the period when some resolutions under this category went under recorded votes after being adopted by

²¹⁹ <https://www.ohchr.org/en/professionalinterest/pages/cerd.aspx>

consensus before 9/11. Eventually, I will analyze resolutions related to religion and religious topics, and resolutions presented by developed countries.

a) Resolutions on Racism, Racial Discrimination, Xenophobia and Related Intolerance

Two similar resolutions were presented twice at the 52nd Session. One is the “Third Decade to Combat Racism and Racial Discrimination and the convening of a world conference on racism, racial discrimination, xenophobia and related intolerance.”²²⁰ At the 54th Session, the “Third Decade to Combat Racism and Racial Discrimination” and the “Convening of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance” resolutions were presented. Both resolutions have references to the “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance” (which the US and Israel withdrew from as mentioned above), but no state requested a recorded vote against these two resolutions presented (in 1997 and 1999 respectively) before September 11th 2001. The former resolution has a full section with more than 13 relative paragraphs to the conference itself, and the latter resolution has similarly more than 15 relative paragraphs. All have been taken from the text of the “World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” and yet both were adopted without vote before September 11th 2001. Later, at the 56th Session, the first resolution requested for a recorded vote was “Comprehensive implementation of

²²⁰ <https://undocs.org/en/A/RES/52/111>

and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,” sponsored by the NAM countries. In explanation of vote, before and after the vote, the representative of the United States explained the position by saying, “Having withdrawn from the World Conference against Racism, his country was not part of the agreement to adopt the Durban Declaration and Program of Action. The conference had placed an unacceptable focus on a single country-specific situation that was, and remained, totally irrelevant to the subject matter. Particularly now, when it was critically important to reduce the violence in the Middle East and guide the conflicting parties back to the negotiating table, the international community should not assess disproportionate blame on any one side in the dispute.”²²¹ “Also speaking in explanation of vote before the vote, Canada's representative said that his country disassociated itself from all negative references to the State of Israel and from any process or language that did not promote a negotiated Middle East peace. Although Canada remained fully committed to the fight against racism, it continued to have serious concerns about the Durban process and the outcome documents.”²²² Cuba explained the vote after the vote, on behalf of the NAM by stating “that Durban had been a turning point in the history of the struggle against racism, and expressed regret that it had been necessary to vote on the text.”²²³ The resolution (Document A/56/581) was adopted by a recorded vote of 134 Yes, 2 No, with 2 Abstain, as follows:

²²¹ <https://www.un.org/press/en/2002/GA10012.doc.htm>

²²² www.un.org/press/en/2002/GA10012.doc.htm

²²³ Ibid.

In favor: Algeria, Andorra, Angola, Argentina, Armenia, Austria, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cape Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Finland, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guyana, Haiti, Hungary, Iceland, India, Indonesia, Iran, Ireland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Latvia, Lebanon, Libya, Liechtenstein, Lithuania, Madagascar, Malawi, Maldives, Mali, Malta, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saint Lucia, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Zimbabwe

Against: Israel, United States

Abstain: Australia, Canada

Absent: Afghanistan, Albania, Antigua and Barbuda, Azerbaijan, Bhutan, Bosnia and Herzegovina, Cameroon, Chad, Comoros, Democratic Republic of the Congo, Dominica, Estonia, Fiji, France, Guinea-Bissau, Honduras, Kiribati, Lao People's Democratic Republic, Lesotho, Luxembourg, Malaysia, Marshall Islands, Mauritania, Federated States of Micronesia, Nauru, Nicaragua, Nigeria, Palau, Papua New Guinea, Rwanda, Saint Vincent and the Grenadines, Samoa, Seychelles, Solomon Islands, Suriname, Swaziland, the former Yugoslav Republic of Macedonia, Tonga, Turkmenistan, Tuvalu, Vanuatu, Vietnam

The tragic events of September 11th 2001 changed the voting behavior of developed and developing countries among certain resolutions related to many areas of cultural, religious, social, and political significance. The justification of both positions is a defensive position of human rights. At the 56th Session of 2001, there were six resolutions related to racism and religion. Five of them were adopted by consensus, and one (mentioned above) adopted by recorded vote. That was the

beginning of the voting retaliation between both groups after September 11th 2001. Following the September 11th sessions, resolutions adopted with recorded votes increased noticeably. At the 58th and 59th Sessions (2003 and 2004), there were two resolutions adopted with vote out of four resolutions related to religion and racism, at the 60th and 62nd Sessions (2005 and 2006); three resolutions adopted with vote out of five resolutions related to religion and racism. The following timetable shows the details of resolutions with recorded votes, and resolutions without votes, as an example, from 2001 until 2007:

57th Session		
A/RES/57/208	GA/10124 + Corr.1 without vote	Elimination of all forms of religious intolerance
A/RES/57/217	GA/10124 + Corr.1 114-54-15	Respect for the purposes and principles contained in the Charter of the United Nations to achieve international cooperation in promoting and encouraging respect for human rights and for fundamental freedoms and in solving international problems of a humanitarian character
A/RES/57/195	GA/10124 + Corr.1 173-3-2	The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action
A/RES/57/194	GA/10124 + Corr.1 without vote	International Convention on the Elimination of All Forms of Racial Discrimination

58th Session		
A/RES/58/184	GA/10223 179-0-1	Elimination of all forms of religious intolerance
A/RES/58/182	GA/10223 without vote	Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
A/RES/58/160	GA/10223 174-2-2	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the

		comprehensive implementation of and follow-up to the Durban Declaration and Program of Action
A/RES/58/159	GA/10223 without vote	The incompatibility between democracy and racism

59th Session

A/RES/59/199	GA/10321 186-0-0	Elimination of all forms of religious intolerance
A/RES/59/177	GA/10321 183-3-2	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action
A/RES/59/176	GA/10321 without vote	International Convention on the Elimination of All Forms of Racial Discrimination
A/RES/59/175	GA/10321 without vote	Measures to be taken against political platforms and activities based on doctrines of superiority and violent nationalist ideologies which are based on racial discrimination or ethnic exclusiveness and xenophobia, including neo-Nazism

60th Session

A/RES/60/166	GA/10437 without vote	Elimination of all forms of intolerance and of discrimination based on religion or belief
A/RES/60/150	GA/10437 101-53-20	Combating defamation of religions
A/RES/60/160	GA/10437 without vote	Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities
A/RES/60/144	GA/10437 172-3-4	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action
A/RES/60/143	GA/10437 114-4-57	Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

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61st Session		
A/RES/61/164	GA/10562 111-54-18	Combating defamation of religions
A/RES/61/161	GA/10562 without vote	Elimination of all forms of intolerance and of discrimination based on religion or belief
A/RES/61/149	GA/10562 179-2-4	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action
A/RES/61/148	GA/10562 without vote	International Convention on the Elimination of All Forms of Racial Discrimination
A/RES/61/147	GA/10562 121-4-60	Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance

62nd Session		
A/RES/62/157	GA/10678 without vote	Elimination of all forms of intolerance and of discrimination based on religion or belief
A/RES/62/154	GA/10678 108-51-25	Combating defamation of religions
A/RES/62/220	GA/10684 105-46-6	Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action

Based on the timetables above, one notices that resolutions adopted by recorded vote from the 56th Session of 2001 until the 60th Session of 2005, when the real divide occurred among other resolutions, related not only to racism but also to religion. This all began after the events of 9/11. Additionally, the language and texts of resolutions sponsored by both developed and developing countries

have been redirected into another focus of meanings and specifications. One example of a significant difference between these two types of resolutions (the first, those presented by developed countries; the second, those presented by developing countries) are their similar cores and spirits but different patterns related to racism. Those voted on after the 56th Session of 2001 are “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action,” and “Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance.” The former resolution was presented by developing countries (G77 and China), while the latter resolution was presented by developed countries (EU member states). The voting outcome of both resolutions is very specific and important, and supports the pattern I argue for in this chapter. The voting outcome of these two resolutions is divided into three stages. The first stage is the post-Cold War, the second stage is post-9/11 and the third is post-Arab Spring. Each stage has its own description of voting behavior among both developed and developing countries, and their respective motivations in relation to the pattern for which I argue.

Stage 1

At the first stage of the post-Cold War era—from the 47th Session of 1992 until the 56th Session of 2001—there were many resolutions related to fighting racism and xenophobia around the world. For example, this includes the 1994

measures at the 49th Session to “combat contemporary forms of racism, racial discrimination, xenophobia and related intolerance.” The “Third Decade to Combat Racism and Racial Discrimination”; the “Report of the Committee on the Elimination of Racial Discrimination”; and the “Status of the International Convention on the Elimination of All Forms of Racial Discrimination” were all adopted without recorded vote.²²⁴ All resolutions related to the same subject of racism and religion, presented at that stage, were adopted by consensus (without vote).

Stage 2

At the second post 9/11-stage, when changes in voting behavior have been recorded, resolutions were negotiated and argued for in linguistic terms of the fight against racism and xenophobia around the world, and the divide between developed and developing countries among issues and principles related to religion. These resolutions resulted in voting with or against depending on the language. At that time, the trigger was developing countries calling for “the misuse of the media and the Internet to incite violence motivated by racial hatred [to] be condemned and [for] the Assembly [to] call upon States to combat that form of racism.”²²⁵ “The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action” resolution was presented for the first time at the Third Committee of the 57th Session in 2002. The voting outcome was 173

²²⁴ <http://research.un.org/en/docs/ga/quick/regular/49>

²²⁵ <https://www.un.org/press/en/2002/GA10012.doc.htm>

Yes, 3 No (Israel, the US, and Palau), and 2 Abstain (Australia, and Canada).²²⁶

The reason why Israel and the US voted against that specific resolution, and Australia and Canada abstained ([A/RES/57/195](#)) is due to some paragraphs mentioned in the resolution:

- **Terrorism: Article 4 Section I:** “Stresses that States and international organizations have a responsibility to ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, color, descent or national or ethnic origin, and urges all States to rescind or refrain from all forms of racial profiling.”
- **Hatred vs. Freedom of Speech: Article 7 Section I:** “Condemns the misuse of print, audio-visual and electronic media and new communications technologies, including the Internet, to incite violence motivated by racial hatred, and calls upon States to take all necessary measures to combat this form of racism in accordance with the commitments that they have undertaken under the Durban Declaration and Program of Action.”
- **Islamophobia: Article 45 Section V:** “Recognizes with deep concern the increase in anti-Semitism and Islamophobia in various parts of the world, as well as the emergence of racial and violent movements based on racism and discriminatory ideas directed against Jewish, Muslim and Arab communities.”

This resolution opened the door for the division of two kinds of resolutions which followed, those presented by developed countries and those presented by developing countries, after 9/11, in which stage each group votes against the other. “The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action” resolution was changed to “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action” at the 58th Session of 2003 and onward.

In explanation of vote on the same resolution, at the 62nd Session, before the vote the representative of the United States said, “his country’s record of domestic

²²⁶ <http://research.un.org/en/docs/ga/quick/regular/57>

legislation and policies to vigorously combat such activities demonstrated its commitment to the objectives behind the resolution. The United States had long been party to the Convention on the Elimination of Racial Discrimination, and while it continued to support the stated objectives of the 2001 World Conference in Durban, the Conference had been deeply flawed and divisive. Because it reflected those flaws, the resolution at hand was deeply problematic... He said each country should have a legal framework to protect individuals from discrimination, and States should focus on implementing existing commitments rather than following up on a flawed process. The essential elements of a multilateral effort to combat contemporary forms of racism were universal ratification and effective implementation of the Convention on the Elimination of Racial Discrimination. Thus, the United States would vote against the resolution”²²⁷ In addition to that explanation, the US is concerned about the Program Budget Implication (PBI). The resolution then was adopted by a recorded vote of 105 in favor to 46 against, with 6 abstentions, as follows:

In favor: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Botswana, Brazil, Brunei Darussalam, Burkina Faso, Burundi, Cambodia, Chile, China, Colombia, Congo, Costa Rica, Cuba, Democratic People’s Republic of Korea, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Gabon, Ghana, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People’s Democratic Republic, Lebanon, Lesotho, Libya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Sierra Leone, Singapore, South Africa, Sri Lanka, Sudan, Swaziland, Syria, Thailand, Timor-Leste, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Arab Emirates, United Republic

²²⁷ <https://www.un.org/press/en/2007/ga10684.doc.htm>

of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Against: Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Latvia, Lithuania, Luxembourg, Malta, Marshall Islands, Moldova, Monaco, Montenegro, Netherlands, Palau, Poland, Portugal, Republic of Korea, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sweden, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, United States

Abstain: Armenia, Japan, Liechtenstein, New Zealand, Norway, Switzerland

Absent: Albania, Bhutan, Bolivia, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of the Congo, Dominica, Equatorial Guinea, Ethiopia, Fiji, Gambia, Grenada, Guinea-Bissau, Kiribati, Liberia, Micronesia (Federated States of), Nauru, Papua New Guinea, Paraguay, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Seychelles, Solomon Islands, Somalia, Suriname, Tajikistan, Turkmenistan, Tuvalu, Vanuatu

During the informal negotiation meetings²²⁸ that take place weeks before the day of the vote, the EU expressed dissatisfaction with using xenophobia in every paragraph, as there should be an explained definition of xenophobia, saying: "xenophobia is a parameter, you cannot address its measurement; so why not anti-Semitism or cyberspace discrimination?" In another informal negotiation meeting Slovakia, on behalf of the EU, expressed their position of how committed they are to the elimination of xenophobia and protection of HR for all without limits. "Where it has not been attained yet, it's a global scratch, and is related to extremism and Nazism. As such it should be fully implemented at the highest levels towards eradicating racism, and the EU is engaged productively in the informal negotiations, though there is no agreement or evidence to have consensus. Especially agreements should be without singling any region, and there should be

²²⁸ Self-observation on November 14th 2016.

a concrete base and action.”²²⁹ These were the primary concerns communicated by the Slovakian representative.²³⁰ While the US, at an informal negotiation meeting, expressed how committed the US is to ending all racism, they expressed a will to continue to implement the “Convention of all elimination of...” However, the essential point of the US opposition is that it is best not to ban or punish the freedom of expression: “We believe that resolution is the vehicle to divide us among being solidary among unity in face of racism...Budget is implemented...The implication is delicate and that is why we will vote no.”²³¹ The Assembly then adopted the draft resolution (of the 62nd Session) by a recorded vote of 105 in favor to 46 against, with six abstentions (Armenia, Japan, Liechtenstein, New Zealand, Norway, Switzerland).

Developed countries, during this post-9/11 stage, were very defensive against any issue related to racism versus freedom of expression in the face of terrorism around the world, and there has been an obvious dramatic change from adopting resolutions by consensus, to adopting resolutions by recorded vote. For example, at the 65th Session of 2010, the resolution “Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Program of Action” (Res/65/240), was approved by a recorded vote of 104 in favor to 22 against, with 33 abstentions, the representatives of Belgium (on behalf of the European Union) and the United States expressed regret regarding the choice of

²²⁹ Ibid, November 22nd 2016

²³⁰ Self-observation on November 22nd 2016.

²³¹ Ibid.

the date, which would follow closely the sensitive tenth anniversary of 9/11, while Switzerland said there was a lack of clear focus on the international legal obligations in the fight against racism.

Stage 3

The third stage, after the Arab Spring and formation of ISIS, is the adoption of resolutions related to religion and racism (again all by consensus), and resolutions presented by both developed and developing countries. How and why did this shift occur? The answer is simply because developing countries were not opposing freedom of expression or thought anymore during that sensitive environment of coping and rebellions in the Middle East and Africa. At the same time, developed countries were easing up on religious defamation and intolerance due to the establishment of ISIS and its violence in the name of religion.

The third stage had three kinds of resolutions, which started at the 67th Session of 2012, and lasted until the 74th Session of 2019. They were as follows:

- Freedom of religion or belief²³²
- Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief²³³
- Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities²³⁴

The first two resolutions are presented annually at every session, while the third resolution is presented biannually. The “Freedom of Religion and Belief” resolution was presented by developed countries (the EU) for the first time at the 67th Session

²³² <https://undocs.org/en/A/RES/67/179>

²³³ <https://www.refworld.org/docid/59cbaa4b4.html>

²³⁴ <https://undocs.org/en/A/RES/68/172>

of 2012, and “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or beliefs” was presented by a mix of developed and developing countries (Argentina, Australia, Azerbaijan, France, Germany, Greece, Ireland, Italy, Norway, Spain, Syrian Arab Republic, Turkey, United Kingdom, and United States of America) for the first time at the 66th Session of 2011. “Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities” has been spearheaded by developed countries with a Norwegian chairing the representation since the 49th Session of 1994.

At this stage, there have been too many compromises of language on draft resolutions among both developed and developing countries, due to the political, economic, and social instability occurring in too many regions of the world. At this stage, developing countries accepted the idea of freedom of speech and expression, and became none strict about mentioning it and ceded some of the language related to Islamophobia and extremism to be included. On the 70th Session of 2015 and the 71st Session of 2016, “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief” presented by G77 and China, was adopted by consensus, in exchange for Resolution "Freedom of Religion and Belief" presented by the EU. The OIC and the EU bargain to accept the language of both resolutions so it would pass by consensus, and it did. The compromising languages were related to two dimensions; one is the suspicion about religion and its association with terrorism and extremism faced by hatred, racism, and prejudice

from developed countries; while the other dimension is developing countries' acceptance of freedom of belief, expression, association, and speech in order to avoid terrorism and extremism.

One more example of a resolution related to racism and xenophobia was presented by the Russian Federation for the first time at the 60th Session of 2005. The "Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance" has since been presented in every session. However, at the 67th Session of 2013, the resolution was instead given the title of "Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance" (R/67/154).²³⁵ The resolution contained the same essence and language. Since it was presented, this resolution has been adopted by recorded vote throughout the post-9/11 stage and post-Arab Spring stages to the present day. The resolution is related specifically to discrimination based on race, nationality, ethnicity, ethnic and racial persecution, freedom of assembly and association, freedom of expression, freedom of information, all of which were adopted by recorded vote. On the 67th Session of 2012, on the day of the Third Committee's meeting for vote; "The Assembly expressed deep concern about the glorification of the Nazi movement and former members of the Waffen-SS organization, including by erecting monument and memorials and holding public demonstrations that glorified the Nazi past, the Nazi movement and neo-Nazism. It called on States to take more effective measures,

²³⁵ <https://www.refworld.org/docid/51e66e8e4.html>

in accordance with international human rights law, to combat these phenomena. States also were called on to continue to invest in education, in order to transform attitudes and correct ideas of racial hierarchies and superiority promoted by extremist groups.”²³⁶ The following timetable indicates the trends of this resolution and the voting behavior at each of the sessions, during which the resolution was presented:

Resolution	Session	Resolution's number	Voting Outcome		
			Yes	No	Ab.
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	60 th Session	A/RES/60/143	114	4	57
			121	4	60
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	61 th Session	A/RES/61/147			
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	64 th Session	A/RES/64/147	127	1	54
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	65 th Session	A/RES/65/199	129	3	52
Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	66 th Session	A/RES/66/143	134	24	32
Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	67 th Session	A/RES/67/154	129	3	54
Combating Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	68 th Session	A/RES/68/150	135	4	51
Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	69 th Session	A/RES/69/160	133	4	51
Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	70 th Session	A/RES/70/139	133	4	49

²³⁶ <http://www.un.org/press/en/2012/ga11331.doc.htm>

Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	71 th Session	A/RES/71/179	136	2	49
Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance	72 th Session	A/RES/72/156	133	2	49

To address an idea of countries' voting behavior; at the 60th Session, "Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance" resolution was adopted by a recorded vote of 114 with, 4 against, and 57 abstentions, they are as the following:

In favor: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Burundi, Cambodia, Cameroon, Cape Verde, Chile, China, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Grenada, Guatemala, Guinea, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lesotho, Libya, Madagascar, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nicaragua, Niger, Nigeria, Oman, Pakistan, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Singapore, Somalia, South Africa, Sudan, Suriname, Syria, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Federated States of Micronesia, Japan, Marshall Islands, United States.

Abstain: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia,

Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, Nepal, Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Solomon Islands, Spain, Sri Lanka, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom, Vanuatu

Absent: Central African Republic, Chad, Congo, Equatorial Guinea, Guinea-Bissau, Kiribati, Lebanon, Liberia, Mali, Nauru, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Sierra Leone, Swaziland, Tonga.

Reviewing the voting outcome above, we see that developed countries tend either to vote against, to abstain, or to be absent if a resolution has some language which would, in some way, subordinate freedom of speech and expression. Additionally, one should notice that territorial states, (such as the Marshall Islands, St. Kitts and Nevis, Sao Tome and Principe, etc.), are usually voting similarly with their colonizing developed states. Another example of voting behavior of “Glorification of Nazism: Inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia and related intolerance” resolution is at the 69th Session (for the full text of the resolution as taken from the website, look at Appendix 2),²³⁷ a recorded vote of 133 in favor to 4 against (Canada, Palau, Ukraine, United States), with 51 abstentions. States’ voting behaviors are almost the same during all the aforementioned sessions. The 67th Session, a recorded vote tallied 129 in favor to 3 against, with 54 abstentions, as the following:

In favor: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana,

²³⁷ <https://undocs.org/en/A/RES/69/160>

Brazil, Brunei Darussalam, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, India, Indonesia, Iran, Iraq, Israel, Jamaica, Jordan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Liberia, Libya, Madagascar, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Serbia, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, South Africa, Sri Lanka, Sudan, Suriname, Swaziland, Syria, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Republic of Tanzania, Uruguay, Uzbekistan, Vanuatu, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe.

Against: Canada, Palau, United States.

Abstain: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Burkina Faso, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Fiji, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Lesotho, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Monaco, Montenegro, Netherlands, New Zealand, Norway, Panama, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, South Sudan, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Tonga, Ukraine, United Kingdom.

Absent: Ghana, Kiribati, Malawi, Marshall Islands, Micronesia (Federated States of), Nauru, Sao Tome and Principe.

In explanation of vote before and after the vote; most developed countries' justifications fall within the framework of freedom of expression, assembly, speech, and belief as a granted human right based on the Universal Declaration of Human Rights. The United States' objection was on the grounds of freedom of speech and expression. Explaining their position at the 71st Session of 2012, Deputy U.S.

Representative to the Economic and Social Council Stefanie Amadeo stated, “We condemn without reservation all forms of religious and ethnic intolerance or hatred at home and around the world. However, due to this resolution’s overly narrow scope and politicized nature, and because it calls for unacceptable limits on the fundamental freedom of expression, the United States cannot support it.” She said the US opposes the resolution's willingness to limit freedom of expression even while sharing its concerns about the rise of hate speech around the world. "This resolution's recommendations to limit freedom of expression, freedom of association, and the right to peaceful assembly contravene the principles enshrined in the Universal Declaration of Human Rights and must be opposed," Amadeo said.²³⁸

b) Resolutions related to Religion and Religious Topics

The analysis of resolutions related to religion, presented in the post-Cold War era until the 74th Session of 2019, form the main vein of this section. However, my primary focus is on resolutions adopted post-9/11, which is when resolutions related to religion started to be adopted by recorded vote rather than by consensus. Here, I find patterns in the voting records of these resolutions and offer supportive evidence for my hypothesis. The approach used by developed countries to justify their voting behavior is believed to be a human rights feature and can prevent religious terrorism: “Religious terrorism has been on the rise over

²³⁸ <https://www.foxnews.com/world/us-says-anti-nazi-resolution-at-un-restricts-free-speech>

the past 30 years and especially after the attack of September 11th, 2001.”²³⁹ Additionally, “it has been proven that dealing with non-religious terror groups is more manageable through policing and intelligence, while fighting religious terror groups often succeed when using other methods.”²⁴⁰

One kind of the adopted resolution related to religion is “Elimination of All Forms of Religious Intolerance.” This resolution was adopted eighteen times from the 47th Session of 1992 until the 66th Session in 2011. All eighteen resolutions were adopted by consensus, except twice in the 58th Session of 2003 (179 votes Yes 0 No 1 Abstain) and 59th Session of 2004 (186 Yes 0 No 0 Abstain); at the former session in 2003 the voting outcome was 179 Yes 0 No 1 Abstain (Israel).^v At that time, the representative of Israel justified his country’s vote before the vote as referring to “Item 117 (b) on the elimination of all forms of religious intolerance, saying that he would abstain on a resolution, which was essential to his country’s history and position as a modern state. His understanding had been that a separate text on anti-Semitism would be tabled in the General Assembly. However, as that never happened and no reference to anti-Semitism had been incorporated in the draft before the Assembly, he would have to abstain.”²⁴¹ That resolution in general urges states to “ensure that their constitutional and legal systems provide effective guarantees of freedom of

²³⁹ Nilay Saiya, “Religion, Democracy and Terrorism,” *Perspectives on Terrorism*. Vol. 9, no. 6 (December 2015): 57

²⁴⁰ Ibid.

²⁴¹ <https://www.un.org/press/en/2003/ga10223.doc.htm>

thought, conscience, religion or belief, including providing effective remedies in cases where such rights are violated.”²⁴²

Afterward, from the 60th Session until the 66th Session, the resolution has been adopted by consensus as anti-Semitism terminology has been added; in Resolution A/Res/61/161^{vi} of the 61st Session an operative paragraph says States must “Recognize with deep concern the overall rise in instances of intolerance and violence directed against members of many religious and other communities in various parts of the world, including cases motivated by Islamophobia, anti-Semitism and Christianophobia,”²⁴³ as well as another paragraph calling for the right of expression; “Deeply concerned that, as reported by the Special Rapporteur, the rights violated on religious grounds include the right to life, the right to physical integrity and to liberty and security of person, the right to freedom of expression, the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and the right not to be arbitrarily arrested or detained.”²⁴⁴

Another kind of resolution, which came out at the 60th Session of 2005 (A/RES/61/164) for the first time after September 11th, is “Combating Defamation of Religion,” sponsored by the Organization of Islamic Conference (OIC). Its language calls for “a deep concern that Islam was frequently and wrongly associated with human rights violations and terrorism, and would reiterate the commitment of all States to the implementation of the United Nations Global

²⁴² Ibid.

²⁴³ <https://undocs.org/en/A/RES/61/161&Lang=E>

²⁴⁴ <https://undocs.org/en/A/RES/50/183>

Counter-Terrorism Strategy.”²⁴⁵ Furthermore, the language condemns the “physical attacks on businesses, cultural centers and places of worship and expressed deep concern that Islam was frequently linked to terrorism and human rights violations and that Muslim minorities were subjected to ethnic and religious profiling, particularly since the September 11th 2001 events. The draft also deplored using the media, including the Internet, to incite violence, xenophobia or related intolerance or discrimination towards Islam or any other religion,”²⁴⁶ as well as the “deep concern at negative stereotyping of religions and related manifestations of intolerance and discrimination in some regions of the world.”²⁴⁷

There are six resolutions, presented from the 60th Session of 2005 until the 65th Session of 2010 (stage of post-9/11); all were adopted with recorded votes, as shown at the following timetable:

Resolution	Session	Resolution	Voting Outcome		
			Y	N	A
Combating defamation of religions	60 th Session	A/RES/60/150	101	53	20
Combating defamation of religions	61 th Session	A/RES/61/164	111	54	18
Combating defamation of religions	62 th Session	A/RES/62/154	108	51	25
Combating defamation of religions	63 th Session	A/RES/63/171	86	53	42
Combating defamation of religions	64 th Session	A/RES/64/156	80	61	42
Combating defamation of religions	65 th Session	A/RES/65/224	79	67	40

²⁴⁵ <https://www.un.org/press/en/2008/ga10801.doc.htm>

²⁴⁶ <https://www.un.org/press/en/2005/ga10437.doc.htm>

²⁴⁷ <https://www.un.org/press/en/2005/ga10437.doc.htm>

The first time the resolution was presented, it was adopted by 101 votes with, 53 votes against, and 20 abstention votes.

In favor: Afghanistan, Algeria, Angola, Antigua and Barbuda, Argentina, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Brazil, Brunei Darussalam, Burkina Faso, Cambodia, Cameroon, Chile, China, Colombia, Comoros, Costa Rica, Côte d'Ivoire, Cuba, Democratic People's Republic of Korea, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Eritrea, Ethiopia, Fiji, Gabon, Gambia, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Indonesia, Iran, Iraq, Jamaica, Jordan, Kazakhstan, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Lebanon, Lesotho, Libya, Malaysia, Maldives, Mali, Mauritius, Mexico, Morocco, Mozambique, Myanmar, Nicaragua, Niger, Oman, Pakistan, Paraguay, Peru, Philippines, Qatar, Russian Federation, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Saudi Arabia, Senegal, Singapore, Somalia, South Africa, Sudan, Suriname, Syria, Tajikistan, Thailand, Timor-Leste, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, United Arab Emirates, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zimbabwe.

Against: Albania, Andorra, Australia, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Federated States of Micronesia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Mauritania, Monaco, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Moldova, Romania, Samoa, San Marino, Serbia and Montenegro, Slovakia, Slovenia, Spain, Sweden, Switzerland, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, United States.

Abstain: Armenia, Botswana, Cape Verde, Democratic Republic of the Congo, Ghana, Honduras, India, Kenya, Madagascar, Malawi, Namibia, Nepal, Nigeria, Panama, Papua New Guinea, Republic of Korea, Solomon Islands, Sri Lanka, United Republic of Tanzania, Zambia.

Absent: Burundi, Central African Republic, Chad, Congo, Equatorial Guinea, Kiribati, Liberia, Mongolia, Nauru, Saint Kitts and Nevis, Sao Tome and Principe, Seychelles, Sierra Leone, Swaziland, Tonga, Tuvalu, Vanuatu.

At the following session, in resolution (A/RES/61/164), the voting outcome did not differ much from the previous session: 111 votes in favor, 54 against, with

18 abstentions. However, at that session, “the Assembly addressed the appearance in European publications of cartoons deemed offensive by many Muslims in two texts on the elimination of racism and racial intolerance. By the terms of a draft on combating defamation of religions, the Assembly deplored the use of the print, audiovisual and electronic media to incite acts of violence, xenophobia or related intolerance and discrimination against Islam or any other religion while urging States to take resolute action to prohibit the dissemination of such ideas and materials.”²⁴⁸

Speaking before action, the representative of Syria said, on behalf of the Organization of the Islamic Conference, that the real consequences of defamation constituted an outright campaign of hate speech, negative stereotyping and targeting the tenets and adherents of Islam. Freedom of expression was important to OIC members. Achievements in information and communication technologies had transformed the world into a single community, she said, which afforded both threats to and opportunities for peaceful coexistence... Among such instances of “Islamophobia” was the continued negative projection of Islam and Muslims in the media and campaigns for anti-Muslim legislation — including the imposition of restrictions on the construction of places of worship... Unfortunately, intolerance against Islam was being fostered by scholars and political parties that espoused anti-Muslim or anti-immigrant agendas, she explained. Further, OIC States were deeply concerned that Islam had been wrongly associated with human rights violations and terrorism. The United Nations Global Counter-Terrorism Strategy, adopted in 2006, clearly confirmed that terrorism could not be associated with any religion, nationality, civilization or ethnic group. Discriminatory acts directed against Muslims and Islam were inconsistent with the spirit of the United Nations Charter and States were clearly obliged to prevent such acts under international human rights law and numerous United Nations resolutions, including the General Assembly resolution adopted annually on “Combating Defamation of Religions.”²⁴⁹

At the 64th Session of 2009, the resolution was approved by a recorded vote of 81 in favor, to 55 against, with 43 abstentions. The committee’s meeting at the General Assembly stated it:

Would strongly deplore all acts of psychological and physical violence and assaults against persons on the basis of religion or belief, and deplore

²⁴⁸ <https://www.un.org/press/en/2006/ga10562.doc.htm>

²⁴⁹ <https://www.un.org/press/en/2009/ga10905.doc.htm>

incitement to such acts. The Assembly would also note with deep concern “the intensification of the overall campaign of the defamation of religions and incitement to religious hatred,” including the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001. It would further recognize that, in the context of the fight against terrorism, defamation of religions and incitement to religious hatred had become aggravating factors that contributed to the denial of fundamental rights and freedoms of members of target groups, as well as their economic and social exclusion. By other provisions, the text would have the Assembly emphasize that freedom of expression carried with it special duties and responsibilities, and might therefore be subject to limitations as provided by law, and which were necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals.²⁵⁰

The general explanation, before and after the vote, varies from total support of defamation of religious intolerance to freedom of expression: “In explaining their opposition to the resolution, several delegations cited its focus on one religion and suggested a broader perspective would achieve wider support. Others emphasized that the defamation of religion had to be addressed in such a way that was not detrimental to other rights, including, several stressed, the right to freedom of expression.”²⁵¹ While the “increasingly splintered view”²⁵² among states on that resolution, “the United States representative suggested an alternate vision to combat the defamation of religion was needed. Among other things, the United States would not agree that prohibiting speech was the way to promote tolerance. Such prohibitions were sometimes used for discrimination, he cautioned, and Governments might abuse individual rights in the name of this resolution and the United Nations.”²⁵³ The delegations of Albania and India further expressed concern that the text attempted to link the issue with racism.²⁵⁴ The

²⁵⁰ <https://www.un.org/press/en/2009/gashc3966.doc.htm>

²⁵¹ Ibid.

²⁵² Ibid.

²⁵³ Ibid.

²⁵⁴ <https://www.un.org/press/en/2009/gashc3966.doc.htm>

voting behavior of that resolution started with 101 votes in favor, 53 votes against, and 20 abstentions. Gradually, votes changed and to the other extreme of imbalance to 79 votes in favor, 67 votes against, and 40 abstentions. That is when the division among developed and developing countries in voting behavior started to diminish.

Compromises and Acceptance of both Parties

The unexpected change in voting behavior of both developed and developing countries after September 11th 2001 occurred at the 67th Session of 2012, when a resolution called “Freedom of Religion and Belief” (A/RES/67/179)²⁵⁵ was presented for the first time by developed countries (the EU on behalf of its members and other developed countries). The resolution in general condemns “all forms of intolerance and discrimination based on religion or belief, as well as violations of freedom of thought, conscience and religion or belief. The right to such freedoms applied equally to all persons. No religion should be equated with terrorism. States were urged to ensure that legislation was not implemented in a discriminatory manner, to end violations of women’s rights, and ensure that no one was discriminated against on the basis of religion or belief when accessing education, medical care, employment, humanitarian assistance or social benefits.”²⁵⁶ Since the 67th Session until the 73rd Session, it has been presented annually, and adopted by consensus. The main reason for

²⁵⁵ <https://undocs.org/en/A/RES/67/179>

²⁵⁶ <https://www.un.org/press/en/2012/ga11331.doc.htm>

presenting the “Freedom of Religion” resolution in 2013, without any objection to its language and adoption by consensus seven consecutive times, is the Arab Spring uprising. I find that this specific period of time has to do with the Arab Spring and formation of ISIS, which led to developing countries accepting the language of freedom of speech and expression more than ever before. Although the language of the resolution is specific, and related to too many forms of racism and all religious tolerance, the resolution includes more language of fighting terrorism and extremism, beside freedom of speech and thought, beside unaccepted hatred and intolerance. All concerns from both parties are addressed in a way that satisfies their human rights concerns. For instance, one of the resolution’s preambular paragraph says that the organization is “...seriously concerned about all attacks on religious places, sites and shrines in violation of international law, in particular human rights and humanitarian law, including any deliberate destruction of relics and monuments.” Another operative paragraph also strongly condemns “any advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, whether it involves the use of print, audiovisual or electronic media or any other means.”²⁵⁷ States usually prefer not to vote against human rights resolutions in general, especially if these resolutions are not country specific (political), or contain program budget implications (PBI). This is due to the good reputation that each government seeks to earn, and maintaining the good reputation of the state among human rights issues in the international arena. At the third stage, both developed and

²⁵⁷ <https://undocs.org/en/A/RES/67/179>

developing countries were seeking these standards and have been trying to maintain them to the current date. Compromises and acceptance by both parties, among racism and religion, defined mainstream of voting behavior at both the post-Cold War and Arab Spring stages.

Conclusion

There is apparently a division in the approach to human rights interpretation and voting justification when it comes to racism- and religion-related resolutions: “Debate on the text in the Committee had largely centered on tensions between the freedom of religion and belief and freedom of expression, and how to balance them.”²⁵⁸

Human rights in arenas related to racism and religion could be argued rhetorically. Beside the suspicion of a hidden agenda with human rights advocacy, it would mark “human rights” as unauthentic. If a phenomenon is used under the cover of racism and religion, then human rights will not follow its genuine logic: for instance, the justification of violence or hatred under the name of religion, or abusing/politicizing religion within religion. Sometimes, some countries claim to be custodians of a specific religion. National, rather than religious, identity should endeavor to prevent racism and hatred, and hence terrorism and extremism.

In this subchapter, I argue that developed countries believe that fighting terrorism and extremism can be done by allowing freedom of speech, expression,

²⁵⁸ <https://www.un.org/press/en/2009/ga10905.doc.htm>

assembly, and religion. This stands in direct contrast to developing countries' approaches, which call for the restriction of defamation of religions, xenophobia, religious intolerance, hatred and discrimination, all of which occur because of these kinds of unlimited freedoms that exacerbate terrorism. In other words, the conflicting justifications for respecting human rights among developed and developing countries calls for an end to the abuse and violations of human rights. Developed countries believe that unrestricted freedom of expression, freedom of speech, freedom of thought, and freedom of religion and belief can be a blanket approach to terrorism, while developing countries consider these cases provide an effective springboard for terrorism.

The dilemma is politically dominated with religious aspects. When developed countries believe that freedom of speech allows for attacking others' religions, developing countries ask for preventing that kind of exercise of freedom of speech for a reason. Namely, "advocates of free speech are for good reason nervous about any policy that precludes robust theological debate."²⁵⁹

²⁵⁹ <https://www.economist.com/erasmus/2019/02/01/why-free-speech-hate-speech-and-radicalisation-are-hard-to-define>

Chapter 3

Analysis of Resolutions and Patterns

Subchapter III: Children's and Women's Advancement

The Advocacy of the “Rights of Lesbians, Gays, Bisexual, and Transgenders” (LGBT) and Sexual Orientation and Gender Identity (SOGI) Language at the UN

Sexual Orientation and Gender Identity (SOGI) rights have been intensively engaged and advocated for in many human rights spheres, agendas, and UN bodies and organs for less than a decade through an indirect call. According to the World Health Organization (WHO), “Sexual health is a state of physical, mental and social well-being in relation to sexuality. It requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence.”²⁶⁰

According to the WHO, sexuality is “a central aspect of being human throughout life and encompasses sex, gender identities and roles, sexual orientation, eroticism, pleasure, intimacy and reproduction... influenced by the interaction of biological, psychological, social, economic, political, cultural, ethical,

²⁶⁰ World Health Organization. http://www.who.int/topics/sexual_health/en/

legal, historical, religious and spiritual factors,²⁶¹ and “Sexual Rights” is explained as follows:

Embrace human rights that are already recognized in national laws, international human rights documents and other consensus statements. They include the right of all persons, free of coercion, discrimination and violence, to:

- The highest attainable standard of sexual health, including access to sexual and reproductive health care services
- Seek, receive and impart information related to sexuality
- Sexuality education
- Respect for bodily integrity
- Choose their partner
- Decide to be sexually active or not
- Consensual sexual relations
- Consensual marriage
- Decide whether or not, and when, to have children
- Pursue a satisfying, safe and pleasurable sexual life.²⁶²

My focus in this section is the current developed countries’ advocacy (mostly the EU and USA) for trying to implement, via Sexual Orientation and Gender Identity language, a new phenomenon, not just through the General Assembly resolutions but also through International Law, for what is called the “Rights of LGBT.”

There are human rights resolutions which exclude the specific description of humans. Resolutions usually describe humans as “*women*,” “*men*,” “*children*,” (or “*boys and girls*”), or “*people*.” Sometimes, for instance, people are described as “*people with disabilities*,” or “*indigenous peoples*.” It has never been negotiated and demanded to include the “rights of *LGBT*” in the texts of resolutions. Such demands only began to take hold at the United Nations over the past seven years,

²⁶¹ World Health Organization; Gender and Reproductive Health.
http://www.who.int/reproductivehealth/topics/gender_rights/sexual_health/en/

²⁶² World Health Organization; Gender and Reproductive Health.
http://www.who.int/reproductivehealth/topics/gender_rights/sexual_health/en/

and intensively so after 2015 (the reasons for which I will explain in the following sections). Resolutions such as “Rights of the Child” and “Women’s Rights” lack the inclusion of SOGI language, and developed countries tend to vote against them. However, for instance, an “Extrajudicial, summary or arbitrary executions” resolution, presented by developed countries to ban illegal executions, including those against LGBT people, carried out by developing countries against their citizens, and contains SOGI language (especially after ISIS’ brutal persecution of gays in Iraq and Syria recently),²⁶³ developing countries abstained with 69 votes, because of the inclusion of the “rights of LGBT,” while developed countries voted 106 in favor at the 71st Session.²⁶⁴

States are divided into two main positions of voting. Most developing countries’ opposition stands against the Western values of SOGI language, and in trying to exclude or dilute the language to maintain one’s cultural, social, and religious values. On the other hand, developed countries and human rights advocates call for greater acceptance of sexual and gender diversity, without any discrimination and social conservatism, and within human rights standards. Some countries abstain if their position is neither supporting the rights of LGBT nor totally ignoring them.

Why is the subject so controversial? Why do developed countries insist on the rights of LGBT, SOGI language, and “Sexual and Reproductive Health” advocacy at the United Nations? That will be the main focus in this section, backed

²⁶³ Inside Look at ISIS’ Brutal Persecution of Gays, December 2, 2015.
<https://www.cbsnews.com/news/isis-persecution-gay-men-murder-lgbt-muslim-society/>

²⁶⁴ Extrajudicial, summary or arbitrary executions. A/C.3/71/L.38/Rev.1
http://www.un.org/en/ga/third/71/docs/voting_sheets/L.38.Rev.1.pdf

up by voting outcome patterns of certain human rights resolutions. I argue that developed countries, to a certain extent, tend to vote against human rights resolutions that do not include the aforementioned advocacy of the Third Committee's resolutions. The first strand of my research in this section focuses on the processes of the advocacy dilemma as "modern day slavery and reproductive human trafficking"²⁶⁵ associated with advanced technology, such as the global fertility business. "New reproductive techniques have created an unregulated and harmful reproductive market. The existence of sperm and egg transactions, along with that of surrogacy agreements, not only commodify human beings, but lead and have led to the exploitation of poor girls and women, especially in low- and middle-income countries."²⁶⁶ During meetings and conferences at the UN, I observed that some countries (mostly conservative developing countries and the non-member Holy See) and civil society organizations recall that advocacy as an immoral act of "abusing the right of child in a way that the fertility industry validates the right of an adult to choose a child."

The second strand stresses the legal aspect of that right, as a baseless new right that is not internationally recognized and agreed upon by consensus, but developed countries are trying to convert that advocacy of international "norms," via international law, to a "right." It is not grounded in any internationally recognized human rights obligation, and cannot be implied on other member states, because the Universal Declaration of Human Rights (UDHR) Article 16, defines the

²⁶⁵ "C-Fam Briefing on CSW61 Challenges and Opportunities". C-Fam, Center for Family & Human Rights.

²⁶⁶ "C-Fam Briefing on CSW61 Challenges and Opportunities". C-Fam, Center for Family & Human Rights.

marriage and creation of family by men and women, and the rights that follow. But there is an intention to have an open definition of a family by the West at the UN. It is a pretext for a bigger hidden political issue that has no limits by the West. It has been called “Sexual and Reproduction Autonomy;”²⁶⁷ others call that act as “Reproduction Human Trafficking.” Fertility clinics are a new booming industry in the US and European countries. The profit of that industry is increasingly incredible and demand is high.

(a) Sexual Orientation and Gender Identity (SOGI) Language

Sexual orientation and gender identity were not only challenged during the 1990s and millennial era on the UN agenda, but will remain a battleground within the UN human rights system for many years to come.²⁶⁸ Ignacio Saiz, argues, “The progress made by the UN’s expert bodies in addressing range of human rights abuses based on sexual orientation is in stark contrast to the denial and defiance shown by certain governments at the political bodies of the UN, where any reference to sexual orientation has consistently been “bracketed” and written out of draft human rights texts.”²⁶⁹

Through the negotiation processes to resolution voting, conservative governments often propose a weaker language to be substituted with existing commitments, especially any reference to sexual and reproductive rights.²⁷⁰ In

²⁶⁷ UN side event, Friday Oct 7th 2016, hosted by Belarus. (see Journal)

²⁶⁸ Ignacio Saiz, “Bracketing Sexuality: Human Rights and Sexual Orientation: A Decade of Development and Denial at the UN,” *Health and Human Rights*, Vol. 7, no. 2, Sexuality, Human Rights, and Health (2004): 48-80

²⁶⁹ Ibid. p. 48

²⁷⁰ Nowicka, p.119

2003, for example, a draft resolution presented by Brazil to the Committee of Human Rights (before the establishment of the HRC in 2006) regarding human rights and sexual orientation, despite its modest language, was described by Pakistan as an insult to the world's 1.2 billion Muslims. Five member states of the Organization of Islamic Conference, and the non-member Holy See, then proposed deleting all references to sexual orientation in the draft, thus rendering it meaningless.²⁷¹ Other conservative and religious fundamentalists, primarily of Christian origin, added more efforts to challenge sexual and reproductive health and rights and weaken the content of resolutions. For instance, asking to replace the word "services" in the context of reproductive health with the word "care,"²⁷² as "services" could include abortion services or/and health services for LGBT people.

Marking the occasion of Human Rights Day on December 9th, 2010, UN Secretary-General Ban Ki-moon spoke at a Ford Foundation event in New York City entitled, "Speak Up, Stop Discrimination."²⁷³ This statement clearly identified his advocacy for the issue of gay rights in the context of human rights, and in so doing, placed this issue on the agenda of the United Nations.²⁷⁴ The following year, US Secretary of State Hillary Clinton stated that one of the remaining global human rights challenges is guaranteeing the equality and dignity of members of the LGBT community. She argued that, "despite the due respect for cultural and religious traditions, these traditions do not trump human rights and therefore should not serve as a pretext for denying fundamental rights to citizens based on

²⁷¹ Saiz, p. 48

²⁷² Nowicka, p.119

²⁷³ Gary and Rubin, <http://www.apa.org/international/pi/2012/06/un-matters.aspx>

²⁷⁴ Ibid.

sexual orientation or gender identity.”²⁷⁵

There is considerable debate for and against such a compartmentalization of sexual and gender minority rights.²⁷⁶ I find, as a “linguistic wars”²⁷⁷ method, that sexual orientation, gender identity, and reproductive health rights are currently controversial, contested globally, and not in denial anymore at the UN. The advocacy has been unprecedentedly intensified and revived for the last few years in different patterns and for different agendas.

(b) Human Rights Council is the Starting Commitment Point at the UN

In April of 2011, the UN Office for the High Commissioner for Human Rights (OHCHR), the UN Development Program (UNDP), the Joint UN Program on HIV/AIDS (UNAIDS), and the World Health Organization (WHO) collaboratively published a brochure entitled “The United Nations Speaks Out: Tackling Discrimination on Grounds of Sexual Orientation and Gender Identity.”²⁷⁸ That brochure, the scholar explains, cites all statements made by UN senior officials and human rights experts regarding LGBT rights, calling for no confusion between the Universal Declaration of Human Rights and cultural and social aspects. By jointly issuing this brochure, OHCHR, UNDP, UNAIDS, and WHO showed that the UN partners communicate together on this matter.²⁷⁹ Noting that one of the procedural steps in formatting any resolution from scratch is to include or cite some

²⁷⁵ Gary and Rubin.

²⁷⁶ Müller, p. 205

²⁷⁷ Nowicka, p.119

²⁷⁸ Ibid.

²⁷⁹ Ibid.

of the language of high UN officials' statements regarding any issue, beside the supportive legal instruments (i.e. the UN Charter, International Law, UNSC resolutions, UNGA resolutions, etc.). Hence, the brochure is meant to serve as a UN reference in negotiating resolutions and outcomes, which will be discussed in detail in the following sections.

The call started, semiofficially, after the Human Rights Council resolution 24/24,²⁸⁰ which demands "Cooperation with the United Nations, its representatives and mechanisms in the field of human rights."²⁸¹ It is an unprecedented resolution (same one in 2007, regarding indigenous peoples) that an subsidiary organ (HRC) of the General Assembly calls for a parallel theoretical power and/or overruling decision of the General Assembly.²⁸² That HRC Resolution demands protection and safety for HR defenders, and appoints UN officials to prevent and address any HR violations in member states. HRC Resolution 24/24 was adopted in Geneva on September 16th, 2013 with a strong majority of its 47 member states (31 in favor, 1 against, 15 abstentions).²⁸³ Then, resolution 24/24 was not included in the annual "Report of the Human Rights Council," with other resolutions adopted at the HRC to be presented to the General Assembly to be voted for, because an African-led coalition asked to "defer" the consideration and action on HRC Res 24/24 from the report, in order to allow more time for more consultation in the

²⁸⁰<https://documentsddsny.un.org/doc/UNDOC/GEN/G13/180/27/PDF/G1318027.pdf?OpenElement>

²⁸¹ http://www.un.org/pga/wp-content/uploads/sites/3/2015/08/280815_Human-Rights-Council-Resolution-2424.pdf

²⁸² UNWATCH, "UNGA adopts resolution that undermines Human Rights Council, December 19, 2013. <http://blog.unwatch.org/index.php/2013/12/19/unga-adopts-resolution-that-undermines-human-rights-council/>

²⁸³ UNWATCH

matter. Eventually the HRC Report resolution (A/Res/69/155)²⁸⁴ was adopted by a recorded vote of 94 in favor to 71 against, and 23 abstentions. A counterproposal led by the Europeans demanding the inclusion of HRC resolution 24/24 was rejected at the GA, by a recorded 83 votes against to 80 in favor, with 18 abstentions.²⁸⁵

In Geneva, the issue became official in 2016 for the first time when the UN Human Rights Council, in a defining vote, adopted the “Protection against violence and discrimination based on sexual orientation, and gender identity” (HRC/Res/32/2)²⁸⁶ resolution, to mandate the appointment of an independent expert on the subject to monitor any violation of LGBT rights in member states, and submit violations in an annual report presented to the UN Secretary-General. It is a historic victory for the human rights of anyone at risk of discrimination and violence because of their sexual orientation or gender identity, as the coalition of human rights groups’ representative Micah Grzywnowicz, of the Swedish Federation for LGBTQ Rights (RFSL), explained: “This is truly momentous.”²⁸⁷ “It’s a historic resolution,” said Josefina Valencia, of the International LGBTI Association for Latin America and the Caribbean, ILGA LAC.²⁸⁸ HRC is a supportive and parallel tool to developed countries in pressuring the acceptance of LGBT language to be inserted in UNGA’s human rights resolution. Since the

²⁸⁴ General Assembly meeting and coverage, 68th Session, GA/11475, December 18, 2013. <http://www.un.org/press/en/2013/ga11475.doc.htm>

²⁸⁵ Ibid.

²⁸⁶ www.ohchr.org/Documents/HRBodies/SP/.../HRC33/A.HRC.RES.32.2_AEV.docx

²⁸⁷ Human Rights Watch, Jun 2016. <https://www.hrw.org/news/2016/06/30/un-makes-history-sexual-orientation-gender-identity>

²⁸⁸ Human Rights Watch.

creation of the Human Rights Council in Geneva, an item called “Report of the Human Rights Council” (which consists of all resolutions that were adopted in the HRC annually by 47 countries), must be included in the agenda items of the Third Committee to be discussed and voted for or passed by consensus, as a whole, if necessary, in New York, by 193 countries. Nevertheless, if a country opposes any resolution adopted by vote or by consensus in Geneva at the HRC, that country in New York has the right to ask for a vote at the GA among that item in the “Report of the Human Rights Council.” For example, at the 71st GA Session, Botswana, on behalf of the G77 and China group, tried to draft a counter-resolution to be voted for at the GA, especially when the initial resolution called for appointing UN officials to prevent and address any HR violations at member states. Botswana called to defer and suspend the implementation of (HRC Res 32/2) “Protection against violence and discrimination based on sexual orientation and gender identity”²⁸⁹ through the report for more legal investigation. The oral amendment (A/C.3/71/L.46) resulted in 94 Yes, 3 No, 80 Abstain. The abstentions came mostly from developed and a few developing countries (USA, the EU, Japan, Republic of Korea, and small South American islands). However, some Latin countries (Argentina, Brazil, Chile, Colombia, Uruguay, and Mexico) presented another resolution (A/C.3/71/L.52)²⁹⁰ to amend or delete the later resolution (which was presented by Botswana) (A/C.3/71/L.46), which resulted in 84 Yes , 77 No, 17

²⁸⁹ “Protection against violence and discrimination based on sexual orientation and gender identity” resolution, (A/HRC/RES/32/2), adopted on 30 June 2016.

http://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/RES/32/2

²⁹⁰ Status of Action on Draft Proposals as of Nov 23rd, 2016.

<http://www.un.org/en/ga/third/71/proposalstatus.shtml>

Abstain. Hence, the agenda item “Report of the Human Rights Council” has been adopted, since there was a greater agreement on the text as a whole.²⁹¹

In explanation of vote before and after vote; Slovakia on behalf of the EU, stressed before the vote the importance of not being selective in deciding which HRC resolutions to support and which to not, as it would undermine the work of an important subsidiary body (HRC).²⁹² “Brazil’s representative, also speaking for Argentina, Chile, Colombia, Costa Rica, El Salvador, Mexico and Uruguay, said the Assembly should not reopen Council reports, which would have far-reaching implications. It was in States’ common interests to protect the effectiveness of the human rights system. The United States representative, speaking forcefully against the amendment, said rights protecting lesbian, gay, bisexual, transgender and intersex persons were universal.”²⁹³ HRC Resolution 32/2 is more specific/transparent about demands and positions related directly to the LGBT rights and SOGI language, an unprecedented resolution in the UN’s history.

Since the spark started in 2010, followed by a strong advocacy by developed member states and few others, until the fire was set in 2016 when a HRC resolution was adopted in favor of the LGBT rights globally, the last few GA sessions have witnessed unprecedented advocacy for the inclusion of SOGI language in the informal negotiation sessions before the adaptation of many categories of HR resolutions, and many other forms of UN commitments.

²⁹¹ General Assembly meeting and coverage, 71st Session, GA/11879, December 19, 2016
<https://www.un.org/press/en/2016/ga11879.doc.htm>

²⁹² Ibid.

²⁹³ Ibid.

(c) Resolutions that Systemically Include SOGI Patterns

At the Third Committee of the 72nd Session, there were 102 resolutions, 22 of which were with votes; 4 out of 22 resolutions were country-specific resolutions (politically-based human rights resolutions); leaving 18 social, humanitarian, and cultural resolutions. In 11 out of 18 resolutions, developed countries asked/negotiated for the inclusion of LGBT rights and SOGI language, and justified their voting positions (against) for that reason. That varies for each session, because there are biannual or triannual resolutions presented in each session at the Third Committee.

During the Third Committee's informal negotiation meetings on human rights resolutions of the 71st Session, which usually takes place weeks before the vote meeting day at the GA, one can easily notice the division of states among certain issues and/or among specific language, and each group holds into its position; accordingly, if the language has not been changed or modified in an ambiguous way, then a division in the voting outcome is obvious. A pattern has been discussed systematically among eleven resolutions at the Third Committee (the US and EU members, and some of the Latin countries), calling for language that refers to contemporary forms of "families." While the opponents to that language call for using "The Family," which indicates man and women and their children (the traditional concept of family), rather than "The Families," which indicates possibly different sexual orientations of parenthood. As a

countermeasure from developing countries, a “Protection of the Family”²⁹⁴ resolution was presented in 2015, to confront their opponents, defining “The Family” as it is in the Universal Declaration of Human Rights (UDHR) Article 16, which defines the marriage and creation of family by men and women, and rights that follow. The resolution was successfully adopted by consensus.

(1) “Protecting Children from Bullying” Resolution

During an informal negotiation meeting of the 71st Session, in regard to the “Protecting Children from Bullying” (A/C.3/71/L.18)²⁹⁵ resolution, which was mainly sponsored by Mexico and cosponsored by 81 other countries, the US representative commented on Preambular Paragraph (PP) 12: “We cannot accept taking out gender-based bullying, as this resolution is all about bullying to vulnerable people; and gender-based is one of them.” The representative insisted that it include “gender-based” bullying. Argentina also supported demands to change language by saying: “we need PP 12 to address gender-based violence. It is a fact that we should not ignore. It is in the SG report. We cannot discriminate against some of the children. It’s not about SOGI language only. It’s about children’s right from all kinds of bullying.” In contrast, Egypt, on behalf of the Organization of Islamic Cooperation, opposed the word “groups” (as it includes LGBT people) in PP 12; the US said the word “groups” could mean people with

²⁹⁴ HRC “Protection of the Family” Resolution, July 2015.

<https://www.ohchr.org/EN/HRBodies/HRC/Pages/ProtectionFamily.aspx>

²⁹⁵ <http://digitallibrary.un.org/record/845858>

disabilities or indigenous people. Israel, Canada, EU, and Argentina echoed the USA's comment.

Within the same intention, in PP 13, the US, the EU, Israel, Australia, and Mexico did not prefer including "parental guidance" as suggested by Egypt on behalf of OIC. They earlier justified that "parental guidance" does not include teachers, guardians, and others. Developed countries insist on the importance of guardians and "others" (for instance, a surrogate parent), as both terms refer to different agendas of meaning. Consequently, the resolution was adopted by consensus with many reservations from many countries (i.e. Yemen disassociated themselves from the "reproduction and sexual health" resolution). Supported by Iran, the Gulf Cooperation Countries (GCC) countries delivered a supportive statement to the resolution, as long as it is related to the national capacity and laws of their countries, with a vague mention of SOGI language. In many cases, states disassociate themselves from a consensus, rather than asking for a vote against a certain resolution, as asking for a vote to any given resolution (especially to human rights resolutions) would potentially discredit that state's reputation.

(2) "Rights of the Child" Resolution

After 1989, when the "Convention on the Rights of the Child" was adopted by consensus, there have been ten GA resolutions, recorded by votes, called the "Rights of the Child," until 2015. The US is the only country currently that has not signed or ratified the "Convention on the Rights of the Child." Somalia was the

last country that ratified the convention in 2013. Besides that, the US has voted “against” in all seven resolutions.

The draft resolution on the “Rights of the Child” “would have the Assembly express profound concern that the situation of children in many parts of the world remained critical as a result of such factors as poverty, pandemics, natural disasters, armed conflict, trafficking, child prostitution, child sex tourism, racism, xenophobia and gender inequality.”²⁹⁶ It would urge states, “that had not yet done so, to become parties to the Convention on the Rights of the Child and call upon those that had to fully implement its provisions.”²⁹⁷ “It would further call upon all states to abolish the death penalty and life imprisonment for under 18 offenders and to ensure that no child in detention was sentenced to forced labor.”²⁹⁸

There have been controversial arguments between states in favor of and against the resolution. The states that are against called to include the following: “The right of education for all children to develop and implement educational programs and teaching materials, including comprehensive evidence-based education on human sexuality.”²⁹⁹ While states that are in favor of “Rights of the Child,” had sought that other states should not impose their cultural and social preferences.³⁰⁰ There have been few amendments and compromises without any

²⁹⁶ General Assembly meeting and coverage, 61st Session, GA/10562, December 19, 2006
<http://www.un.org/press/en/2006/ga10562.doc.htm>

²⁹⁷ Ibid.

²⁹⁸ www.un.org

²⁹⁹ General Assembly meeting and coverage, 70th Session, GA/SHC/4160, November 24, 2015
<http://www.un.org/press/en/2015/gashc4160.doc.htm>

³⁰⁰ Ibid.

maximum agreements among states (70th Session, 2014-2015), which ended up by 141 in favor, 42 abstentions (mostly EU countries), and 1 against (USA).³⁰¹

“Comprehensive Sexual Education” (CSE) is a loaded term at UN headquarters. For some it is considered to be a form of child abuse and destructive education. The World Health Organization (WHO) published recommendations on CSE in Europe in 2010 that are unacceptable for some states. They include teaching children between 0-4 about masturbation, and they have the right to choose a gender identity different from their biologically determined sex without the interference of their parents.³⁰² No matter how many caveats and qualifiers about age and parental responsibilities, CSE is considered anti-children’s rights in developing countries and a few developed states.

According to the WHO, the term “comprehensive” means children must be taught everything related to sexuality without reserve; “sexual” means gender identities and roles, sexual orientation, pleasure, intimacy, and reproduction. Additionally, the term “evidence-based” is used as the language of HRC resolution 32/2, which means undermining parental, cultural, religious, or other moral guidance on sexual values and fostering a carefree approach to sexual health and well-being.

The EU and the US believe that CSE must be included in the “Rights of the Child.” LGBT must earn their rights too, and encourage reproduction based on people’s preferences. Hence, LGBT people can adopt children (clinically), fertility

³⁰¹ General Assembly.

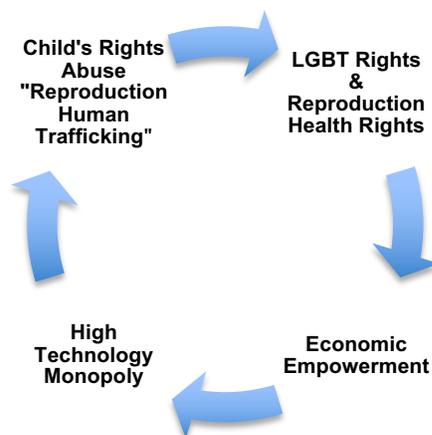
³⁰² World Health Organization-Europe, WHO Regional Office for Europe and BZgA. “Standards for Sexuality Education in Europe; A Framework for Policy Makers, Educational and Health Authorities and Specialists”. Federal Center for Health Education, BZgA; Cologne 2010.

clinic businesses will flourish and encourage cutting-edge technology, modifying societies and cultures. In fact, the business of fertility (sperm and egg donors) validates the right of adults to choose a child based on his/her preference (gender type, surrogate and predecessor ancestry, etc.), which abuses the “Rights of the Child”: it is a child’s right to know his/her real genetic father and/or mother. Such an assertion would abuse the child’s other rights as well.

During one of the informal consultations at the 72nd Session on the “Rights of the Child” Resolution on Oct 26th 2017 which I attended, the EU asked to include “Gender Diverse Children” in the final text of Operative Paragraph 27. while the (non-member) Holy See asked instead for the protection of children who are “marginalized or vulnerable.” In another paragraph, the EU asked for “children be allowed to express their sexual views freely without any abuse.” In conclusion, the “Rights of the Child” resolutions are based on the language of the “Convention on the Rights of the Child” in 1989, whose language does not match the rapid technological development taking place in the West. It has been called “Reproduction Human Trafficking.”³⁰³ via monopolized technology that abuses human rights instead.

³⁰³ UN side event, Friday Oct 7th 2016, hosted by Belarus. United Nations headquarters, NY. (UN Journal)

Reproduction Human Trafficking Cycle



Many elements are mentioned in “Rights of the Child” resolutions, and can be considered major factors in the votes against it by the US and other developed countries. Such elements include early child marriage, corporal punishment, death penalty, and many others. My focus in this chapter is the exclusion/advocacy of LGBT rights, SOGI language, and reproductive health rights in specific resolutions. For instance, the operative Paragraph 26(b), concerning the ban of corporal punishment, of the draft resolution on the “Rights of the Child” (document A/58/157)³⁰⁴ was approved by a recorded vote of 135 in favor to 8 against, with 27 abstentions. One of the countries that voted against that paragraph was the United States.

(3) Women’s Advancement

³⁰⁴ “Rights of the Child” Resolution, at the 58th Session.
http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/58/157

There are thirteen different kinds of voted resolutions categorized under “Women’s Advancements.” Developed countries vary in their voting outcomes depending on the resolutions in questions, which themselves vary from financing regional offices to empower women, or supporting women’s right socially, economically, and politically, to the commitment to CEDAW. In this section, I focus on resolutions that developed countries voted against, and reason through their voting behavior accordingly. However, there are some resolutions related to Program Budgetary Implications (PBI) that developed countries vote against due to the extra costs that they imply from the regular budget. This is especially the case when developed countries such as the US and Japan are the main first two sponsors for the UN regular budget. This was the case with the “Future Operation of the International Research and Training Institute for the Advancement of Women” resolution.

In this subsection, I focus on three main relative resolutions: a) “Convention on the Elimination of All Forms of Discrimination”; b) “To Note the Increasing Number of Member States that have Ratified the Convention on the Elimination of all Forms of Discrimination”; and c) “Urging States to Take the Necessary Measures to Promote Full Equality of Women with Men in Education.” Developed countries tend to vote against these resolutions. I find convincing reasons for developed countries to vote against, in thirteen resolutions of the advancement of women:

- Budgetary Implications (especially to regional offices and institutions)
- Conventions & Treaties non-ratified or signed
- Most women’s relative resolutions call for equal participation (rights) to social, economic, and political aspects (the US signed CEDAW in 1980, yet it is not ratified or accessed)
- Abortion is a controversial issue that the US and developed countries are considering

- The US and EU states consider sex determination a choice to be left to children
- Parents/guardians are responsible for determining the religion/education of their child
- Contradictions of the US constitution (Congress votes against), as the US believes that their national law is more protective to HR

In this regard, I focus in this section on the relative reasoning to LGBT rights, SOGI language, and reproductive health (noticing that in women's relative resolutions, girls are mentioned and associated too). Additionally, in some cases gender equality is correlated with LGBT rights and reproductive health issues as well. Although the heated discussion among the issue was in a commission, it indicates the importance of including the issue at the UN's organs and bodies, to appeal to the maximum international "norms," such that it might become an international law or right. What explains the disparities among some developed countries in gender equality? And why might they vote against some GA resolutions related to gender equality? These questions distinguish this section in my dissertation.

Conclusion

In this section, I largely focused on resolutions related to Children's Rights and Women's Advancements, the latter of which includes many resolutions related to the advocacy of LGBT rights and SOGI language. Methods used in this section are similar to methods used in Section II in explaining why developed countries tend to vote against human rights resolutions at the Third Committee. My focus has been to provide evidence, via voting patterns in the legal and economic context, that the advocacy of LGBT rights, SOGI language, and reproductive

health in fact work against the notion of human rights, and mainly have the effect of abusing the rights of the child and women specifically. My evidence is the new phenomenon at the UN to convert the “norms” into international law, then “rights.”

Subchapter IV: Electoral Self-Determination

The “Right of Peoples to Self-determination” is an agenda item allocated to the Third Committee of Social, Humanitarian, & Cultural Issues. This agenda item has generated official documents related to many issues and topics that fall under its purview. For example, both the “Report of the Secretary-General on the universal realization of the right of peoples to self-determination”³⁰⁵ and the “Note by the Secretary-General transmitting the report of the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination”³⁰⁶ fall under the scope of this agenda. Many resolutions have been presented under this agenda item over the course of many decades at the Third Committee. Some are adopted by votes and some are adopted by consensus. Some are country specific resolutions (politically-based), others have Program Budget Implications (PBI). Some are concerned with social, economic, cultural, and national sovereignty rights.

The purpose of self-determination is written in the UN Charter in Article 1.2 (The Purposes of the United Nations) as “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of

³⁰⁵ <https://www.un.org/en/ga/third/71/documentslist.shtml>

³⁰⁶ Ibid.

peoples, and to take other appropriate measures to strengthen universal peace,”³⁰⁷ and followed by Article 2 (The Organization and its Members, in quest of the Purposes stated in Article 1, shall act in alliance with the following Principles) which assures the purposes of the UN. For example, Article 2.1 states that “The Organization is based on the principle of the sovereign equality of all its Members,”³⁰⁸ and Article 2.4 that “All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”³⁰⁹ Resolutions presented under this item agenda are related to a broad scope of issues and include independence, mercenaries, respecting national sovereignty during elections, the economic effects on people of non-self-governing countries, and so on. The committee is more specifically concerned with the following:

- Universal realization of the rights of peoples to self-determination
- The right of the Palestinian people to self-determination
- Promotion of a democratic and equitable international order
- Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination
- Enhancing the effectiveness of the principle of periodic and genuine elections
- Strengthening the role of UN in enhancing periodic and genuine elections and the promotion of democratization
- Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral process
- Economic and other activities affecting peoples of Non-Self-Governing Territories
- Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples
- Universal realization of the right of peoples to self-determination.

³⁰⁷ <https://www.un.org/en/sections/un-charter/chapter-i/index.html>

³⁰⁸ Ibid.

³⁰⁹ Ibid.

The abovementioned resolutions are not necessarily presented every session. Whereas some are presented for vote annually, others are presented for vote biannually. In this chapter 52 resolutions, which were voted on since 1992 under the agenda item of the Right of Peoples to Self-Determination, will be analyzed pragmatically. This will be done in terms of: a) voting records among both developing and developed countries; and b) finding the voting patterns of member states and bargaining chips used to achieve various goals under this agenda. Although voting patterns in this chapter are in some ways similar to previously mentioned patterns in this research, it is worthwhile to map the patterns of votes and bargaining chips specific to the context of the texts and resolutions on the rights of people to self-determination in order to more fully expose country biases in voting and to understand the pragmatic functions related to policy development and implementation. Here I focus more on select resolutions more than others, because these specific resolutions have patterns under which developed countries tend to vote “No,” than on other resolutions which miss these patterns.

1) Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Right of Peoples to Self-determination

The use of mercenaries is an issue that has been discussed at the UN for decades, beginning in the 1960s at the Security Council,³¹⁰ and continuing to the present. Policies related to the use of mercenaries have been brought forward

³¹⁰ <https://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3b00f20c2c&skip=0&query=mercenaries>

under a variety of scopes and concerns, and to a variety of different venues at the UN. “The UN has been closely following mercenarism since the wars of decolonization in Africa. In 1989, the General Assembly passed resolution 44/34, the “International Convention against the Recruitment, Use, Financing and Training of Mercenaries.” The convention only entered into force in 2001.”³¹¹ For the last two decades, member states of the UN have argued about the linkages of mercenaries and foreign fighters and their impacts on human rights and the right of peoples to self-determination.³¹² The divide on this controversy most frequently is the justification of developed countries in voting against this resolution. In this section I will explore the details of this phenomenon.

Historical Background

Before an analysis of the resolution, a short historical outlook of the evolution of the issues surrounding mercenaries and foreign fighters would be helpful to evaluate this controversial phenomenon at the UN. Mercenaries have a long history in the context of wars and international and cross-border relations. Stretching back to the classical world,³¹³ and medieval Europe, mercenaries fought as loosely organized bands.³¹⁴ “From the 16th Century onward, mercenaries were hired on the basis of treaties or contracts between states.”³¹⁵

³¹¹ <https://www.globalpolicy.org/pmscs/50225-pmscs-a-the-un.html>

³¹² http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

³¹³ Larry Taulbee, “Mercenaries and Citizens: a comparison of the armies of Carthage and Rome,” *Small Wars and Insurgencies*, Vol. 9, No. 3 (1998); and Guy Thompson Griffith, “The Mercenaries of the Hellenistic World” (Cambridge University Press, 2014)

³¹⁴ http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

³¹⁵ *Ibid.*

Eventually, States brought mercenaries under control. The decision to do so was a matter of capacity (States had to be able to raise and administer a standing army), ethics (mercenaries, because they fought for money, had long been considered to be unethical) and necessity (mercenaries caused significant trouble when they were not employed). Mercenaries did not disappear, but the business became a State-to-State trade whereby leaders could negotiate with others to hire foreigners to fight.³¹⁶

According to the UN Secretary-General's report, the phenomenon of foreign fighters is a more recent phenomenon, which appeared with the French and American revolutionary movements through Europe and the Americas through the end of the 19th Century.³¹⁷ Mercenaries and foreign fighters are mirror images of each other. While mercenaries are defined by financial motivation, foreign fighters became objectionable in the context of war fought between citizens because their presence creates an imbalance in the representation of what those living under a unified system are willing to fight for.³¹⁸ "Mercenaries were expensive resources used by status quo powers to bolster their position and to fight in interstate wars or suppress rebellions. They were professional soldiers recruited into the regular armed forces of the State."³¹⁹ The only distinctions are the fighters' recruiters, their missions' reason or motivation, and their location:

Foreign fighters and mercenaries, accordingly, were recruited in very different ways. The State-to-State trade in mercenaries used various systems but generally relied on pre-existing arrangements between rulers, such as the agreements facilitating the hiring of mercenaries from Hesse and Hanover by the British crown. Sometimes, States were given permission to recruit mercenaries within a particular principality. In contrast, foreign fighters were recruited on the basis of enthusiasm for a cause, and often because of pre-existing links between individuals, consisting of either shared ideas or shared ethnicity.³²⁰

³¹⁶ Ibid.

³¹⁷ http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

³¹⁸ Ibid.

³¹⁹ www.un.org/ga/search/view_doc.asp?symbol=A/71/318

³²⁰ Ibid.

From the early 20th Century until the wars of decolonization, the use of mercenaries fell out of favor, and foreign fighters were affected by the rise of nationalism.³²¹ In terms of the wars of decolonization, “during the period from the 1960s to the end of the Cold War, the use of foreign fighters remained largely unchanged, whereas the use of mercenaries saw a resurgence in a different form”³²² during decolonization. Specifically, the use of mercenaries changed significantly and came back intensively to back up wars that followed decolonization in Africa by colonial powers to protect their positions and interests. By the end of the 1980s, with the wars for decolonization diminished, the use of mercenaries was receding.³²³

During the post-Cold War era, mercenaries appeared in a new form: the private military company. Operating under a corporate structure, private military companies fight only for sovereign states.³²⁴ These private companies became known for their effectiveness more than their predecessors in the 1960s and 1970s. At the same time, they faced significant international disapproval in part because they created an imbalance in the struggle of peoples to self-determination and also in part because of their questionable standing and status as legal combatants. By the end of the 1990s, these companies recognized that due to disapproval of the international community that they could not continue to stay in

³²¹ Ibid.

³²² http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

³²³ Ibid.

³²⁴ http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

business in the same form.³²⁵

However, for two decades, starting with the 2003 military intervention in Iraq, the very same firms and private security companies reemerged on the scene and are now taking a new and less controversial form. These for-profit companies are acting primarily through contracts with states and claiming explicitly to use force only defensively.³²⁶ It is their relationship with states' military forces and by not engaging in active combat which allows them to legally be called mercenaries.³²⁷ Hence, mercenaries still exist predominantly as a tool used by powerful states, usually developed countries. In terms of historical background at the UN, in 1979 Nigeria presented on behalf of member states a letter to the GA requesting to draft an international convention against the activities of mercenaries, which would be added to the agenda. In 1980, on the recommendation of the Sixth Committee, the GA established an ad hoc committee on the drafting.³²⁸ After almost a decade, in 1989, by resolution 44/34, the GA adopted the "International Convention against the Recruitment Use, Financing and Training of Mercenaries," and it is opened for signature, ratification, or accession.³²⁹ The convention date of entry into force was October of 2001 (in accordance with article 19(1)). As of June 2019, only 17 states have signed out of 36, with the rest either ratifying or accessing.³³⁰

³²⁵ www.un.org

³²⁶ Ibid.

³²⁷ Ibid.

³²⁸ <http://legal.un.org/avl/ha/icruftm/icruftm.html>

³²⁹ Ibid.

³³⁰ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-6&chapter=18&clang=_en

After the adoption of the “International Convention against the Recruitment, Use, Financing and Training of Mercenaries” in 1989, in every following GA session a resolution called “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination” was presented via votes. The first resolution (A/Res/45/132)³³¹ was in 1990, adopted by 121 votes with, 10 votes against, and 21 abstained votes.³³² Until the 74th Session, 30 resolutions were voted for at the Third Committee.

Analysis:

The private military and security companies (PMSCs) have turned the globalization of the economy and reduction of national armies internationally into a powerful and profitable global business that is estimated at over 100 billion USD yearly.³³³ Jose L. Gomez del Prado, the former chair of the UN Working Group on the use of Mercenaries, explores the negative implications of using PMSCs in today’s globalized world,³³⁴ indicating that the use of PMSCs is a new foreign policy instrument, particularly for the US and UK. This venue is attractive to powerful states due to cost efficiency, nepotism, contacts with administration, avoided and deflected responsibilities of any committed acts that violate human rights, and intervening in the internal affairs of a state in a defused way. He continues:

The lack of accountability for human right violations that they have committed has been partly due to the difficulties in the application of domestic laws to PMSC

³³¹ <https://undocs.org/en/A/RES/45/132>

³³² <http://research.un.org/en/docs/ga/quick/regular/45>

³³³ Barry Yeoman, "Soldiers of Good Fortune," Mother Jones, May/June 2003, <http://motherjones.com/politics/2003/05/soldiers-good-fortune>

³³⁴ <https://www.globalpolicy.org/pmscs/51834-the-role-of-private-military-and-security-companies-in-modern-warfare-impacts-on-human-rights.html>

actuating in foreign countries as well as to the difficulties in carrying out investigations in failed states. It has also been partly due to the difficulties in establishing responsibilities. Indeed, if the direct responsibility of the State for human rights violations can easily be proved when one of its agents commits a human right abuse, it is much more difficult to establish the link when it is a contracted PMSC or one of its employees. Moreover, under international law for human right abuses only the responsibility of natural persons, not legal person, are recognized. To these circumstances also has contributed the immunity granted by governments to PMSC operating in a number of situations.³³⁵

The definition of mercenaries is contained in two universal instruments and one regional convention: “The universal instruments are Additional Protocol I (Article 47) to the Geneva Conventions of 1949, within the context of *ius in bello*, and the 1989 ‘International Convention against the Recruitment, Use, Financing and Training of Mercenaries’, adopted by the United Nations within the context of *ius ad bellum*. Under International Humanitarian Law, mercenaries are not given the protection of lawful combatants but neither are they outlawed. Under the UN convention, mercenaries are criminalized.”³³⁶ As a consequence of the controversial acts of mercenaries and their gray area of mandate, an international demand of clarification of legal obligation under the international law was addressed by three initiatives that took place to regulate PMSCs; “The Swiss Initiative” of 2006, the “Montreux Document” of 2008, and the “International Code of Conduct” of 2010.”³³⁷

The UN established the Working Group on The Use of Mercenaries as a Means of Violating Human Rights and Impeding the Exercise of the Rights of

³³⁵ Ibid.

³³⁶ www.globalpolicy.org

³³⁷ <https://www.globalpolicy.org/pmscs/51834-the-role-of-private-military-and-security-companies-in-modern-warfare-impacts-on-human-rights.html>

Peoples to Self-Determination in July 2005 pursuant to Commission on Human Rights resolution 2005/2.³³⁸ The Group's mandates are:

- Strengthening of the international legal framework for the prevention and sanction of the recruitment, use, financing and training of mercenaries
- Monitor mercenaries and mercenary-related activities in all their forms and manifestations, and private military and security companies, in different parts of the world
- Study and identify sources and causes, emerging issues, manifestations and trends with regard to mercenaries and mercenary-related activities and their impact on human rights.³³⁹

Five years after its creation, the UN Working Group on Mercenaries “has found that there is a regulatory legal vacuum covering the activities of PMSCs... As well as challenges to the application of domestic laws, and difficulties in conducting investigations in conflict zones.”³⁴⁰ Later on, despite the opposition of western states, the Working Group succeeded in creating an open-ended intergovernmental working group at the UN (A/HRC/RES/15/26) to politically negotiate an international regulatory framework to monitor PMSCs.³⁴¹

The Working Group at the UN is not the only body that calls for a legal framework to regulate PMSCs and consider its impact on human rights. There are other bodies at the UN that have been calling for such regulation, such as the Human Rights Council in Geneva. Additionally, given the fact that there are too many loopholes to override the definition of mercenaries, some countries legalize the use of PMSCs globally once they are capable. At the UN, it is known that “the precise definitions of a mercenary set out in Article 47 of Additional Protocol I to

³³⁸

<https://www.ohchr.org/en/issues/mercenaries/wgmercenaries/pages/wgmercenariesindex.aspx>

³³⁹ Ibid.

³⁴⁰ <https://www.globalpolicy.org/pmscs/51834-the-role-of-private-military-and-security-companies-in-modern-warfare-impacts-on-human-rights.html>

³⁴¹ www.globalpolicy.org

the 1949 Geneva Conventions and in the International Convention against the Recruitment, Use, Financing and Training of Mercenaries clearly delineate what a mercenary is, but in so doing perhaps create too many loopholes to enable legislation to be functional.”³⁴² Hence, developed countries lean toward finding loopholes to immunize their industry from any legal culpability and to ensure its perpetuation. In this section, my main concentration is on the resolution “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination.”

Resolution Analysis

At the Third Committee, the resolution “Use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination” was presented for the first time in 1990, near the end of the Cold War. The resolution calls for many aspects to be addressed in the relationship between mercenaries, or PMSCs such as Academi (formerly known as “Blackwater”), G4S, and DynCorp, violations of human rights, and powerless people in conflicted/lawless states. For instance, some of the preamble and operative paragraphs of the resolution are as follows:

- Condemns any State that permitted or tolerated the recruitment, financing, training, assembly, transit or use of mercenaries with the objective of overthrowing the Governments of States Members of the United Nations, especially those of developing countries.
- Reaffirms *also* that, by virtue of the principle of self-determination, all peoples have the right freely to determine their political status and to pursue their economic, social and cultural development.
- *Calls upon* States to investigate the possibility of mercenary involvement whenever and wherever criminal acts of a terrorist nature occur and to bring to trial those found responsible or to consider their extradition.

³⁴² http://www.un.org/ga/search/view_doc.asp?symbol=A/71/318

- Concerned at the alleged involvement of mercenaries, as well as employees of some private military and security companies with mercenary-related activities, in serious human rights violations, including summary executions, enforced disappearances, rape, torture, cruel, inhuman or degrading treatment, arbitrary arrests and detentions, arson, pillaging and looting.
- Encourages States that import the military assistance, consultancy and security services provided by private companies to establish regulatory national mechanisms for the registering and licensing of those companies in order to ensure that imported services provided by those private companies neither impede the enjoyment of human rights nor violate human rights in the recipient country.
- Recognizes that armed conflict, terrorism, arms trafficking and covert operations by third Powers, inter alia, encourage the demand for mercenaries on the global market.³⁴³

Moving on to the explanation of vote before and after the vote at the Third Committee meetings, each state has the right to explain its position of voting upon preference. Some explanations of votes are direct and some have hidden explanations. The US representative in making a general statement before the vote, at the 59th Session, deplored the use of mercenaries, explaining that mercenaries are “in many cases...involved in terrorist activities, but discussion of this issue should take place in the Security Council. It was inappropriate for the Third Committee to spend its valuable time on this topic.”³⁴⁴ At the same session, the representative of the Netherlands, on behalf of the EU, said: “The European Union shared concerns about the dangers of mercenary activities and was concerned about the effect of mercenaries on the nature and duration of armed conflict. However, the European Union could not support the draft as it was not convinced that the Third Committee was the right forum to deal with mercenary activities. The issue should not be tackled as a human rights problem and it did not

³⁴³ <https://undocs.org/en/A/RES/67/159>

³⁴⁴ <http://www.un.org/press/en/2004/gashc3808.doc.htm>

fall within the mandate of the Third Committee. The question of mercenaries fell within the competence of the Sixth Committee.”³⁴⁵ The resolution passed successfully by 129 votes with, 46 votes against, and 13 abstentions.³⁴⁶

Other developed countries’ justifications for voting against the resolution varied from showing that no legal distinction between mercenaries and terrorism was laid out for both being considered as a violation of HR, to referring to the confusion between private companies and private security firms to support militaries. Therefore, their justifications ran, this matter should not be tackled under human rights violations and threats to the right of peoples to self-determination. We can look to another example of explanation of vote before and after the vote of the 72nd Session of 2017. Cuba (on behalf of NAM) presented the resolution at the meeting, and explained how mercenaries are a threat to peace and security around the world. A recorded vote was requested by Estonia on behalf of the EU. The EU explained their vote after the vote thus: “...we have engaged intensively during the informal negotiation meetings, the working group should be condemning the acts of mercenaries when they violate human rights not as their means of duty...we regret to see these proposals are not taken in consideration...we call that there should be private companies monitored by the UN to deliver the means of their duties.”³⁴⁷ The resolution passed successfully by 128 votes for, 51 votes against, and 6 abstentions.³⁴⁸

³⁴⁵ <http://www.un.org/press/en/2004/gashc3808.doc.htm>

³⁴⁶ <http://research.un.org/en/docs/ga/quick/regular/72>

³⁴⁷ My observation, available on video at <http://webtv.un.org/meetings-events/watch/third-committee-29th-meeting-general-assembly-72nd-session/5624821454001/?term=&lan=original>

³⁴⁸ <http://research.un.org/en/docs/ga/quick/regular/72>

Violation of Human Rights

In the case of mercenaries or PMSCs, where is the violation of human rights? Although PMSCs are not considered as mercenaries within the strict definition of the convention, due to the nature of their mandate and the nature of the situation on the ground, one can obviously see how they pose both a threat to civilians and a challenge to human rights law. Why then, do developed countries—especially the US, EU, and Great Britain—continually neglect this threat to human rights? The Global Research³⁴⁹ Center for Research on Globalization, presented reports to the Human Rights Council and the General Assembly about the violations of human rights:

Of particular importance are the reports of the Working Group to the last session of the Human Rights Council, held in September 2010, on the Mission to the United States of America (20 July to 3 August 2009), Document A/HRC/15/25/Add.3; on the Mission to Afghanistan (4-9 April 2009), Document A/HRC/15/25/Add.2, and the general report of the Working Group containing the Draft of a possible Convention on Private Military and Security Companies (PMSCs) for consideration and action by the Human Rights Council, Document A/HRC/15/25. In the course of our research, since 2006, we have collected ample information which indicate the negative impact of the activities of “private contractors,” “private soldiers,” or “guns for hire,” whatever denomination we may choose to name the individuals employed by private military and security companies as civilians but in general heavily armed. In the cluster of human rights violations allegedly perpetrated by employees of these companies, which the Working Group has examined one can find: summary executions, acts of torture, cases of arbitrary detention; of trafficking of persons; serious health damages caused by their activities; as well as attempts against the right of self-determination. It also appears that PMSCs, in their search for profit, neglect security and do not provide their employees with their basic rights, and often put their staff in situations of danger and vulnerability.³⁵⁰

³⁴⁹ <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>

³⁵⁰ Ibid.

For example, on September 16th, 2007, employees of US-based firm Blackwater (Academi) used arms and rocket fire on civilians (including women and children), during the Nisour Square Massacre in Baghdad.³⁵¹ According to a congressional report on the behavior of Blackwater in Iraq, the firm has been involved in nearly 200 escalation-of-force incidents from 2005-2010. Additionally, the company reported that over 80 percent of its shooting incidents were offensive rather than defensive.³⁵²

Another example of arbitrary (according to UN document (A/HRC/15/25/Add.3)³⁵³) involvement of PMSCs is with the American CIA in Afghanistan and Iraq, playing central roles of the most sensitive secretive raids, rendition flights, and joint covert operations.³⁵⁴ There are several recorded incidents of employees of PMSCs being “involved in the taking of detainees, from “pick-up points” (such as Tuzla, Islamabad or Skopje) transporting them in rendition flights and delivering them to drop off points (such as Cairo, Rabat, Bucharest, Amman, and Guantanamo Bay) as well as in the construction, equipping and staffing of CIA black sites.”³⁵⁵

The “Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination” received information from several sources that up to 70 percent of

³⁵¹ <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>

³⁵² <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>

³⁵³ <https://undocs.org/en/A/HRC/15/25/ADD.3>

³⁵⁴ Ibid. paragraph 22

³⁵⁵ <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>

the budget of US intelligence is spent on contractors, which are classified and give very little information on the nature of their activities.³⁵⁶

The Government of the United States relies heavily on the private military and security industry in conducting its worldwide military operations. Private military and security companies (PMSCs) from the United States dominate this new industry, which earns an estimated 20 billion to 100 billion dollars annually. The overall number of contractors in 2009 amounted to 244,000. Private forces constitute about half of the total United States force deployed in Afghanistan and Iraq.³⁵⁷

PMSCs are a profitable industry and associated with advanced technology and the specialized military of leading countries. The US is not the only country to give such profitable rewards. It may be the dominant state, but there are other developed countries, such as Great Britain, which benefit from the industry of sharing advanced technology and specialized military training to outsourced military activities that should fall under the regulations of official state business and under the purview of international law. The US does not count contractors as “boots on the ground,” or track contractor numbers in war zones. Under the contracting system, powerful countries such as the US, can and do add more active combatants on the ground than is officially reported.³⁵⁸ They go this route for obvious for political reasons, and in the process privatize modern warfare largely via the employment of private contractors. In 2016, 75 percent of US forces in Afghanistan were contracted through PMSCs. It is expected that 80-90 percent of forces will be contracted in future wars.³⁵⁹ In the 2014 fiscal year, “the Pentagon

³⁵⁶ Ibid.

³⁵⁷ <https://www.globalresearch.ca/the-privatization-of-war-mercenaries-private-military-and-security-companies-pmsc/21826>

³⁵⁸ <https://www.theatlantic.com/international/archive/2016/08/iraq-afghanistan-contractor-pentagon-obama/495731/>

³⁵⁹ Ibid.

obligated 285 billion USD to federal contracts—more money than all other government agencies received, combined. That's equal to 8 percent of federal spending, and three and a half times Britain's entire defense budget. About 45 percent of those contracts were for services, including private military contractors."³⁶⁰

Conclusion

The privatization of modern warfare is the ultimate goal of developed countries and takes precedence over the threats to human rights that PMSCs present. This helps explain why powerful countries stonewall progress on UN resolutions which call for more control and accountability of mercenaries operating in conflict zones. Voting against resolutions which call for the defense of human rights against the actions of mercenaries indicates that the interests of developed countries lay with the profitable global industry of PMSCs and diffused liability. PMSCs essentially untie the hands of powerful governments and allow them to operate outside of the boundaries established by international humanitarian law. Hence, I argue in this section that developed countries, primarily the EU and US, prioritize economic revenues via privatization over human rights standards internationally. The escalated use of PMSCs is the new tool of foreign policy in conflict areas in our globalized world, which developed countries are taking advantage of in the globalization zero-sum equation of winners and losers.

³⁶⁰ <https://www.theatlantic.com/international/archive/2016/08/iraq-afghanistan-contractor-pentagon-obama/495731/>

**(2) Promoting Democracy, Equitable International Order, and
Strengthening the Role of the UN in Genuine Elections
Relative Resolutions**

In this section, I group six kinds of resolutions categorized under “Electoral Self-Determination” and bundled into two bundles: Bundle A and Bundle B. Bundle A includes four kinds of resolutions that developed countries tends to vote Yes and/or Abstain, and Bundle B includes two kinds of resolutions for which developed countries tend to vote No, while developing countries vote Yes. The reason for bundling them in two groups is because there is a common pattern, for which I argue, in these six kinds of resolutions. I will elaborate more and explain in detail in this section. Resolutions which fall into Bundle A include:

- Promoting and Consolidating Democracy³⁶¹
- UN Role in Enhancing Elections and Promoting Democratization³⁶²
- Strengthening the role of the UN in enhancing the effectiveness of the principle of periodic and genuine elections and the promotion of democratization³⁶³
- Enhancing the role of regional, sub-regional and other organizations and arrangements in promoting and consolidating democracy³⁶⁴

Resolutions which fall into Bundle B include:

- Promotion of Democratic and Equitable International Order³⁶⁵
- Respect for the principles of national sovereignty and non-interference in the internal affairs of States in their electoral processes³⁶⁶

³⁶¹ <http://research.un.org/en/docs/ga/quick/regular/55>

³⁶² Ibid.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Ibid.

³⁶⁶ Ibid.

Some of the abovementioned resolutions have been voted for at the Third Committee more than five times in the period between the post-Cold War era until the current date.

Analysis of Bundle A Resolutions

Bundle A resolutions primarily tackle issues related to democracy and democratization; the promotion and consolidation of democracy, genuine and supervised elections, freedom of speech and religion, freedom of expression, gender equality, education, and national peace and stability. Most countries tend to vote in favor of resolutions in Bundle A. Usually more than 150 votes go in favor. This can be explained by the nature of general recommendations and acknowledgments of the resolutions themselves, without any specific details. However, a handful of countries abstained and have been absent. For example, the “Promoting and Consolidating Democracy”³⁶⁷ Resolution of the 55th Session, was adopted by 157 in favor to 0 against, with 16 abstentions.³⁶⁸ Abstentions and absentees were the following: **Abstain:** Bahrain, Bhutan, Brunei Darussalam, China, Cuba, Democratic Republic of the Congo, Honduras, Lao People’s Democratic Republic, Libya, Maldives, Myanmar, Oman, Qatar, Saudi Arabia, Swaziland, Vietnam; **Absent:** Democratic People’s Republic of Korea, Equatorial Guinea, Kiribati, Pakistan, Syria, Tonga, Turkmenistan, Tuvalu, Uzbekistan.³⁶⁹

³⁶⁷ <http://research.un.org/en/docs/ga/quick/regular/55>

³⁶⁸ <https://www.un.org/press/en/2000/20001204.ga9842.doc.html>

³⁶⁹ Ibid.

The reason I mention these resolutions is to indicate how most countries vote in favor of human rights resolutions with general recommendations and references to specific issues. If a resolution were to address an issue of regional concern, or a specific group of categorized states, then the voting outcome would be totally different. This helps to expose the precise point in Bundle B. Although resolutions of both bundles fall under the same item agenda of the Third Committee, the resolutions in Bundle B have specific patterns of recommendations and references, which would change the voting behavior of developed countries into opposition.

Analysis of Bundle B Resolutions

Both resolutions in this bundle generally call for a win-win international force rather than winners and losers. Specifically, they call for a recognition of the negative impacts which implicate the actions of developed countries playing a dominant role in creating and carrying blame. Additionally, they demonstrate why developing countries believe that they are losers in the globalization equation. The “Promotion of a Democratic and Equitable international order”³⁷⁰ resolution of the 55th Session reaffirms the general commitment of all states to fulfill their obligations to promote universal respect for all HR and fundamental freedoms for all, and international cooperation in the responsibility for managing worldwide economic and social issues.³⁷¹

³⁷⁰ A/RES/54/168

³⁷¹ Ibid.

Based on the 60th meeting coverage of the General Assembly on December 20th of 2012 “the Assembly expressed deep concern that the global economic, financial, energy and food crises represented a scenario that threatened the adequate enjoyment of all human rights and was widening the gap between developed and developing countries. Efforts to make globalization fully inclusive and equitable must include policies and measures at the global level that corresponded to the needs of developing countries and economies in transition, and that were formulated and implemented with their effective participation.”³⁷²

In explanation of vote before and after the vote, of the 54th meeting of 71st Session,³⁷³ the Slovakian representative, on behalf of the EU, said: “The resolution’s elements extend far beyond the UN mandate and agenda. That is why this year and previous years the EU could not support that resolution.”³⁷⁴ The US explanation was as follows:

International Development is critical to the US foreign policy, and the US has already devoted substantial resources and aid for international development, however, the US has reservation on that resolution and freedom of development on that issue. For example, we are concerned that the taxation would challenge the sovereign governments system in many countries and affect their legitimate national interests. We also believe in making markets function in favorable of investment climates, instead of relying on other governments and international institutions. Development assistance is not the best to redistribute the wealth among countries, it’s their countries and private efforts to attract their capital flows and participate in global trade. In conclusion, we call all states to build better future for their citizens by building better institutions based on HR and without corruptions and hold transparency and accountability to hold sustainable democracy.³⁷⁵

³⁷² <https://www.un.org/press/en/2012/ga11331.doc.htm>

³⁷³ <http://webtv.un.org/.../transforming-the-world-.../4930324186001/watch/general-assembly-54th-plenary-meeting-71st-session/5239072355001/?term=&sort=date&page=11>

³⁷⁴ Ibid.

³⁷⁵ <http://webtv.un.org/.../transforming-the-world-.../4930324186001/watch/general-assembly-54th-plenary-meeting-71st-session/5239072355001/?term=&sort=date&page=11>

At the informal meetings that I attended,³⁷⁶ developed states, while negotiating the text of the resolution, asked for the removal of undesirable texts including the following:

- Taxation corrections of foreign governments
- Injustice trade transactions that draw trillions of dollars out of developing countries
- The request of independent experts to work on research on the impact of financial and economic policies pursued by international organizations such as the WB and IMF, which would affect democratic and equitable international order
- Calling states to reconsider regulations on trade, markets, and financial services

The resolution particularly declares that democracy includes the respects of: the Right of Development; the Right of Peace; the Right of Peoples and Nations to Sovereignty over their Wealth and Resources; the Right of International Solidarity; and the Right of Equitable Participation of All, without any discrimination in domestic and global decision making. At the 55th Session,³⁷⁷ on that specific resolution, states voted in the following ways:

Against: Albania, Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Federated States of Micronesia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Monaco, Netherlands, New Zealand, Norway, Palau, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Samoa, San Marino, Slovakia, Slovenia, South Africa, Spain, Sweden, The former Yugoslav Republic of Macedonia, Ukraine, United Kingdom, United States

Abstain: Argentina, Costa Rica, Guatemala, Morocco, Paraguay, Peru, Senegal

Absent: Bosnia and Herzegovina, Comoros, Equatorial Guinea, Kiribati, Mauritania, Saudi Arabia, Tajikistan, Tonga, Turkey, Turkmenistan, Tuvalu, United Arab Emirates, Uzbekistan, Yugoslavia

³⁷⁶ Fall 2016 at the UN.

³⁷⁷ <https://www.un.org/press/en/2000/20001204.ga9842.doc.html>

Examples of Different Categorizations

Some categorizations³⁷⁸ or groups of resolutions are not discussed in my research because resolutions related to these categories do not have systematic patterns which developed countries tends to vote against such as: Physical Integrity Rights (human rights resolutions related to death penalty, torture, disappearance, extrajudicial killing, and political imprisonment). Instead, some developing and developed countries (mostly the US and Japan) tend to vote against bans of torture, the death penalty, and political imprisonment, such as “Moratorium on the Use of the Death Penalty” resolution.³⁷⁹ Another example is the Freedom of Travel resolution (human rights resolutions related to the right to universal freedom of travel and family reunification). Under this category there is one kind of resolution that falls within my criteria of research, one kind of resolution with vote, which developed countries tend to abstain from rather than vote against (US only). There have been eleven resolutions adopted since 1994, when the Third Committee started to present the resolution after the International Conference on Population and Development, held in Cairo from 5 to 13 September 1994.³⁸⁰ These resolutions were presented under different titles but with the same content. The following timetable indicates all eleven resolutions:³⁸¹

³⁷⁸ C.B. Primiano and Jun Xiang, “Voting in the UN: A Second Image of China’s Human Rights”, *Journal of Chinese Political Science* 21 (3), (2016) 301-319. <https://doi.org/10.1007/s11366-016-9399-x>

³⁷⁹ https://www.un.org/en/ga/third/71/docs/voting_sheets/L.27.pdf

³⁸⁰ https://www.unfpa.org/sites/default/files/event-pdf/PoA_en.pdf

³⁸¹ <https://www.un.org/en/sections/documents/general-assembly-resolutions/>

	Res. No.	Voting Outcome (Y-N-A)	Title of Resolution
1994	R/49/182	88-5-70	Respect for the Universal Freedom of Travel and the Vital Importance of Family Reunification
1995	R/50/175	86-4-80	Ibid
1996	R/51/89	89-4-76	Ibid
1997	R/52/121	94-1-73	Right to Universal Freedom of Travel and Importance of Family Reunification
1998	R/53/143	103-2-66	Freedom of Travel and Family Reunification
1999	R/54/169	95-1-66	Respect for the Right to Universal Freedom of Travel and the Vital Importance of Family Reunification
2000	R/55/100	106-1-67	Ibid
2002	R/57/227	109-3-71	Ibid
2004	R/59/203	122-3-61	Ibid
2006	R/61/162	122-4-58	Ibid
2008	R/63/188	121-4-60	Ibid

Against: United States, Israel, Palau, Marshall Islands, and one US territorial state.

Abstain: Albania, Andorra, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Botswana, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Malta, Micronesia (Federated States of), Moldova, Monaco, Montenegro, Netherlands, New Zealand, Norway, Papua New Guinea, Poland, Portugal, Republic of Korea, Romania, Samoa, San Marino, Serbia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Turkey, Ukraine, United Kingdom. States recorded

Absent: Chad, Equatorial Guinea, Kiribati, Nauru, Saint Kitts and Nevis, Seychelles, Tonga, Turkmenistan.³⁸²

Therefore, in this category, developed countries tend to *abstain* rather than vote with or against, with the exceptional situation of the US as a developed state, Israel, and states under US territories. The reason of that voting behavior, beside the issue of immigration, is the Israeli-Palestinian conflict, the implications of dividing the Palestinian people into the West Bank and Gaza, and the ban of family reunifications for decades.

³⁸² <https://www.un.org/press/en/2006/ga10562.doc.htm>

Resolutions in this part of the research are more closely related to matters of security and politics than to human rights, especially with the currently escalated global refugee and migration crises. The resolution touches on issues such as the importance of family reunification; the promotion of its incorporation into national legislation to the documented migrants; permission for the free movement of financial remittances by foreign nationals living in their territory to their relatives in the country of origin.³⁸³ Additionally, the following operative paragraph “also calls upon all States to refrain from enacting, and to repeal if it already exists, legislation intended as a coercive measure that discriminates against individuals or groups of legal migrants by adversely affecting family reunification and the right to send financial remittances to relatives in the country of origin.”³⁸⁴ However, mentioning this category number just to clarify the other relative contradictory and supportive categories, with neither apparent political nor security voting patterns, discussed in detail in my dissertation.

Conclusion

I argue that developed countries do not want the international community to assess, expose, or regulate their economic and financial global control in one way or another. Given developed countries’ economic and military power, they believe that their currency and trade laws and regulations are the ultimate “carrot and stick,” allowing them to remain winners of the global game. Additionally, ODA and FDI are the red line of the US and EU. Any resolution or agenda that touches

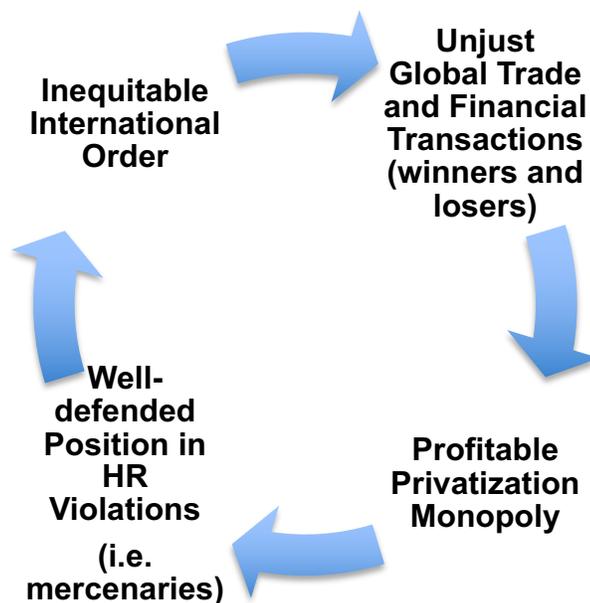
³⁸³ <https://www.un.org/press/en/1997/19971212.GA9380.html>

³⁸⁴ RES/57/227 <https://undocs.org/en/A/RES/57/227>

either of these two elements is extremely sensitive and difficult to stand against and negotiate as a developing country.

In the negotiation of drafting resolutions, and in the subsequent voting records, we find that developed countries are against any actions that would require taking responsibility for or being held accountable where there are any direct or indirect indications of economic, food, financial, and energy crises. Developed countries stand against global taxation correction. For instance, the US is concerned that such a correction would affect sovereign and national interests, and would rely on governments and international institutions rather than building a healthy global investment climate. Sometimes countries engage in “tit-for-tat” diplomacy, to balance the yes and no regarding a particular issue. This is evident when comparing and contrasting resolutions of the same year or session.

The Umbrella of Democracy, Democratization, and Globalization

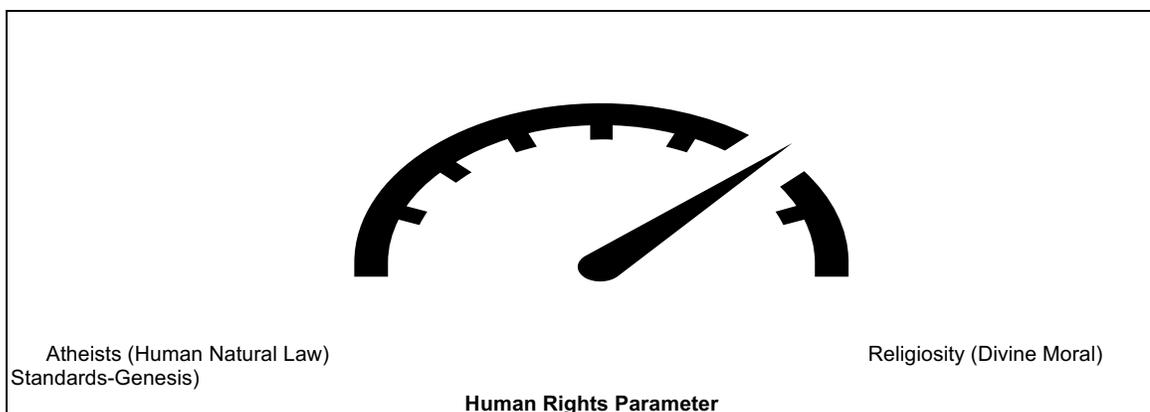


Chapter 4

Discussion and Interviews

This chapter concludes the main focus of the analysis and central argument, and presents the main findings of the research as obtained from interview data with nineteen interviewees: UN ambassadors, Third Committee experts, senior officials at UN organs and agencies, academics, and members of NGOs and policy-oriented research centers. I made sure to interview different kinds of people associated with various areas of expertise, in addition to people officially representing developed and developing countries (missions) at the UN in New York.

Human rights are basically a parameter, on a spectrum that runs from granted human natural law (atheist) to divine moral standards (genesis/religious). Human rights entitlement and interpretation are measurable elements with definitions by political, economic, and social circumstances, both nationally and internationally. That entitlement and interpretation is always diluted and vague to a certain degree in that parameter (see following info graphic):



“The idea of human rights is as old as 539 BC, when Cyrus the Great—conqueror of the city of Babylon—crafted the first charter of human rights documented in human history.”³⁸⁵ Since then, human rights have been disputed for its wide global interpretation. However, human rights as a concept has been understood as a mixture of legal base and practice.³⁸⁶

Karel Vasak³⁸⁷ described how different generations demand different rights; the first generation asked for “liberty” (that is, civil and political rights); the second generation called for “equality” (economic, social, and cultural rights); while the third generation demanded “solidarity rights” (collective rights to development, peace, and a clean environment). At the same time, Vasak describes the new challenges and problems after the Cold War which influence the national and international priorities of human rights discourse, such as terrorism and migration.³⁸⁸ A central theme, on which I focused in the process of conducting the

³⁸⁵ <http://uchicagogate.com/articles/2017/3/3/the-problem-of-human-rights-advocacy-in-developed-countries/>

³⁸⁶ David Boucher, *The Limits of Ethics in International Relations: Natural Law, Natural Rights, and Human Rights in Transition*, (Oxford: Oxford University Press, 2009), 3

³⁸⁷ Karel Vasak, “Generations of Rights and the Contemporary Human Rights Discourse,” *Human Rights Review* Vol 1, no. 20 (December 2019): 425-443

³⁸⁸ Vasak.

interviews, is the question of whether we are at the end of the third generation of human rights, or already transitioning into the new generation of human rights.

It is important to emphasize how scholars and politicians are expecting the continuous and ongoing global power shift of international relations based on security, technology, economics, public health. According to the article “Global Trends and The Future of Human Rights Advocacy”, the expectation of the reform of the major international organizations (such as the UN, WTO, and IMF) is increasingly important in the current global governance and its human rights advocacy integration, pulling political and economic power away from the traditional state level to the supranational level.³⁸⁹ In fact, in the course of conducting these interviews, discussing the fact that human rights are an interdisciplinary phenomenon, I asked interviewees if they think that states in general are pushing the limits of norms to form a new customary international commitment through the Third Committee at the UN. One interviewee emphasized how there are certainly some countries, especially donor countries, that are constituting and investing in maintaining the human rights norms – mostly JUSCANZ states (informal like-minded countries at the UNHRC and other UN bodies; mostly Second and Third Committees).

This interviewee, who has been working with the Third Committee Secretariats for twenty years continued, stating that, “This norm is a neocolonial tool vs. foreign aid. The EU wants to fund to validate the extra/new customary norms and the UN is the tool.” The interviewee mentioned LGBTQ rights, abortion,

³⁸⁹ David Petrsek, “Global Trends and the Future of Human Rights Advocacy,” <https://sur.conectas.org/en/global-trends-and-the-future-of-human-rights-rights-advocacy/>

and death penalty as examples and as red lines. “There is always a reciprocity, however there is no equal platform. Norms are always “contested and controversial,” the interviewee determined. The interviewee labeled human rights advocacy as “a tool of neocolonial dominant countries in legitimizing their policies seemingly in a democratic way. They have prevented the escalation of global conflict by using the UN as a goodwill, but how far?”

Developed countries sometimes push the limits of human rights norms (intertwined with sovereignty), into a new customary international commitment. “Sovereignty is the scapegoat, easy to pin for any reason,” one interviewee described, “...not to forget that maintaining the status quo of developed countries is part of their global governance method.” One interviewee, representing a developed country at the UN, agreed that states in general are pushing the limits of norms to a new customary international commitment through international law, assuring that “Norms are evolving through international law as long as there will be new human society evolving. Norms such as new technology, development of civilization, and evolution of societies. The interviewee stated that all these advancements would be noticed through, “...international law in practice, customary law, and practice of states.” From these two distinct positions we might say that human rights have the potential to transform from norms to customary international law, especially in the case when state sovereignty trumps human rights. Where the norms of human rights interfere or conflict with what states perceive as their own interests, the norms will be more of a gesture towards goodwill rather than a serious commitment taken on by member states.

Although the Third Committee at the General Assembly is responsible for human rights and freedoms protection, nevertheless, “Politics intervenes in the committee’s agenda,” another interviewee justified. Since politics is the “art of possibility,” many developed countries tried to implement their agenda through the UN, thereby taking advantage of their economic power. A new international customary commitment is a procedure that developed countries pursue to obtain acquiescence of their preferred norms by other countries. This is the case regardless of whether the countries are developed or developing, by globally pushing and pressuring those norms commitments across cultures, religions, and different social backgrounds. From these perspectives, and the evidence of voting records explored in previous chapters, I conclude that we could see the Third Committee as “one of many opportunities to reshape human rights concept around the world.”

As to the relationship between developed and developing countries, when it comes to negotiating a resolution text/language, “the EU’s strategy during the negotiation meetings before the resolution tabled for vote is to water down the language as much as possible, and still not vote for it at the end.”³⁹⁰ When it comes to developed and developing states in negotiating a draft resolution it is usually “a collision relationship of both point of views, and conflict of interests.”³⁹¹ In the Third Committee, the relationship between states of mutual social and cultural interests is strong enough to be in voting alignment, when it comes to a dead-end negotiation process. The negotiation processes require concessions and middle-

³⁹⁰ <https://outreach.un.org/mun/content/groups-member-states>

³⁹¹ Ibid.

ground agreement to pass a resolution without a vote. However, once a resolution pass/no pass goes under a vote, that means there is disagreement regarding its language. A developed country's agenda is "exclusively under human rights protection and freedom empowerment, while inclusively sometimes the double standard and selectivity is within that agenda."^{vii} For instance, when developing countries present a draft resolution under principles of human rights protection, and the language of the resolution clashes with developed countries economic and political interests developed countries abstains even though exclusively and inclusively the resolution is within human rights principles.

The second primary framework on which I focused was the content of globalization and human rights. In this vein I asked interviewees, representing developed and developing states at different state missions and UN agencies, if they believe that developed countries would sacrifice human rights for: a) maintaining dependency on their role in the global economy; b) status quo of "winners and losers," and c) negative "distribution consequences"? One interviewee explained the current shift in power internationally, noting that there are more countries which are in the loop of global economic influence, such as India, Singapore, Brazil, and China. Additionally, they said, "The balance that makes the vote goes this way is the economic interests over human rights, and that is a hypocrisy and a violation of the charter." They continued, "At the UN, it's always big countries versus developing, and the latter is marginalized."

One interviewee described the global economy as an "open economy" – under which everyone must fight for their survival. At the same time, they stated

“Some resolutions are jointly sponsored between developed and developing countries to promote the agenda,” and that agenda is based on ‘problems of priorities.’ However, we all know that “the UN is a political entity which has its own principles and agendas.” Developed countries would sometimes, “sacrifice human rights aspect for political and economic benefits.” That helps to explain why developed countries do not accept (or vote against) resolutions related to human rights and globalization presented by the None Alignment Movement (NAM) and The Group of 77 and China.

The third theme on which I focused was the balance between development rights and emerging technologies. I asked interviewees for their perspective on the reason developed countries demand green technology/economy, which is usually done via the private sector, when ultimately developed countries supply both green technologies and the private sector. Ultimately, developed countries and the private sector supply green technologies to enhance special interests, thereby prioritizing private profit over public good. Each interviewee explained their approaches in different ways, however, all UN and non-UN interviewees agreed that “green solar technology is promoted by Western governments in order to preserve their economic dominance,” and often secured by creating climate change panic and green energy fever. Six of the fifteen interviewees supported the idea that there must be agreed business practices and compromises between providers and recipients that ultimately satisfy all parties.

In connection to the dimensions explained above, the fourth theme on which I focused was if a form of “colonialism” still exists in UN language, acts, and

behaviors. Addressing this question, one interviewee, a professor at a US university, explained the process of “colonial lord vs. colonial subject” as classic practice at the UN, indicating that colonial frameworks that have been produced at the UN continue to be reproduced. Another interviewee described state relations at the UN as a practice of the “unfairness of twisting arms” among voting and other issues. One interviewee, a specialist in international law, went so far as to suggest that the term “colonialism” is equivalent to the UN Security Council, in its functional purposes. The fact is that the Security Council is structured around the overriding (veto) vote of any one of the five permanent members (China, France, Russian Federation, United Kingdom, and the United States), all of whom hold their seats due to positions of power and prominence in the post-war era. In the past 75 years, the global position of states has changed significantly, yet the post-war powers are frozen in their place of prominence at the UN. All interviewees agreed that neo-colonialism is present in both direct and indirect ways at the UN.

The UN’s language in general is a multilingualism. One interviewee, representing a developing country at the Third Committee said, “Under the multilingualism GA resolutions, they have the language of colonialism, all governments are hypocrites and evolve the same rule. Sometimes countries call for the eradication of slavery in some resolutions and at the same time they have a language of racism at other kind of resolutions.” Another interviewee added, “Part of international humanitarian law is the use of force against legit military targets and national operations from foreign occupation.” The national struggle against foreign occupation is ever present, such as the case of the US in Iraq, or Israel

and Palestine. We can see that contradiction in the application of international law does exist, based on political priorities and states' interests.

According to a colleague from the Permanent Mission of the Kingdom of Morocco to the UN (*personal communication, August 3rd, 2017*), who worked in Geneva as the Human Rights Council expert and current Third Committee expert in New York, developing countries (especially African) mainly talk about indirect references for a compensation of seized natural resources, past atrocities, slavery, and apartheid. Meanwhile, developed countries always underline the importance of regular elections, democracy, and anti-corruption measures. She also mentioned that there are some African countries with ongoing legal cases regarding cultural artifacts (e.g. statues) and natural resources (e.g. diamonds), which were seized from precolonized states.

International legal scholar Antony T. Anghie's work investigates the problem of the exploitative relationship of the West with the non-West as the foundation of international law. Like my interviewee, Anghie's research shows that when Western states finally gave up colonial territories and agreed to their status as sovereign states, they also rejected any and all responsibility for the poverty and underdevelopment in which these new post-colonial states found themselves. While responsibility for underdevelopment was abdicated by wealthy states, they maintained control over valuable resources—material and human—by legally pursuing and winning the validity of all contracts signed during their colonial reigns that had to be respected regardless of the unjust balance of power that led to and

allowed such exploitation in the first place.³⁹² While formal colonialism has ended, the international rules and legal system created to sustain and grow the “West and the Rest” imbalance endure.

My colleague said that these things still have “sentimental feelings” for the African people. Another interviewee stated, “Colonialism does exist in our current world, as well as the UN organization.” There are some members of small countries who are totally dominated by great countries in their politics and economic decision making, because these small countries are depending and existing on these great countries’ aid and IMF policies at the end, and that is called “contemporary colonialism.” Sometimes countries’ foreign aid is conditional, and used as UN vote buying.³⁹³

Former chief economist of the World Bank, Joseph E. Stiglitz, identifies informal inequality in the international system as endemic. Stiglitz asks us to consider the conditions in which poor or underdeveloped states find themselves. They lack access to or any real control over the vast economic and intellectual resources that wealthy states enjoy, and what they do have is often appropriated by international powerholders for their own benefit. Developing countries are therefore compelled to accept whatever terms wealthy states may impose as a condition for membership into the world’s most influential political and economic institutions, including the UN and support of the veto powers of the five permanent

³⁹² Anghie, (2004)

³⁹³ Jun Xiang. “Foreign Aid or National Preference? The Analysis of UN Vote Buying.” Manuscript, Rutgers University. 2012

members. This imbalance results in superficial consent, consensus, and structural violence against the global poor.³⁹⁴

The fifth theme of my interviews focused on resolutions that contain a language of commitments which effect developed countries' financial and economic supremacies. I asked interviewees what would make developed countries vote against such a resolution, especially when it comes to ODA or FDI. "Although it was common in some years, but not anymore recently," some interviewees see that developed countries in general they vote against, and other interviewees believe the only thing that changed among developed countries and their voting behavior to any kind of financial and economic commitments is "adding a caveat to the language."

One mentioned that the language of urging developed countries that have not yet committed toward meeting the Official Development Assistance (ODA) percentage to developing and least developed countries is about "moral commitments," as well as the effective use of that assistance to achieve development goals and targets. Another interviewee's point of view, an ambassador to a developed country, is that the situation presents "mutual responsibilities between both developed and developing countries; developed countries must commit with ODA's responsibilities, and developing countries must fight corruption and commit with sustainable development goals."

The sixth theme of our conversations regarded the terms of LGBT rights, I asked interviewees if they believed granting LGBT rights was against human rights

³⁹⁴ Joseph E. Stiglitz, *Globalization and Its Discontents* (New York: W.W. Norton, 2002)

itself. To clarify, I wanted to know more from their perspective whether they viewed the underlying framework of adoption and surrogacy industries, as standing against “The Rights of the Child.” Most of my interviewees agreed with that statement and under that condition. One interviewee, representing an NGO affiliated with the UN, described surrogacy as “clear-cut sale of children,” as it deprives the right to be cared for by biological parent/s, to know “who they are but to be conceived by a relationship that child did not choose.” Additionally, some interviewees agreed upon the lack of national and international laws to discipline and guarantee the rights of the child, and the lack of accountability to the multiple stakeholders of the surrogacy industry. One who is a lawyer and academic called the industry “a free market, where stakeholders are projecting their own needs on others.” Rights must be granted and non-discriminated to surrogate children, surrogate women, gamete donors, intending parents, and caregivers. Forcing LGBT rights globally is “definitely one of the developed countries’ agenda.” The “powerful wave of LGBT rights in developed countries has its own economic weight. These rights are unagreeable at the United Nations.” In this case, one interviewee explained, the child may be prohibited from the natural family life of the parenting of a mother and a father, which are both agreed upon in the “UN Convention on The Rights of The Child” and “The Declaration of the Human Rights.”

One interviewee, formerly with the UN secretariat, viewed surrogacy as perhaps, “...not in violation of human rights, if there is consent of the parents and/or caregivers. At the same time that interviewee asked, “What about the surrogacy of

straight people? Would that apply to them as well as violating human rights?” For the last two years, there have been ongoing international initiatives³⁹⁵ to regulate the surrogacy industry nationally and internationally. There are two reports for the last two years at the Third Committee under item “Promotion and Protection of the Rights of Children” called “Sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material.”³⁹⁶ The report explains the urgency of protecting the rights of children, analysis of the international legal framework to the family environment.

“The report is intended to complement the focus on private international law of the project on parentage/surrogacy being carried out by the Hague Conference on Private International Law. Since 2011, the Permanent Bureau of the Hague Conference has been studying private international law issues in relation to the legal parentage of children, including questions emanating from international surrogacy arrangements.”³⁹⁷ Developed countries are advocating for LGBTQ rights (including surrogacy) while at the same time these rights inclusively abusing the rights of the child, and advocating for “commercial surrogacy.”³⁹⁸

The seventh theme focused on religious matters, I asked interviewees from all religions with different beliefs, whether attacking another’s religion, and at the same time respecting religion, can both be perceived as constraints to “Freedom of Expression.” Opinions varied from the extreme of freedom of speech and expression, where it could be a version of anti-blasphemy, to the extreme of

³⁹⁵ <https://www.hcch.net/en/projects/legislative-projects/parentage-surrogacy>

³⁹⁶ <https://undocs.org/en/A/74/162>

³⁹⁷ Ibid.

³⁹⁸ <https://undocs.org/en/A/HRC/37/60>

oppression and constraint of freedom of speech and expression when it comes to a religion. Sometimes “it is called a hate speech” one interviewee said, but it could be “a broader hate speech where it violates human rights and dignity. Hence, human rights are “absolute freedom,” but at the same time it should be defective to respect human rights principle.”

Developed and developing countries must distinguish between freedom of speech, religion, and expression with hate speech and xenophobia. And if they do, and balance the two sides, it means giving away some of their bureaucracy, democracy, and maybe even aspects of human rights. “The double standards are obviously existing sometimes in developed countries and developing as well.” For example, when it comes to speech criticizing Jewish people and Judaism some call it anti-Semitism, and when it comes to some speech against specific minority or other religions some call it “Freedom of Speech/Expression.” “No one can define the line, human rights are a relative matter, there is no state with complete human rights respect.”

The eighth theme describes the behavior of developed countries voting against the “Rights to Self-Determination” and “The Rights of Indigenous People” resolutions at the Third Committee. Interviewees agreed by consensus that these resolutions are politicized. One interviewee clarified that territorialized countries’ bargaining chip, which led them to neglect indigenous peoples’ rights, is shifting demographics. Other interviewees explained how significant and powerful demography is in terms of global dominance and governance.

All my interviewees mentioned the Israeli-Palestinian conflict as a description of voting behavior to such kinds of resolutions. For example, the “Universal Realization of the Rights of Peoples to Self-determination” and “The Right of the Palestinian people to Self-determination.” At the same time, all stated that these kinds of rights are related to resources and especially the Amazon rainforest.

In terms of the broad perception of human rights one interviewee, a political scientist, looked at the issue of rights to self-determination and to indigenous people in two ways: a) self-determination, such as rights to be free and rights to be determined, vs. democracy, and that is “an escape from colonialism;” and/or b) disruption to their own sovereignty. Others see the indigenous rights as an “revolutionary rights” or a “pushback rights,” and sometimes we may call it “the continuous conflicting relationship between the North and the South.” Balance between human rights and economic interests and/or political interests is the main relevance to indigenous rights and rights to self-determination. “The Rights of Indigenous Peoples” resolution is a political resolution to developed countries, as many of them are still having other states governed by developed countries’ territories and jurisdictions. “No developed or developing countries believes in total human rights when it comes to political or economic interests of their own” an ambassador said.

My ninth theme was centered on a question related to the same agenda item “The Right of Peoples to Self-determination” of the Third Committee. Namely, it appears in the resolution “Use of mercenaries as means to violate human rights

and to impede the exercise of the right of peoples to self-determination.” I asked interviewees if private military and security companies operate in a legal way via developed countries, and if they pose a threat to civilians and to international human rights law. All interviewees agreed by consensus that if the interventionist private act does not fall and accredited under the international law, it is considered illegal and against international human rights law. One interviewee representing an NGO of human rights advocacy, called it an “effective national authority” to achieve goals and targets in “indirect, unofficial, and prompt way.”

One interviewee who is a representative of a developing country which the country has mercenary activities said, considering the “use of mercenaries,” we must consider “who is paying? when? and where?” It is not always functioned in a legal way, and it is threat to civilians and violation to human rights.” Another answered, “Yes, they pose a great threat to human rights law, because private military and security companies are not subjected under the jurisdiction of international law, they are subjected under the mother land of the firm itself.” Why states are using mercenaries out of the context of international law and human rights? What does that mean for the future of human rights resolutions at the Third Committee?

Finally, the question I reserved for last was to ask of the interviewees what if anything they would like to add to our discussion (for the full questionnaire, please look at Appendix 3). One interviewee mentioned that one should keep in mind that “donor countries are approaching neocolonial enterprise, influencing foreign policy, and one of the methods is using the UN to promote their economic

interests.” While my research on the Third Committee and the voting records and strategies of developed and developing countries on issues of human rights tends to support this view, questions for future research might include the following. What would be the potential consequences and rewards to developed and developing states if members were to pull back from the UN? Can imbalances of power between states be restructured to be fairer at the UN, and if so, how?

Another interviewee described human rights concept as “wide, intertwined, and controversial, because it differs in its application by the differences of the national law, constitutions, and legislations. However, there are basic and solid human rights standards of “The Declaration of Human Rights” and different human rights treaties one must consider.” Another interviewee who is representing a developed country at the UN in New York for more than fifteen years clarified, “the legitimate concern is human rights issues must not be looked at by the Third Committee; instead it must be reviewed at the Security Council,” to assure developed countries’ position to human rights. That supports the idea of how the interpretation of human rights may be vague.

I found that most of my interviewees at all levels agree that developed countries are dominants in many ways and it is a continuation of colonialism, that they integrate the human rights agenda in a way that favors their interests. The UN is only one method to perpetuate international structures of dominance and subordination. This finding is supported with my own observation at the UN of the narratives and patterns I have discussed through this research. However, this is also theoretical issue and generally based on the following:

The diffusion of economic and political power, the increasing importance of regions (like the European Union (EU)) in global governance and the increasing growth and hence power of cities are all likely to contribute to the waning importance of centralized state power (National Intelligence Council, 2012, p. 54). This may lead to the reform of the major international organizations, including the UN, the WTO and IMF as well as their increasing cooperation with regional institutions in the realm of global governance (Institute of World Economy and International Relations, 2011, p.10). Regions, and regional institutions, may become more important building blocks in global governance. As regional integration grows, some of the trend reports see the creation of more regional institutions of supranational sovereignty such as the EU. As cities grow in influence, they will pull political and economic power away from the traditional state level to the sub-national level (National Intelligence Council, 2012, p. 54).³⁹⁹

One should not ignore the origin of forming “The Declaration of Human Rights” back in 1947, if we would argue for the declaration to be the platform of any human rights argument, one should consider who wrote the declaration? Which states have participated in the language used in the declaration? And under which political era and global circumstances?

“The anthropologist believed that the Human Rights Commission was in danger of making such ethnocentric judgment in the International Bill of Rights,” because “in 1947 the UN Human Rights Commission that wrote the Declaration received a long memorandum from the American Anthropological Association (AAA). The AAA was worried about the problem of ethnocentrism (holding the values of one’s own culture as superior to those of other cultures).”⁴⁰⁰ This process of enculturation, as the AAA told the commission is “so subtle, and its effects so far-reaching, that only after considerable training are we conscious of it.”⁴⁰¹

At the same time anthropologists believed “the primary task” the drafters faced was to find a solution to the following problem after its final draft; which is

³⁹⁹ National Intelligence Council, 2012, p. 54

⁴⁰⁰ Morsink, introduction.

⁴⁰¹ Morsink, introduction.

how the Declaration can be applicable to all human being and not only a statement of rights conceived in terms of values of Westerners.⁴⁰²

⁴⁰² Morsink.

Chapter 5

Conclusion

The approach to a global interdependence, where developed and developing countries gain a proportionate economic distribution, is a dead end. I presuppose that no matter how based human rights are on morality and dignity, and no matter how they are practiced in intergovernmental organizations, in the real world, their implementation is politically dominated. My goal in this research is to provide a concise perspective on the interpretation of human rights, rather than a comprehensive and wide interpretation. By the same token, human rights in general are always vague nationally and internationally. However, human rights may at least be considered a foundational plea. Human rights and international law are creations of specific elite and dominant governments, designed both to restrict and empower. Powerful and lawful justifications can always win to proceed. Hence, human rights are acknowledged only when international legal norms coincide with the desires of influential developed states, especially at the UN, gradually, via human rights resolutions. The evidence of the new phenomenon at the UN to convert the “norms” into international law, and then “rights” is one of my main findings.

Although human rights have become more of a global phenomenon in the last three decades, this research assesses the human rights resolutions voting behavior at the Third Committee of the General Assembly at the United Nations,

and seeks to explain the motivations for this behavior among specific resolutions. Here I use the voting outcome of developed countries (mainly the US and EU member states), and methodologies to address why in general developed countries tend to vote against some human rights resolutions. As concerns certain resolutions developed countries tend to vote against, I seek to prove some associated patterns rather than attempting to defend or scapegoat developing countries regarding human rights issues. Pointing out that although I differentiated countries in my research into two groups, I highlight that these two groups are not necessarily voting similarly every time among some resolutions. Given the explained finding patterns in my research, one should emphasize that developed countries are voting differently among some human rights resolutions whether with, against, or abstain. Beside the explained finding patterns, developed and developing countries' justifications before and after the vote were associated to assure their positions and the finding patterns.

The associated patterns found in this research are all connected in some way and/or intertwined, and all falls under human rights aspect of the UN. Globalization and current global governance in some ways export and exploit their human rights practices. It is very hard to reach a proportionate, win-win application within a framework of the transnational global governance of human rights. The effect is reflected and connected with the voting behavior of both developed and developing camps of states. The negative effect of globalization to developing countries and a "winners and losers" dynamic are essential patterns found in this

research. Donnelly notes that “there was no North-South split in 1948.”⁴⁰³ However, in the post-Cold War era, the North-South camps have erupted in a way that could be either beneficial or an obstacle. For example, the finding of the “Privatization of Modern Warfare” is the ultimate goal of developed countries in a way that threatens human rights, such as the private military and security companies present (PMSCs). The priority of economic revenues via privatization supersedes the human rights standards. Powerful countries stonewall progress on UN resolutions which call for more control and accountability of mercenaries operating in conflict zones. Voting against resolutions which call for the defense of human rights against the actions of mercenaries indicates that the interests of developed countries lays with the profitable global industry of PMSCs and diffused liability. I argue here that no matter how flexibly developed countries act in terms of advanced global trade, they will still act based on sustaining the status quo of a “zero-sum dimension” towards development domination, since they more or less have a monopoly on the continued advancement of science and technology.

Most of my interviewees agreed on the idea that developed countries are globally dominant in neocolonialist action, as human rights agendas and implications are one of their interests, and the UN is only one method of many others. At the approach to human rights interpretation and voting justification, when it comes to racism- and religion-related resolutions, the division among developed and developing countries under the umbrella of human rights, leads to contradictory patterns of “Freedom of Speech/Expression” and

⁴⁰³ Donnelly, p. 26

“Hatred/Xenophobia.” The connected pattern of “linguistic wars”⁴⁰⁴ is strongly associated venue with international law and human rights interpretations. Other intertwined patterns with linguistic war are sexual and reproductive autonomy⁴⁰⁵ and reproduction human trafficking through the intention of having an open definition of family and sexual orientation and gender identity rights, while abusing the rights of women and children.

Although my research has not addressed outsider human rights advocacy, it should be understood that these shifts and the ongoing double standards of decisions at the UN will likely deepen the interorganizational division between developed and developing countries regarding human rights issues. This argument forms a solid base for addressing how the impact of both new patterns and widespread human rights advocacy shifts international power between states and the United Nations, and how the UN is being used as an object for those advocacy efforts. Patterns change both rapidly and over time, and in an interdisciplinary manner. Discussing the propositions and assumptions of my theory, and pointing out their importance to the field, is considered: a) a basis for more investigation of the new meaning and interpretation of human rights at the United Nations, and b) a contribution to the broader knowledge of that topic in the future, especially with a continuously changing world.

⁴⁰⁴ Wanda Nowicka (2011) Sexual and Reproductive rights and the Human Rights Agenda: Controversial and contested, *Reproductive Health Matters*, 19;38, 119-128, DOI: 10.1016/S0968-8080(11)38574-6

⁴⁰⁵ “C-Fam Briefing on CSW61 Challenges and Opportunities C-Fam, Center for Family & Human Rights.

The findings of this study must be seen in a lens of some limitations and should be noted. First, this research's nature is structured of a qualitative rather than a quantitative. It lacks quantifying the findings in a theoretical method, such as to quantify voting behavior, voting justifications, and other defined variables to uncover patterns in this research. Second, in order to be more specific about developed countries; one may choose a number of specific developed countries and a number of specific developing countries to analyze the voting behavior instead of grouping them. Sometimes, Nordic countries are counted as developed, but their voting behavior are somehow different than the rest. Third, relatively to the latter limitation, one may choose a number of specific developed countries and a number of specific developing countries of the permanent members and non-permanent members of the Security Council to analyze their voting behavior. Fourth, the perspective of certain phenomena (i.e. surrogacy/LGBT) might be subjected to a cultural constrains and/or religious backgrounds, and this may mark the study's legitimacy. An analysis of anthropology aspect associated with voting behavior could be a potential effect on voting outcome.

The research implications varies from how resolutions and their finding patterns can impact the future studies of rapidly changing human rights' interpretations and demands at the UN, similarly to previous studies which I built and advanced my own argument upon, to the effectiveness of how voting behavior among these resolutions (although non-legally binding) may disturb a state's reputation and accountability. This research provides an added contribution of analyzed voting patterns and their justifications to specific human rights

resolutions, which may influence policies and regulations of some states, and indicates directions of states among human rights. As well as, it may impact the international law's direction in the future.

Future research may compare human rights resolutions of the Third Committee with resolutions of the Security Council, both of which have similar text/language and essential demands, to prove voting behaviors and associated patterns, especially among the existence of permanent developed countries at the Council. Other future research may use Third Committee's analyzed resolutions of this research to be analyzed quantitatively by categorizing them based on indicators and indexes of "The Cingranelli-Richards (CIRI) Human Rights Dataset" (Cingranelli, Richards, & Clay 2013);⁴⁰⁶ and can be used to test theories of how far developed and developing countries are respecting human rights. They can be categorized and tested quantitatively as the following; human rights, freedom of religion, children's rights, women's advancement, and electoral self-determination.

Future research, may also explore whether human rights resolutions of the Third Committee at the General Assembly are heading toward a trending contemporary human rights advocacy within the United Nations. Where do developed and developing countries stand and why? Because these different rights are associated with new and changing global circumstances and environments. Additionally, which newly formed alliances or like-minded groups (the trend at the UN) are more likely to influence voting behavior and why? As each group has its own agenda and priorities, whether economic, political, or based on

⁴⁰⁶ Cingranelli, Richards, & Clay 2013

some other common interest, the jurisprudence of human rights is considered a tool of interdisciplinary international advocacy. For this reason, it is also topic about which there is much conflict in respect to different kinds of human rights. Accordingly, I argue that developed countries do not want the international community to assess, expose, or regulate their economic and financial global control in one way or another. In the negotiation of drafting resolutions and in the subsequent voting records we find that some developed countries are against any actions that would require taking responsibility for or being held to account where there are any direct or indirect indications of economic, food, financial, and energy crises.

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APPENDIX 1

Table A**Developed Economies**

<u>European Union Countries</u>	<u>New EU Member States</u>	<u>Other Europe</u>	<u>Other</u>
<u>Major developed Economies (G7)</u>			
EU-15	Bulgaria	Iceland	Australia
Canada			
Austria	Croatia	Norway	Canada
Japan			
Belgium	Cyprus	Switzerland	Japan
France			
Denmark	Czech Republic		New Zealand
Germany			
Finland	Estonia		United States
Italy			
France	Hungary		
United Kingdom			
Germany	Latvia		
United States			
Greece	Lithuania		
Ireland	Malta		
Italy	Poland		
Luxembourg	Romania		
Netherlands	Slovakia		
Portugal	Slovenia		
Spain			
Sweden			
United Kingdom			

Table B**Economies in Transition****South-Eastern Europe**

Albania
Bosnia and Herzegovina
Montenegro
Serbia
The Former Yugoslav
Republic of Macedonia

Commonwealth of Independent States and Georgia

Armenia	Republic of Moldova
Azerbaijan	Russian Federation
Belarus	Tajikistan
Georgia	Turkmenistan
Kazakhstan	Ukraine
Kyrgyzstan	Uzbekistan

Table C**Developing economies by region****Africa****North Africa**

Algeria
Egypt
Libya
Mauritania
Morocco
Sudan
Tunisia

Southern Africa

Angola
Botswana
Lesotho
Malawi
Mauritius
Mozambique
Namibia
South Africa

Central Africa

Cameroon
Central A. Rep.
Chad
Congo
Eq. Guinea
Gabon
S. Tome /Principe

Zambia

Zimbabwe

West Africa

Benin
Burkina Faso
Cabo Verde
Cote d'Ivoire

East Africa

Burundi

Comoros
D. R. Congo
Djibouti
Eretria
Ethiopia

Kenya
Madagascar
Rwanda
Somalia
Uganda
Tanzania

Gambia
Ghana

Guinea
Guinea-Bissau
Liberia
Mali
Niger

Nigeria
Senegal
Sierra Leone
Togo

Asia**East Asia**

Brunei Darussalam
China
Hong Kong
Indonesia
Malaysia
Myanmar
Papua New Guinea
Philippines

Republic of Korea
Singapore
Taiwan
Thailand
Vietnam

South Asia

Bangladesh

India

Iran (Islamic Republic of)

Nepal
Pakistan
Sri Lanka

West Asia

Bahrain

Iraq
Israel
Jordan
Kuwait
Lebanon
Oman
Qatar
Saudi Arabia
Syrian Arab Republic
Turkey
United Arab Emirates/ Yemen

**Latin Am.
& Caribbean**

Barbados
Cuba
D.R.
Guyana
Haiti
Jamaica
Trinidad Tobago

Mexico and C.A.

Costa Rica
El Salvador
Guatemala
Honduras
Mexico
Nicaragua
Panama

South America

Ecuador
Peru
Argentina
Bolivia
Brazil
Colombia
Venezuela
Uruguay
Paraguay

APPENDIX 2

Resolution adopted by the General Assembly on December 20th 2012

[on the report of the Third Committee (A/67/455)]

67/154. Glorification of Nazism: inadmissibility of certain practices that contribute to fueling contemporary forms of racism, racial discrimination, xenophobia, and related intolerance

The General Assembly,

Guided by the Charter of the United Nations, the Universal Declaration of Human Rights,⁴⁰⁷ the International Covenant on Civil and Political Rights,⁴⁰⁸ the International Convention on the Elimination of All Forms of Racial Discrimination⁴⁰⁹ and other relevant human rights instruments,

Recalling the provisions of Commission on Human Rights resolutions 2004/16 of 16 April 2004⁴¹⁰ and 2005/5 of 14 April 2005⁴¹¹ and relevant Human Rights Council resolutions, in particular resolutions 7/34 of 28 March 2008,⁴¹² 18/15 of 29 September 2011⁴¹³ and 21/33 of 28 September 2012,⁴¹⁴ as well as General Assembly resolutions 60/143 of 16 December 2005, 61/147 of 19 December 2006, 62/142 of 18 December 2007, 63/162 of 18 December 2008, 64/147 of 18 December 2009, 65/199 of 21 December 2010 and 66/143 of 19 December 2011 on this issue and resolutions 61/149 of 19 December 2006, 62/220 of 22 December 2007, 63/242 of 24 December 2008, 64/148 of 18 December 2009, 65/240 of 24 December 2010 and 66/144 of 19 December 2011, entitled "Global efforts for the total elimination of racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action,"

⁴⁰⁷ Resolution 217 A (III).

⁴⁰⁸ See resolution 2200 A (XXI), annex.

⁴⁰⁹ United Nations, *Treaty Series*, vol. 660, No. 9464.

⁴¹⁰ See *Official Records of the Economic and Social Council, 2004, Supplement No. 3 (E/2004/23)*, chap. II, sect. A.

⁴¹¹ *Ibid.*, 2005, *Supplement No. 3* and corrigenda (E/2005/23 and Corr.1 and 2), chap. II, sect. A.

⁴¹² See *Official Records of the General Assembly, Sixty-third Session, Supplement No. 53 (A/63/53)*, chap. II.

⁴¹³ *Ibid.*, *Sixty-sixth Session, Supplement No. 53A* and corrigendum (A/66/53/Add.1 and Corr.1), chap. II.

⁴¹⁴ *Ibid.*, *Sixty-seventh Session, Supplement No. 53A (A/67/53/Add.1)*, chap. II.

Recalling also the Charter of the Nuremberg Tribunal and the Judgement of the Tribunal, which recognized as criminal, inter alia, the SS organization and all its integral parts, including the Waffen SS, through its officially accepted members implicated in or with knowledge of the commission of war crimes and crimes against humanity connected with the Second World War, as well as other relevant provisions of the Charter and the Judgement,

Recalling further the relevant provisions of the Durban Declaration and Programme of Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance on 8 September 2001,⁴¹⁵ in particular paragraph 2 of the Declaration and paragraph 86 of the Programme of Action, as well as the relevant provisions of the outcome document of the Durban Review Conference, of 24 April 2009,⁴¹⁶ in particular paragraphs 11 and 54,

Alarmed, in this regard, at the spread in many parts of the world of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, as well as similar extremist ideological movements,

Deeply concerned by all recent manifestations of violence and terrorism incited by violent nationalism, racism, xenophobia and related intolerance,

1. *Reaffirms* the relevant provisions of the Durban Declaration⁴¹⁵ and of the outcome document of the Durban Review Conference,⁴¹⁶ in which States condemned the persistence and resurgence of neo-Nazism, neo-Fascism and violent nationalist ideologies based on racial and national prejudice and stated that those phenomena could never be justified in any instance or in any circumstances;

2. *Takes note* of the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, prepared in accordance with the request contained in General Assembly resolution 66/143;⁴¹⁷

3. *Expresses its appreciation* to the United Nations High Commissioner for Human Rights for her commitment to maintaining the fight against racism, racial discrimination, xenophobia and related intolerance as one of the priority activities of her Office;

4. *Expresses deep concern* about the glorification of the Nazi movement and former members of the Waffen SS organization, including by erecting monuments and memorials and holding public demonstrations in the name of the glorification of the Nazi past, the Nazi movement and neo-Nazism, as well as by declaring or attempting to declare such members and those

⁴¹⁵ See A/CONF.189/12 and Corr.1, chap. I.

⁴¹⁶ See A/CONF.211/8, chap. I.

⁴¹⁷ A/67/328.

who fought against the anti-Hitler coalition and collaborated with the Nazi movement participants in national liberation movements;

5. *Expresses concern* at recurring attempts to desecrate or demolish monuments erected in remembrance of those who fought against Nazism during the Second World War, as well as to unlawfully exhume or remove the remains of such persons, and in this regard urges States to fully comply with their relevant obligations, inter alia, under article 34 of Additional Protocol I to the Geneva Conventions of 1949;⁴¹⁸

6. *Notes with concern* the increase in the number of racist incidents worldwide, including the rise of skinhead groups, which have been responsible for many of these incidents, as well as the resurgence of racist and xenophobic violence targeting members of national, ethnic, religious or linguistic minorities;

7. *Reaffirms* that such acts may be qualified to fall within the scope of the International Convention on the Elimination of All Forms of Racial Discrimination,⁴⁰⁹ that they may not be justified as exercises of the rights to freedom of peaceful assembly and of association as well as the rights to freedom of opinion and expression, and that they may fall within the scope of article 20 of the International Covenant on Civil and Political Rights⁴⁰⁸ and may legitimately be restricted as set out in articles 19, 21 and 22 of the Covenant;

8. *Expresses deep concern* at attempts at commercial advertising aimed at exploiting the sufferings of the victims of war crimes and crimes against humanity committed during the Second World War by the Nazi regime;

9. *Stresses* that the practices described above do injustice to the memory of the countless victims of crimes against humanity committed in the Second World War, in particular those committed by the SS organization and by those who fought against the anti-Hitler coalition and collaborated with the Nazi movement, and negatively influence children and young people, and that failure by States to effectively address such practices is incompatible with the obligations of States Members of the United Nations under its Charter and is incompatible with the purposes and principles of the Organization;

10. *Also stresses* that such practices fuel contemporary forms of racism, racial discrimination, xenophobia and related intolerance and contribute to the spread and multiplication of various extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and in this regard calls for increased vigilance;

11. *Emphasizes* the need to take the measures necessary to put an end to the practices described above, and calls upon States to take more effective measures in accordance with international human rights law to combat those phenomena and

⁴¹⁸ United Nations, *Treaty Series*, vol. 1125, No. 17512.

the extremist movements, which pose a real threat to democratic values;

12. *Encourages* States to adopt further measures to provide training to the police and other law enforcement bodies on the ideologies of extremist political parties, movements and groups whose advocacy constitutes incitement to racist and xenophobic violence and to strengthen their capacity to address racist and xenophobic crimes and to bring to justice those responsible for such crimes;

13. *Notes* the recommendation of the Special Rapporteur regarding the responsibility of political leaders and parties in relation to messages that incite racial discrimination or xenophobia;

14. *Recalls* the recommendation of the Special Rapporteur to introduce into national criminal law a provision according to which committing an offence with racist or xenophobic motivations or aims constitutes an aggravating circumstance allowing for enhanced penalties, and encourages those States whose legislation does not contain such provisions to consider that recommendation;

15. *Reaffirms*, in this regard, the particular importance of all forms of education, including human rights education, as a complement to legislative measures, as outlined by the Special Rapporteur;

16. *Emphasizes* the recommendation of the Special Rapporteur presented at the sixty-fourth session of the General Assembly, in which he emphasized the importance of history classes in teaching the dramatic events and human suffering which arose out of the adoption of ideologies such as Nazism and Fascism;

17. *Stresses* the importance of other positive measures and initiatives aimed at bringing communities together and providing them with space for genuine dialogue, such as round tables, working groups and seminars, including training seminars for State agents and media professionals, as well as awareness-raising activities, especially those initiated by civil society representatives which require continued State support;

18. *Calls upon* States to continue to invest in education, inter alia, in order to transform attitudes and correct ideas of racial hierarchies and superiority promoted by extremist political parties, movements and groups and counter their negative influence;

19. *Underlines* the potentially positive role that relevant United Nations entities and programmes, in particular the United Nations Educational, Scientific and Cultural Organization, can play in the aforementioned areas;

20. *Reaffirms* article 4 of the Convention, according to which States parties to that instrument condemn all propaganda and all organizations that are based on ideas or theories of

superiority of one race or group of persons of one colour or ethnic origin, or that attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to that end, with due regard to the principles embodied in the Universal Declaration of Human Rights⁴⁰⁷ and the rights expressly set forth in article 5 of the Convention, inter alia:

(a) Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, and incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof;

(b) Shall declare illegal and prohibit organizations, and organized and all other propaganda activities, that promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;

(c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination;

21. *Also reaffirms* that, as underlined in paragraph 13 of the outcome document of the Durban Review Conference, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited by law, that all dissemination of ideas based on racial superiority or hatred, or incitement to racial discrimination, as well as all acts of violence or incitement to such acts, shall be declared offences punishable by law, in accordance with the international obligations of States, and that these prohibitions are consistent with freedom of opinion and expression;

22. *Recognizes* the positive role that the exercise of the right to freedom of opinion and expression, as well as full respect for the freedom to seek, receive and impart information, including through the Internet, can play in combating racism, racial discrimination, xenophobia and related intolerance;

23. *Expresses concern* about the use of the Internet to propagate racism, racial hatred, xenophobia, racial discrimination and related intolerance, and in this regard calls upon States parties to the Covenant to implement fully articles 19 and 20 thereof, which guarantee the right to freedom of expression and outline grounds on which the exercise of this right can be legitimately restricted;

24. *Recognizes* the need to promote the use of new information and communications technologies, including the Internet, to contribute to the fight against racism, racial discrimination, xenophobia and related intolerance;

25. *Encourages* those States that have made reservations to article 4 of the Convention to give serious consideration to

withdrawing such reservations as a matter of priority, as stressed by the Special Rapporteur;

26. *Notes* the importance of strengthening cooperation at the regional and international levels with the aim of countering all manifestations of racism, racial discrimination, xenophobia and related intolerance, in particular regarding issues raised in the present resolution;

27. *Stresses* the importance of cooperating closely with civil society and international and regional human rights mechanisms in order to counter effectively all manifestations of racism, racial discrimination, xenophobia and related intolerance, as well as extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and other similar extremist ideological movements that incite racism, racial discrimination, xenophobia and related intolerance;

28. *Encourages* States parties to the Convention to ensure that their legislation incorporates the provisions of the Convention, including those of article 4;

29. *Encourages* States to adopt the legislation necessary to combat racism while ensuring that the definition of racial discrimination set out therein complies with article 1 of the Convention;

30. *Recalls* that any legislative or constitutional measures adopted with a view to countering extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and similar extremist ideological movements should be in conformity with the relevant international human rights norms;

31. *Also recalls* the request of the Commission on Human Rights, in its resolution 2005/5,⁴¹¹ that the Special Rapporteur continue to reflect on this issue, make relevant recommendations in his future reports and seek and take into account in this regard the views of Governments and non-governmental organizations;

32. *Requests* the Special Rapporteur to prepare, for submission to the General Assembly at its sixty-eighth session and to the Human Rights Council at its twenty-third session, reports on the implementation of the present resolution, in particular regarding paragraphs 4, 5, 7 to 9, 16 and 17 above, based on the views collected in accordance with the request of the Commission, as recalled in paragraph 31 above;

33. *Expresses its appreciation* to those Governments that have provided information to the Special Rapporteur in the course of the preparation of his report to the General Assembly, and notes the increase in such contributions received from States;

34. *Stresses* that such information is important for the sharing of experiences and best practices in the fight against extremist political parties, movements and groups, including neo-Nazis and skinhead groups, and other extremist ideological

movements that incite racism, racial discrimination, xenophobia and related intolerance;

35. *Encourages* Governments and non-governmental organizations to cooperate fully with the Special Rapporteur in the exercise of the tasks outlined in paragraph 31 above;

36. *Encourages* Governments, non-governmental organizations and relevant actors to disseminate, as widely as possible, information regarding the contents of and the principles outlined in the present resolution, including through the media, but not limited to it;

37. *Decides* to remain seized of the issue.

60th plenary meeting

APPENDIX 3

Why Do Developed Countries Tend to Vote Against Some Human Rights Resolutions at the Third Committee of the General Assembly at the United Nations?

Suggested Interview Questions:

1. Given that human rights are an interdisciplinary phenomenon, do you think that states in general are pushing the limits of norms to a new customary international commitment through the Third Committee at the UN?
2. What is the relationship between developed and developing countries when it comes to negotiating a resolution's text/language before it goes to vote?
3. Based on your experience, what pattern/s systematically influence the vote position of developed countries at the Third Committee? What is the red line that developed countries would not cross?
4. In the context of globalization and human rights, do you believe developed countries would sacrifice human rights aspects for: a) maintaining the dependency on their way of global economy; b) the status quo of "winners and losers"; and c) negative "distribution consequences"?
5. Can you describe and/or interpret why developed countries demand "green technology/economy", usually provided via private sector, when ultimately developed countries supply both? How do you explain that approach?
6. Do you think "colonialism" still exists in UN language, but in different acts or behavior?
7. In your opinion, if resolutions contain a language of commitments which affect developed countries' financial and economic supremacy, would that make them vote against the resolution? Especially when it comes to ODA or FDI, for instance?

8. In regard to resolutions such as “Rights to Food” and “Rights to Peace”, what is behind these two resolutions that developed countries vote against?
 9. Do you believe that eradicating poverty, hunger, and disease in the world is the responsibility of developed countries? Or should they be taking the blame?
 10. Do you observe that granting LGBT rights is against human rights itself? Specifically, in terms of adoption and surrogacy industries and against “The Rights of the Child”?
 11. Can you describe the relationship between freedom of expression when it comes to attacking someone’s religion? At the same time, respecting religion can be perceived as a constraint to freedom of expression. Where is the defining line? Is it a conflict in respecting different kinds of human rights?
 12. How can you describe the behavior of developed countries voting against the “Rights to Self-Determination,” and “The Right to Indigenous Peoples” resolutions at the Third Committee?
 13. What stood out to you as the defining characteristic of the “Physical Integrity Rights” resolution? (i.e. torture, political imprisonment or disappearance, and the death penalty.) Especially since some developed and developing countries still pursue these practices?
 14. According to the document, “The use of mercenaries as means of violating human rights and impeding the exercise of the right of peoples to self-determination”, private military and security companies operate in a legal way via developed countries. Do you believe they pose a threat to civilians and to international human rights law?
 15. Thank you for all the valuable information. Is there anything else you would like to add before we end? Any contact suggestions that you have could assist my topic!
-