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MEET ME IN THE MIDDLE

An Analysis Of The EU's Human Rights Promotion In Kazakhstan In The
Context Of China's Belt And Road Initiative

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Abstract:

This thesis explores the impact of the EU's human rights promotion in Kazakhstan in light of China's increasing economic and normative influence in Central Asia including its innovative Belt and Road Initiative. It highlights the normative challenges the EU faces vis-a vis China and explores the EU's struggle to combine and balance its core values and economic interests in its interaction with Kazakhstan. It argues that the EU is in need of finding a new way of promoting its core values outside its immediate sphere of influence and should improve upon consistency and transparency in its international conduct in order to maintain credibility as a normative actor and promoter of the liberal order. Kazakhstan presents a vivid example of the contradicting normative approaches of China and the EU to international affairs in general and to human rights specifically. It thereby serves as an example of the future challenges the EU faces as a 'normative power'.

I would like to thank my parents for always believing in me and for supporting me unconditionally throughout my education. I would also like to thank my friends for their continuous support, encouragement, input, and feedback during the writing process of this thesis and beyond. Thank you for everything!

-J

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1 Introduction

The notion of the EU as a normative power has been discussed in academia since the 1960s, and has also been described as ‘power over opinion’ or even ‘ideological power’.¹ This concept sets apart the type of influence of the European Union (EU) from military power and refers to its ability to shape what is seen as ‘normal’ internationally.² The core values which determine the EU’s international identity have been codified in its constituting treaties and further inform its international conduct. They are namely democracy, rule of law, social justice and finally the respect for human rights.³ The European Union is a promoter of the so-called liberal world order, a concept that arose in the aftermath of the Second World War and seeks to organize international relations based on the notions of democracy, human rights, rule of law and free trade.⁴ As the EU itself is a product of this liberal world order, it has a core interest in protecting it.⁵ The external conduct of the EU is thus driven by its self-conception as a normative power and the international promotion of its values.⁶

Recently, it appears that the liberal international order which the EU seeks to promote is in crisis. The rise of ‘new authoritarianism’ as well as political and economic crises have affected the EU’s ability to act as a promoter of this liberal world order.⁷ For the first time since the end of the Cold War, authoritarianism is promoted as a viable alternative to democracy and human rights by countries like China.⁸ These new normative entrepreneurs are trying to shape the global order by following their distinct narratives of governance and their vision of proper conduct of international affairs. Their illiberal approach will likely be rules-based and predictable but come at the expense of the values of democracy and human rights.⁹

This difference between China and the EU as two contradicting normative actors not only affects their bilateral relationship but also third countries with which they cooperate. One of

¹ Ian Manners, ‘Normative Power Europe: A Contradiction in Terms?’ (2002) 40 *JCMS: Journal of Common Market Studies* 235.

² *ibid.*

³ *ibid.*

⁴ Bart MJ Szweczyk, ‘Europe and the Liberal Order’ (2019) 61 *Survival* 33.

⁵ *ibid.*

⁶ Katharina Hoffmann, ‘The EU in Central Asia: Successful Good Governance Promotion?’ (2010) 31 *Third World Quarterly* 87.

⁷ G John Ikenberry, ‘The End of Liberal International Order?’ (2018) 94 *International Affairs* 7, 7.

⁸ Szweczyk (n 4).

⁹ *ibid.*

these countries is Kazakhstan, a Central Asian country located in between the EU and China and of great interest to both of them. Kazakhstan is an essential country for the connection between the EU and China and as such a crucial transit country for China's Belts and Road Initiative (BRI). This thesis investigates the normative impact of the EU in Kazakhstan in light of the rising influence of China. Kazakhstan, however, presents a new case for the EU as a 'normative power' as it falls outside of its previous democratization efforts which were primarily focused on its direct neighbourhood. Therefore, the relationship with Kazakhstan poses unique challenges to the EU.¹⁰

This thesis explores the possibilities for human rights promotion in Kazakhstan in light of the new EU Central Asia strategy. After analysing previous human rights efforts of the EU using the 1999 spiral model of human rights internalization by Risse, Ropp and Skikink, it analyses the tools of human rights promotion at the EU's disposal as well as their effectiveness in the context of Kazakhstan and the influence of China. In doing so, it seeks to contribute to an understanding of the effectiveness of the EU's approach to value promotion as well as the role of China's normative influence on the promotion of international human rights standards.

The first part of the thesis provides a brief overview of the relationships of the EU and China with Kazakhstan respectively, and introduces the role of China's Belt and Road Initiative in this context. Subsequently, it elaborates on the normative competition between the EU and China in more detail. It then applies the spiral model to the case study of Kazakhstan to assess the state of internalization of human rights norms as well as the influence of the EU and China on their promotion. Lastly, the analysis will assess the current human rights instruments employed by the EU in Kazakhstan and discuss their efficiency and possibilities for reform.

1.1 The European Union in Central Asia

During the Cold War, Central Asia was not a subject of EU foreign policy. Well into the 1990s, the region was still considered within the sphere of Russian influence and therefore not one of the EU's priorities.¹¹ Nevertheless, during this time, the EU began concluding Partnership and

¹⁰ Svante E Cornell and S Frederick Starr, *A Steady Hand: The EU 2019 Strategy and Policy Toward Central Asia* (Central Asia-Caucasus Institute 2019) 21–22.

¹¹ Peter Plenta, 'The European Two-Level Game in Central Asia: Visegrad Countries and Kazakhstan' (2019) 17 *Asian International Studies Review*.

Cooperation Agreements (PCA) with all Central Asian States, including Kazakhstan in 1999.¹² Even though these PCAs already included a ‘good governance’ section featuring human rights, their formulation was rather vague and political dialogue was limited to ad-hoc cooperation.¹³ In the wake of 9/11, the EU adopted its first Strategy Paper for Central Asia valid from 2002 to 2006 which also referenced a commitment to promoting human rights and democracy but was largely focused on regional security.¹⁴ At the same time, the EU opened its first delegation in all of Central Asia in Kazakhstan.¹⁵ The Russian - Ukrainian gas crisis in early 2006, which resulted in a cut-off for EU member states, drove the EU's interest in energy diversification towards Central Asia.¹⁶ Subsequently, in 2007, the EU adopted its first region specific strategy.¹⁷ The incentive for energy diversification was further intensified in 2014 due to the EU's worsening relationship with Russia.¹⁸ In addition, newly arising regional security concerns following the reduced NATO presence in Afghanistan and the emergence of ISIS, increased European interests in the region.¹⁹ Twelve years after the first EU-wide strategy, the 2019 strategy sets out an ambitious level of cooperation with the Central Asian countries.²⁰

In terms of ‘hard power’, the EU cannot compete with the other major powers present in Kazakhstan, but its normative concept is unique and offers many possibilities for Kazakhstan and its future development.²¹ Nonetheless, China also has a newly heightened interest in the country and is promoting its own interests and norms.

1.2 China's Belt and Road Initiative in Central Asia

In 2013, China launched an ambitious infrastructure initiative spanning over 70 countries known as the Belt and Road Initiative, One Road One Belt or the modern silk road.²² It includes

¹² ‘Countries and Regions- Kazakhstan’ (*European Commission*, 23 April 2020) <<https://ec.europa.eu/trade/policy/countries-and-regions/countries/kazakhstan/>>.

¹³ Hoffmann (n 6).

¹⁴ *ibid.*

¹⁵ *ibid.*

¹⁶ *ibid.*

¹⁷ European Union, ‘EU Builds Strong and Modern Partnership with Central Asia’ <https://eeas.europa.eu/sites/eeas/files/factsheet_centralasia_2019.pdf>.

¹⁸ Cornell and Starr (n 10) 22–23.

¹⁹ Cornell and Starr (n 10).

²⁰ European Union (n 17).

²¹ Neil Melvin, ‘The EU Needs A New Values-Based Realism For Its Central Asia Strategy – Analysis’ (FIRDE 2012) <<https://www.eurasiareview.com/05112012-the-eu-needs-a-new-values-based-realism-for-its-central-asia-strategy-analysis/>>.

²² Svante E Cornell and Niklas Swanström, *Compatible Interests? The EU and China's Belt and Road Initiative* (Svenska institutet för europapolitiska studier 2020).

improved trading corridors between East Asia, Europe and Africa. Situated in between them, Central Asia has become crucial for the success of the project. To put the BRI in perspective, this global infrastructure initiative is estimated to cost roughly 12 times as much as the US Marshall Plan following the Second World War.²³ Opinions about the ambitious project differ. On one hand, the International Monetary Fund (IMF) is very favourable towards the BRI and has claimed that it will close infrastructure gaps, thereby promoting development and trade, and reducing unemployment in China and beyond.²⁴ On the other hand, the BRI has been heavily criticized for potentially creating debt-traps in developing countries resulting in a dependency of these countries on China which is thereby expanding its economic and political influence.²⁵ In Central Asia, this dependency can lead to a loss of control of essential industries. In Kazakhstan, which is highly dependent on energy related exports, 25 percent of oil extraction is already controlled by Chinese-led companies.²⁶ Moreover, there have been concerns over China abandoning projects that are less beneficial to its economy than to its respective partners.²⁷ Indeed, despite some flagship projects, many investments and constructions remained unrealized even after the first four years of the BRI.²⁸ In Kazakhstan, this increasing influence and power imbalance has recently sparked protests against Chinese companies' low wages, environmental impact and high reliance on Chinese workforce over local workers.²⁹

Although China claims that its trade deals are not bound by political conditionality, the reality looks different. China is reshaping the global understanding of development and is taking influence over political processes through the BRI.³⁰ Reeves uses the theory of relationalism to show how China uses the BRI to tighten its control over Central Asia through 'imperial brokering' while placing itself at the centre of this newly created network.³¹ As the dominating

²³ Frank Holmes, 'China's Belt And Road Initiative Opens Up Unprecedented Opportunities' *Forbes* (4 September 2018) <<https://www.forbes.com/sites/greatspeculations/2018/09/04/chinas-belt-and-road-initiative-opens-up-unprecedented-opportunities/#493e0b603e9a>>.

²⁴ *ibid.*

²⁵ 'China: Belt and Road Projects Should Respect Human Rights' (*Human Rights Watch*, 21 April 2019) <<https://www.hrw.org/news/2019/04/21/china-belt-and-road-projects-should-respect-rights>>.

²⁶ Igor Savchenko, Andrii Osavoliuk and Kateryna Savchenko, 'EU Human Rights Promotion in Central Asia - Between the Dragon and the Bear' (Wilfried Martens Centre of European Studies 2020) Policy Brief.

²⁷ Bhavna Dave and Yuka Kobayashi, 'China's Silk Road Economic Belt Initiative in Central Asia: Economic and Security Implications' (2018) 16 *Asia Europe Journal* 267.

²⁸ Jeffrey Reeves, 'China's Silk Road Economic Belt Initiative: Network and Influence Formation in Central Asia' (2018) 27 *Journal of Contemporary China* 502.

²⁹ Dave and Kobayashi (n 27).

³⁰ Abbas Faiz, 'Is China's Belt and Road Initiative Undermining Human Rights?' *The Diplomat* (6 July 2019) <<https://thediplomat.com/2019/06/is-chinas-belt-and-road-initiative-undermining-human-rights/>>.

³¹ Reeves (n 28).

state of the network, it can influence other weaker states' economic, political and security decisions to its own benefit.³² As such, it is contributing to more suppression of dissent and limitations of freedom of expression, following China's model of an authoritarian-led development at the cost of civil and political liberties.³³ Critics have further claimed that BRI projects often lack transparency, exclude affected communities from consultation, and cause environmental hazards.³⁴ In addition, human rights are not mentioned in any accountability mechanisms or policy papers regarding the initiative.³⁵

Holslag claims that in its shift away from a closed economy, China has opted for 'offensive economic nationalism', with which it seeks to control the development of globalization.³⁶ In comparison to many Western countries, it has a different approach to partnerships, valuing harmony and condemning the 'Washington Consensus' on human rights and democracy as neo-colonial tendencies of the West which disregard the realities of less developed countries.³⁷ Chinese representatives even frame the BRI as a 'paradigm - shift' in state relations, which is more inclusive, egalitarian and responsive than the current international order.³⁸ This is one of the key reasons why the BRI is attractive for authoritarian elites in Kazakhstan. Where Europe is careful to invest due to regional instabilities and Russia focuses almost primarily on security concerns, China has invested in the revival of old trade routes and new infrastructure projects.³⁹ Its promising 'win-win' approach to development delivers funding quicker and is not contingent on human rights and environmental assessments.⁴⁰ Another 'benefit' of this mode of financing is that it largely avoids public discourse on any new project, and thereby excludes non-state actors from the process.⁴¹ Kazakhstan's interest in cooperation with China can therefore be explained by three main factors: its autocracy-friendly development approach, its fast-growing economy and lastly the promising future investment of the BRI.⁴² Thus, Kazakh

³² *ibid.*

³³ Faiz (n 30).

³⁴ 'China: Belt and Road Projects Should Respect Human Rights' (n 25).

³⁵ *ibid.*

³⁶ Jonathan Holslag, *The Silk Road Trap - How China's Trade Ambitions Challenge Europe* (Polity Press 2019) 69.

³⁷ *ibid* 70.

³⁸ Reeves (n 28) 502.

³⁹ Dave and Kobayashi (n 27) 271.

⁴⁰ *ibid.*

⁴¹ *ibid* 272.

⁴² Artem Patalakh, 'Kazakhstan's EU Policies: A Critical Review of Underlying Motives and Enabling Factors' (2018) 3 *Asian Journal of German and European Studies* 1.

president Nazarbayev enthusiastically integrated the BRI into his country's foreign policy and pledged roughly 9 Billion Dollars to its development in Kazakhstan.⁴³

The Central Asian part of the BRI is also known as the Silk Road Economic Belt (SREB) and constitutes the land-based part of the infrastructure initiative.⁴⁴ Two of its sub-routes connecting Asia and Europe pass directly through Kazakhstan. The first one is the New Eurasia Land Bridge (China-Kazakhstan-Russia-Belarus-EU) and the other the China-Central and West Asia Corridor (western China - Central Asia - Turkey - Iran).⁴⁵ Moreover, one of the SREB's landmark projects, the Khorgos Free Economic Zone, is located at the border of Kazakhstan and the Chinese Xinjiang province and is envisaged to become the biggest transit point of Chinese goods to the Middle East, Europe and Africa.⁴⁶

The BRI could be highly beneficial to Kazakhstan.⁴⁷ It may help diversify Kazakhstan's economy and revitalize existing and old trade routes.⁴⁸ During the Cold War and into the early 1990s, Russia was the main trading partner in the region, while China only accounted for around five percent of the trading volume.⁴⁹ But there has been a re-orientation towards China and a rising trading volume with the EU while trade with Russia is diminishing.⁵⁰

1.3 Connecting Eurasia

The increased trade volume between Europe and China is among the key drivers for the new silk road project.⁵¹ Land-based transport would cut costs and make trade more competitive. Indeed, between 2007 and 2016 alone, land-based transport between China and the EU has increased four-fold and rail links now reach 12 European countries directly.⁵² The potential for these new trade links has been acknowledged by both sides, as is visible in the 2014 Asia

⁴³ Dave and Kobayashi (n 27).

⁴⁴ *ibid* 268.

⁴⁵ Martin Russell, 'The EU's New Central Asia Strategy' (European Parliamentary Research Service 2019) Briefing PE 633.162 <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/633162/EPRS_BRI\(2019\)633162_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/633162/EPRS_BRI(2019)633162_EN.pdf)>.

⁴⁶ Dave and Kobayashi (n 27).

⁴⁷ S Frederick Starr and others, *The EU, Central Asia, and the Development of Continental Transport and Trade* (2015) <<http://www.isdp.eu/images/stories/isdp-main-pdf/2015-starr-cornell-norling-eu-central-asia-transport.pdf>> accessed 26 May 2020.

⁴⁸ *ibid*.

⁴⁹ *ibid* 25.

⁵⁰ Starr and others (n 47).

⁵¹ *ibid*.

⁵² Russell (n 45).

Europe Meeting statements.⁵³ The President of the European Council noted that ‘*Leaders underscored the significance of connectivity between the two regions to economic prosperity and sustainable development and to promoting free and seamless movement of people, trade, investment, energy, information, knowledge and ideas, and greater institutional linkages.*’⁵⁴

Moreover, the BRI heavily focuses on Central and Eastern Europe, where China has already established a strong presence through Foreign Direct Investments.⁵⁵ Through the so-called 16+1 format, it is posing a challenge to Europe’s united stance vis-a-vis China.⁵⁶ Among the participants the format includes eleven EU members and four EU candidate states.⁵⁷ Since Greece’s accession in 2019, the format is sometimes referred to as the ‘17+1’.⁵⁸ China has also expanded its influence beyond this format. In 2016, a Chinese state-owned company acquired controlling shares of the Greek Piraeus harbour essential to large-scale mediterranean trade.⁵⁹ Moreover, in March 2019, Italy officially signed on to the BRI, granting Chinese companies access to the port of Trieste and the development of the port in Genoa which caused controversy within the EU about Chinese investments in the Union.⁶⁰

This increased economic and political influence of China in Europe and its neighbourhood has stunted the EU’s approach in addressing human rights violations in China.⁶¹ One example is Greece’s veto on an EU statement on China’s human rights record at the United Nations.⁶² Further, the EU has shown a very moderate approach to the situation in the Xinjiang province, which borders directly on Kazakhstan. Many members of the Uighur minority are held in detention camps without trial in what many critics have called a ‘cultural genocide’.⁶³ Despite

⁵³ Herman van Rompuy, ‘Chair’s Statement of the Tenth Asia-Europe Meeting’ (2014) <<https://www.consilium.europa.eu/media/23880/145154.pdf>>.

⁵⁴ *ibid.*

⁵⁵ Holmes (n 23).

⁵⁶ Dave and Kobayashi (n 27) 277.

⁵⁷ Emilian Kavalski, ‘China’S “16+1” Is Dead? Long Live the “17+1.”’ *The Diplomat* (29 March 2019) <<https://thediplomat.com/2019/03/chinas-161-is-dead-long-live-the-171/>>.

⁵⁸ *ibid.*

⁵⁹ Andrew Hosken and Albana Kasapi, ‘Why Is China Investing Heavily in South-East Europe?’ (*BBC News*, 17 October 2017) <<https://www.bbc.com/news/world-europe-41654346>>.

⁶⁰ ‘Italy Joins China’s New Silk Road Project’ (*BBC*, 23 March 2019) <<https://www.bbc.com/news/world-europe-47679760>>.

⁶¹ David Marques, ‘The EU, China, and Human Rights in Xinjiang: Time for a New Approach’ (*European Council on Foreign Relation*, 2 April 2019) <https://www.ecfr.eu/article/commentary_the_eu_china_and_human_rights_in_xinjiang_time_for_a_new_approac>.

⁶² Dave and Kobayashi (n 27) 277.

⁶³ Marques (n 61).

the gravity of the situation, the EU and its members have responded in a very restrained manner and have not taken concrete action to hold China accountable.⁶⁴

It appears that the EU's newfound interest in Central Asia and especially Kazakhstan could be an attempt to curb China's growing influence and balance the power in the region.⁶⁵ Although the EU has decisively not mentioned China as a competitor in its new Europe-Asia Connectivity Strategy (EACS), in which it promotes synergy and cooperation,⁶⁶ The BRI has led to conflict between China and the EU as well as to internal struggles within the EU. Tensions between European member states and China regarding the new silk road became especially prominent in the 2017 Silk Road Forum, where EU states refused to sign the final communiqué due to a lacking consensus on transparency and competition regulation.⁶⁷ Overall, it appears that the BRI is hardly reconcilable with the EU's value system,⁶⁸ but its promising benefits have already convinced some EU members to join in, confronting the EU with a difficult conundrum.⁶⁹

For the infrastructure projects under the BRI umbrella to be profitable for all parties involved, major reform is needed.⁷⁰ This opens a window of opportunity for the European Union to use the economic momentum and advocate for reforms to further human rights and the rule of law. Overall, a better land-based cargo connection between Asia and Europe could be very beneficial for the European Union and its partners, if it is implemented effectively and based on shared values and interests.⁷¹ However, substantial differences regarding values and conduct remain.

1.4 Research Goal

The BRI's significance for both Central Asia and Europe as shown above entails new challenges for all actors involved. Considering the focus of this thesis on EU human rights promotion, these challenges especially concern the normative foundation of human rights as

⁶⁴ *ibid.*

⁶⁵ Cornell and Starr (n 10).

⁶⁶ Savchenko, Osavoliuk and Savchenko (n 26).

⁶⁷ Sebastian Schiek, 'Movement on the Silk Road: China's "Belt and Road" Initiative as an Incentive for Intergovernmental Cooperation and Reforms at Central Asia's Borders' [2017] SWP Research Paper 5.

⁶⁸ *ibid.*

⁶⁹ Cornell and Swanström (n 22).

⁷⁰ Schiek (n 67).

⁷¹ *ibid.*

well as the practical tools developed by the EU for their promotion. Kazakhstan is a new case for the EU's norm promotion activities outside of its enlargement or immediate neighbourhood and in direct competition with another normative entrepreneur. Thus, this thesis seeks to investigate the following two test hypotheses: (1) The EU's human rights promotion in Kazakhstan is challenged by China's rising influence as a normative actor on the international stage. (2) Subsequently, the EU is not fully using its available instruments for human rights promotion due to economic concerns vis-a-vis China and Kazakhstan.

2 Methodology

2.1 Theory

This thesis is theory driven and explores the case study of the EU's work in Kazakhstan based on the theory of human rights norm localization by Risse, Ropp and Sikkink published in 1999.⁷² Their theory is based on the belief that ideas can develop into collective norms which define appropriate behaviour. Thus, the theory rests on the assumption that states adhere to certain norms due to their image on the international stage. Following the school of social constructivism, it therefore views the interests and behaviour of states as contingent on their international interactions and relations. The intersubjective nature of norms is applied to the field of international relations in which the group of liberal states and international organizations are the gatekeepers of legitimizations. 'Liberal states' which are regarded as a community of peace, democracy and human rights create an in-group of states. A state's human rights performance among other factors is therefore a tool to define the identity of liberal states and delineate them from illiberal ones. The way in which a new member is introduced into this norm collective is referred to as socialization. The authors argue that the political identity of a state is never developed in isolation but in relation with other states and non-state actors, just like the identity of the state itself is not necessarily unitary but made up of different actors.

The thesis applies this framework to analyse to what extent human rights norms have been internalized by the Kazakh government and how the European Union can further aid this process. To assess the stage of internalization of human rights in Kazakhstan, this thesis employs the spiral model of human rights norms developed by Risse, Ropp and Sikkink in their

⁷² Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), *The Power of Human Rights - International Norms and Domestic Change* (Cambridge University Press 1999).

book 'The Power of Human Rights'.⁷³ The model encompasses both bottom-up and top-down approaches by linking the practices of advocacy networks, international organizations, Western governments, and the target state in a so-called boomerang pattern. A 'boomerang throw' occurs when a domestic advocacy network bypasses its own government and turns directly to international actors or organizations which in turn amplify their demands and thus create pressure on the violating government. The spiral model consists of several 'boomerang throws' with differing effects depending on the phase of socialization. It does not predict or assume a linear process of socialization and allows for explanations of divergence and return to repressive practices.

The model explores the conditions under which states are inclined to adopt international human rights norms and eventually internalize them leading to rule-abiding behaviour. It is important to note that the model does not disregard other influences of power and strategic interests but rather investigates their interaction. Thus, the model does not intend to create a dichotomy of norms and interests or even to argue that norms necessarily change interests. It encompasses the possibility of an adoption of norms for instrumental and strategic reasons and explores whether these instances may subsequently lead to domestic political change.

The stages proposed in the model describe the conditions under which human rights norms may be adopted by the state and in which manner they may affect the behaviour of the target state. The phases are (1) repression (2) denial (3) tactical concessions (4) prescriptive status and finally (5) rule-consistent behaviour. The first phase refers to the condition before the target country is on the agenda of international human rights promoting actors and describes how it is introduced into the socialization process. In the second stage, the target state is on the agenda but remains resistant to criticism and is in denial about the applicability of human rights norms to its domestic context. In the third stage, the target state realizes the importance of international norms to its standing in the international community and is willing to make tactical concessions without necessarily internalizing the given norm in order to gain approval or obtain political and economic benefits. Through the process of rhetorical entrapment, the state may become caught in the promises made as tactical concessions and further committed to human rights norms thus eventually reaching the fourth phase of prescriptive status. In this phase, the target state is not yet in full compliance and has not necessarily fully internalized the norm but its commitment to it has intensified through treaty ratifications, institutionalization, and the

⁷³ *ibid.*

engagement with human rights in international and domestic fora. From here, the last development requires genuine internalization to reach the final stage of rule-consistent behaviour. In this last stage, external pressure is no longer needed to ensure compliance with human rights standards. All these stages as well as the actors involved will be described in greater detail in the analysis and will be applied to the case study Kazakhstan.

The model by Risse, Ropp and Sikkink has been applied to a variety of case studies in several different cultural contexts, but neither the original book nor the more recent edition feature case-studies from Central Asia. The theory was selected because it allows for an analysis of the EU's continued and increasing engagement in Kazakhstan as well as the effectiveness of its approach through the stages of internalization. Moreover, it allows the inclusion of Kazakhstan as an actor in international relations rather than only a recipient of normative influences from the EU and China.

The model was originally published in 1999, and international human rights structures have developed significantly since then. Acknowledging these developments, the authors reassessed their theory in the 2013 book 'The Persistent Power of Human Rights'. In this renewed edition, they find that the spiral model generally holds up even in more contemporary case studies and can be transferred to other subject areas as well.⁷⁴ They further acknowledge that very few countries progress through the two final steps of the model and arrive at full compliance.⁷⁵ Therefore, they concede that the present developments show that some human rights violations are not resolved through rhetoric entrapment but even enjoy support from the people, in authoritarian and democratic countries alike, when other values, such as security and sovereignty, are perceived as more important.⁷⁶ So-called counter-frames may reverse the trajectory of the spiral model and aid the legitimization of repression.⁷⁷ An example for this is the 'war on terror' post 9/11, to which human rights were suddenly subordinated.⁷⁸ As will be expanded on in the analysis of 'world time' later on - the context of human rights promotion has changed considerably over the last decade. Therefore, it is suggested that in recent times,

⁷⁴ Anja Jetschke and Andrea Liese, 'The Power of Human Rights a Decade after: From Euphoria to Contestation' in Thomas Risse, Stephen Ropp and Kathryn Sikkink (eds), *The Persistent Power of Human Rights- from Commitment to Compliance* (Cambridge University Press 2013).

⁷⁵ *ibid.*

⁷⁶ *ibid.*

⁷⁷ *ibid.*

⁷⁸ Thomas Risse and Kathryn Sikkink, 'Conclusions' in Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), *The Persistent Power of Human Rights* (Cambridge University Press 2013) <https://www.cambridge.org/core/product/identifier/CBO9781139237161A029/type/book_part> accessed 22 June 2020.

normative challenges to human rights need to be further explored in order to address the bottleneck between prescriptive commitment and full compliance.⁷⁹ This thesis will thus employ the original model, and include a critical view of normative contestation and recent developments in its application by factoring in China's promotion of its own narrative in contrast to so-called 'Western values'.

2.2 Source Selection

The research is of qualitative nature and relies on both primary sources, such as EU policy papers, trade agreements, and reports by international organizations as well as on secondary sources, such as academic journal articles and book chapters. Due to the very recent developments in this field, it moreover includes newspaper articles and statements from think tanks and NGOs relevant to the topic.

2.3 Scope

Central Asia is not a closely defined region, hence in this thesis the term will refer to the five countries included in the EU's Central Asia strategy, namely Kazakhstan, Kyrgyz Republic, Tajikistan, Turkmenistan and Uzbekistan.⁸⁰ As the EU's strategy is focused on the region as a whole but this thesis focuses explicitly on Kazakhstan, it is important to consider that these are independent and unique countries. Despite their shared past as post-Soviet countries, the countries of Central Asia are not to be seen as one homogenous entity. They have considerable cultural differences and have developed differently politically and economically since their independence in the 1990s.⁸¹ Therefore, this thesis focuses on Kazakhstan as the largest country in the region. This does not suggest that the findings of this thesis are universally applicable throughout Central Asia. Research suggests that regional approaches should be used with caution by international actors including the EU.⁸² Transnational and regional approaches should be reduced to specific issues, as they are otherwise not efficient, especially in the field of democracy and human rights promotion.⁸³

⁷⁹ Jetschke and Liese (n 74).

⁸⁰ European Union (n 17).

⁸¹ Cornell and Starr (n 10) 49.

⁸² Eugheniy Zhovtis, 'Democratisation and Human Rights in Central Asia: Problems, Development, Prospects and the Role of the International Community' in Neil J Melvin (ed), *Engaging Central Asia - The European Union's New Strategy in the Heart of Eurasia* (Centre for European Policy Studies 2008).

⁸³ *ibid.*

This thesis focuses explicitly on the influence of the EU policies towards Kazakhstan in light of a rising Chinese influence in the country. It is, however, important to acknowledge that these are only two of the global players active in Kazakhstan and Central Asia at large. Russia remains to be an important external influence in the region, due to strong cultural, historical, and economic ties. Moreover, Russia is connected to the region through the Collective Security Treaty Organization and the Eurasian Economic Union, in both of which Kazakhstan is a member.⁸⁴ The same holds true for the US who used to have a military presence in the region due to its stabilization efforts in Afghanistan. In 2011, the American State Department launched the New Silk Road initiative, but due to lacking support in the administration the project never materialized.⁸⁵ Earlier this year, the Trump administration released its new Central Asia strategy which remains heavily focused on border managements, anti-terrorism and sovereignty.⁸⁶ However, the promotion of human rights, the rule of law, and democracy are also featured in the strategy alongside the aims to strengthen civil society in order to increase stability in the region. It remains to be seen how these ambitions will influence the work of other actors such as the EU in the region. Although other countries have economic and security related ties to Kazakhstan, this thesis especially focuses on the normative influence of the EU and the challenges which China's contrasting narratives are posing to its value promotion.

The analysis will mainly consider first generation rights with a special focus on freedom of speech, media, and association as well as freedom from torture. Kazakhstan is a state party to the International Covenant of Civil And Political Rights (ICCPR) and thus bound by the provisions therein.

2.4 Case Selection

Kazakhstan used to be an autonomous republic of the Soviet Union and declared independence in December 1991.⁸⁷ Shortly after, in 1992, it was admitted as a member of the United Nations and the Organization for Security and Cooperation (OSCE).⁸⁸ Kazakhstan's first president Nursultan Nazarbayev remained in office until 2019. He had previously served as head of the

⁸⁴ Russell (n 45).

⁸⁵ Cornell and Starr (n 10).

⁸⁶ 'United States Strategy for Central Asia 2019-2025 - Advancing Sovereignty and Economic Prosperity' (Bureau of South and Central Asian Affairs 2020).

⁸⁷ Gavin Hambly and others, 'Kazakhstan', *Edward* (Encyclopaedia Britannica) <<https://www.britannica.com/place/Kazakhstan>>.

⁸⁸ 'Kazakhstan Profile - Timeline' (*BBC UK*, 9 April 2019) <<https://www.bbc.com/news/world-asia-pacific-15483497>>.

Communist Party of Kazakhstan and the first president under Soviet rule.⁸⁹ Kazakhstan's form of government can be classified as a presidential republic in which the president is elected independently and holds strong executive powers.⁹⁰

There are multiple reasons why Kazakhstan was chosen for the analysis. Firstly, it is the largest country in the region and the EU's main Central Asian trading partner. Indeed, over a third of Kazakhstan's external trade is with the EU, making it Kazakhstan's biggest trading partner, and with roughly fifty percent of foreign direct investments also its biggest investor.⁹¹ Kazakhstan is also of increased interest to the EU due to its natural resources. Its rich oil reserves and uranium resources allow the EU to diversify its supply away from Russia.⁹² Roughly 70 percent of Kazakhstan's oil exports are to the EU, making up around six percent of the Union's total imports.⁹³ For uranium, Kazakhstan is the EU's single largest supplier.⁹⁴

Secondly, the institutionalization of Kazakhstan's partnership with the EU is the furthest developed in comparison to the other Central Asian countries, which therefore allows for a more in-depth analysis of the EU's promotion of human rights and democracy. In 2020, Kazakhstan became the first Central Asian to conclude an Enhanced Partnership Agreement, with the EU. Even before, the EU had a PCA with Kazakhstan since 1999, which provided the framework from economic cooperation such as trade, investment, and financial cooperation.⁹⁵

Thirdly, due to the liberalization of its market after independence and progressive economic reform, Kazakhstan is doing well in comparison to the other countries in the region. Kazakhstan was able to reduce the share of its population living in poverty from 47 to 3 percent between 2000 and 2013.⁹⁶ Since its independence, Kazakhstan's economic development has always been prioritized over political development and focused on maintaining an authoritarian

⁸⁹ *ibid.*

⁹⁰ Colin Knox, 'Kazakhstan: Modernizing Government in the Context of Political Inertia' (2008) 74 *International Review of Administrative Sciences* 477, 483–484.

⁹¹ 'EU - Kazakhstan Relations' (*European External Action*, 15 January 2019) <https://eeas.europa.eu/headquarters/headquarters-homepage_en/4076/EU-Kazakhstan%20relations>.

⁹² Tika Tsertsvadze and Vera Axyonova, 'Trading Values with Kazakhstan' (EUCAM & FRIDE 2013) Policy Brief 32.

⁹³ 'Kazakhstan and the EU' (*Delegation of the European Union to Kazakhstan*, 12 May 2016) <https://eeas.europa.eu/delegations/kazakhstan/1367/kazakhstan-and-eu_en>.

⁹⁴ *ibid.*

⁹⁵ Tsertsvadze and Axyonova (n 92).h

⁹⁶ Daniel Runde, 'Kazakhstan: The Buckle in One Belt One Road' *Forbes* (29 June 2015) <<https://www.forbes.com/sites/danielrunde/2015/06/29/kazakhstan-buckle-one-belt-one-road/#35c3aa186b5b>>.

leadership model.⁹⁷ Similarly, Kazakhstan's foreign policy towards its powerful neighbours is primarily driven by economic interests.⁹⁸ This multi-vector foreign policy enabled Kazakhstan to avoid dependency on Russia after its independence.⁹⁹ Kazakhstan is thereby attempting to position itself as a bridge between the East and the West and to promote its notion of greater Eurasia in order to maintain relations with all partners.¹⁰⁰ For years, Kazakhstan has been careful to maintain a 'multi-vector' foreign policy, balancing its relations with its powerful neighbours, including the EU and China.¹⁰¹ Both its imports and exports are heavily dependent on cooperation with its East Asian and European partners.

Lastly, as previously mentioned, Kazakhstan is an essential transit country for two SREB sub-routes and a major source of energy related exports to the EU and China alike. It was in Kazakhstan's capital Astana (now Nur-Sultan) that the BRI project was first officially declared, highlighting the importance of Kazakhstan to the project.¹⁰² Observers have even referred to it as the 'Buckle on the Belt' (and Road) to highlight its crucial position for the connection between Asia and Europe.¹⁰³

As was shown above, both the EU and China have undertaken efforts to deepen their relationship with Central Asia and Kazakhstan in particular. Both of these actors are, however, following a different narrative of inter-state connections and have differing normative goals. This normative competition will be elaborated on in the following chapter.

⁹⁷ Patalakh (n 42).

⁹⁸ *ibid* 3.

⁹⁹ Michael Clarke, 'Kazakh Responses to the Rise of China: Between Elite Bandwagoning and Societal Ambivalence?' in Niv Horesh and Emilian Kavalski (eds), *Asian Thought on China's Changing International Relations* (Palgrave Macmillan 2014).

¹⁰⁰ Lukáš Hendrych, 'Kazakhstan Positions Itself as a Bridge between Asia and Europe' *EURACTIV.cz* (20 September 2019) <<https://www.euractiv.com/section/central-asia/news/kazakhstan-positions-itself-as-a-bridge-between-asia-and-europe/>>.

¹⁰¹ Paul Stronski, 'Kazakhstan at Twenty-Five: Stable but Tense' (Carnegie Endowment for International Peace 2016) <https://carnegieendowment.org/files/Stronsky_Kazakhstan.pdf>.

¹⁰² Russell (n 45).

¹⁰³ Runde (n 96).

3 Analysis

3.1 The Spiral Model

3.1.1 World Time

Risse, Ropp and Sikkink use the concept of ‘world time’ to describe different eras of international human rights developments. Their spiral model for human rights internalization assumes the existence of International Organizations (IOs) regulating human rights and transnational advocacy groups working for human rights.¹⁰⁴ This is an important factor because human rights organizations, treaties and IOs have developed over time, so that the socializations of different states took place during different stages of ‘world time’.¹⁰⁵ Especially between the 1970s and 1990s there was a rapid development and a number of norm cascades in the field of human rights.¹⁰⁶ Today, a considerable network of human rights organizations and an impressive number of treaties and IOs dedicated to the topic have been established, ratified and founded respectively.

This is essential to consider for the case study: Because of its isolation during the Cold War, Kazakhstan did not partake in the wave of human rights socialization in the late 20th century but only began the process post-independence. Since then, however, the international power dynamics have changed significantly. Rising powers, such as China, are promoting their own vision of human rights and their relationship to the state.¹⁰⁷ The universal value set of human rights as assumed in the original spiral model has been challenged by newly emerging narratives. Europe and China are two of the most powerful international players and their relationships affect international trade and third countries alike.¹⁰⁸ In regions where the two meet, cooperation based on shared rules and norms is essential. Especially in Kazakhstan, where the EU is attempting to promote change and China is developing its BRI projects, the two are working in close quarters.

¹⁰⁴ Risse, Ropp and Sikkink (n 72) 19–21.

¹⁰⁵ *ibid* 21.

¹⁰⁶ *ibid*.

¹⁰⁷ Ted Piccone, ‘China’s Long Game on Human Rights at the United Nations’ (Foreign Policy at Brookings 2018).

¹⁰⁸ Gustaaf Geeraerts, ‘The EU-China Partnership: Balancing between Divergence and Convergence’ (2019) 17 *Asia Europe Journal* <<http://link.springer.com/10.1007/s10308-019-00554-2>> accessed 26 May 2020.

Holslag points out that the EU's attempt to 'europeanize' China through increased engagements has not been successful.¹⁰⁹ In its interactions with China, the EU's 'constructive engagement' has always been dominated by economic and commercial interest and the promotion of its values has been compromised by the pragmatic and diverging interests of its members.¹¹⁰ On the contrary, in comparison to other case studies using the spiral model, its application to China has proven that the country has been extremely resistant to the 'power of human rights' over the last decades.¹¹¹ Moreover, its economic rise makes it less vulnerable to external pressures and increasingly confident in challenging international norms.¹¹²

3.1.2 Normative Contestation

More recently, China has started to promote its own understanding of human rights and the international beyond its borders.¹¹³ It is therefore paramount to understand the conceptual differences between China and the EU in order to understand the situation of Kazakhstan fully. The following section highlights the different understanding of core concepts such as security and human rights between the two superpowers and elaborates on the effect of this dissonance on the human rights promotion in Kazakhstan.

Despite these new challenges to the liberal international order, human rights have become an important instrument and lever in the conduct of international relations. Few other topics have been as controversial as human rights in the relationship between China and the EU.¹¹⁴ China has developed its own understanding of human rights which clashes with the Western notion.¹¹⁵ In some ways similar to the 'Asian Values' debate which China supported in the 1990s, it paints the Western notion of human rights as eurocentric and rejects its individualistic and universalistic approach.¹¹⁶ Its own concept is more focused on the needs of the state and the community over the individual and puts a stronger emphasis on socio-economic rights over

¹⁰⁹ Holslag (n 36).

¹¹⁰ *ibid.*

¹¹¹ Katrin Kinzelbach, 'Resisting the Power of Human Rights' in Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), *The Persistent Power of Human Rights* (Cambridge University Press 2013) <https://www.cambridge.org/core/product/identifier/CBO9781139237161A022/type/book_part> accessed 22 June 2020.

¹¹² *ibid.*

¹¹³ AV Tsvyk and GI Tsvyk, 'China's Human Rights Concept and Its International Promotion' (2019) 19 *RUDN Journal of Sociology* 20.

¹¹⁴ *ibid.*

¹¹⁵ *ibid.*

¹¹⁶ Risse and Sikkink (n 78).

civil and political freedoms.¹¹⁷ Based on the concept of Confucianism, each right is connected to an individual's duties to society rather than naturally inherent to every individual; individual human rights as such do not exist.¹¹⁸ Marxist thought further proposes that human rights are only possible given a stable socio-economic basis and therefore prioritizes second over first generation rights.¹¹⁹ Whether one views this as cultural relativism or an attempt to deflect from domestic human rights abuses, it remains a challenge to the promotion of the EU's vision of human rights norms, not only within China but also in its growing sphere of influence. China relies heavily on the concepts of sovereignty and non-interference to deflect from any international criticism regarding its human rights record.¹²⁰ Its domestic documents speak almost exclusively of people's or citizens' rights to avoid the term human rights.¹²¹ Nevertheless, China is making an effort to boost its image as a human rights respecting country domestically and internationally, whenever it serves its purpose.¹²² Even though China persists on the principle of sovereignty and non-intervention in internal affairs, its external projects such as the BRI seem to come with high expectations regarding cooperation and institutional change. This could be seen as an attempt to diffuse and transfer institutions.¹²³

These normative differences between China and the EU are also visible in their definitions of security. During the Cold War, security in Central Asia was managed by the Soviet hegemonic system, but since the collapse of the Soviet Union, regional security concerns have gained the attention of great powers including China and the EU. Due to concerns about energy security and the fight against international terrorism post 9/11,¹²⁴ both China and the EU have identified regional security and stability as one of their main interests in Central Asia.¹²⁵ However, their approaches to the concepts differ considerably.

In its security strategy China has identified the 'three evils' which pose a threat to state security and integrity, namely separatism, terrorism and religious extremism.¹²⁶ In China's view, the

¹¹⁷ Tsvyk and Tsvyk (n 113).

¹¹⁸ *ibid.*

¹¹⁹ *ibid.*

¹²⁰ Kinzelbach (n 111).

¹²¹ Tsvyk and Tsvyk (n 113).

¹²² Kinzelbach (n 111) 166.

¹²³ *ibid.*

¹²⁴ David Kerr and Swinton Laura C., 'CHINA, XINJIANG, AND THE TRANSNATIONAL SECURITY OF CENTRAL ASIA' (2008) 40 *Critical Asian Studies* 89.

¹²⁵ Luba von Hauff, 'Towards a New Quality of Cooperation? The EU, China, and Central Asian Security in a Multipolar Age' (2018) 17 *Asia Europe Journal* <<http://link.springer.com/10.1007/s10308-018-0519-4>> accessed 26 May 2020.

¹²⁶ Dave and Kobayashi (n 27) 273.

concept of security is thus the absence or suppression of the so-called 'three evils'.¹²⁷ Hence, security refers to the security of the government from challenge. China has exported this concept of the 'three evils' into the Shanghai Cooperation Organization, which promotes an authoritarian-friendly approach to security and of which Kazakhstan is a member. The SCO was officially established in 2001 and covers the fields of security, economic, cultural and humanitarian collaboration.¹²⁸ It has capacities in traditional security fields such as disarmament and arms control but is primarily focused on non-traditional security threats such as terrorism, trafficking and organized crime.¹²⁹ Acknowledging the transnational nature of these threats, the SCO aims to coordinate national approaches to these challenges, for example through the SCO Convention on Combating Terrorism, Separatism and Extremism.¹³⁰ The fight of these 'three evils' has become the core of the SCO's work.¹³¹ Through the SCO, this security understanding has been collectivized for all its members and creates a common understanding of the terminology of security threats. These can be interpreted quite broadly and be applied to domestic activism and oppositional forces just as well as terrorist groups and separatist movements.¹³² As this conception of security is mostly concerned with regime survival, it is based on the notions of non-interference and the respect for 'different political cultures'.¹³³ In that way, it legitimizes a nation's choice to suppress opposition and democratic forces and functions as a shield against Western pressures, thus lending more legitimacy to the governments of Central Asia and hindering liberal reform.¹³⁴

In contrast, the EU perceives insecurity as an issue connected to authoritarian and ineffective political systems, thus linking social and political aspects of security.¹³⁵ Its more comprehensive view of security is expressed in the Common Security and Foreign Policy of 1997 as well as the European Security Strategy of 2003.¹³⁶ These documents include the importance of multilateral cooperation for security as well as the promotion of democracy,

¹²⁷ von Hauff (n 125) 4.

¹²⁸ Stephen Aris, 'The Shanghai Cooperation Organisation: "Tackling the Three Evils". A Regional Response to Non-Traditional Security Challenges or an Anti-Western Bloc?' (2009) 61 *Europe-Asia Studies* 457.

¹²⁹ *ibid.*

¹³⁰ *ibid.*

¹³¹ *ibid.*

¹³² von Hauff (n 125).

¹³³ *ibid.*

¹³⁴ *ibid.* 5.

¹³⁵ von Hauff (n 125).

¹³⁶ Gerrard Quille, 'The European Security Strategy: A Framework for EU Security Interests?' (2004) 11 *International Peacekeeping* 422.

human rights and the rule of law.¹³⁷ Thus, in the EU's point of view the achievement of stability and security is tied to democratic transformation rather than the defence of the incumbent regime, and is therefore closely linked to liberal democracy, the rule of law and human rights.¹³⁸

The normative discrepancies outlined above make the human rights promotion in Kazakhstan so unique for the European Union. Due to its rising economic influence and presence connected to the BRI, China is in a prime position to promote its own vision of human rights and state control which is much more supportive of authoritarian regimes and strict social control. Indeed, in many countries connected to the BRI, such as Pakistan, Myanmar and Sri Lanka, Chinese investments have coincided with new laws and restrictions of fundamental freedoms.¹³⁹ At the same time, China's extensive economic power has restricted the EU's willingness and ability to react to human rights violations in a meaningful way.¹⁴⁰ As previously mentioned, in 2017, Greece vetoed an EU statement on China's human rights violations in the UN due to China's heavy investments in the indebted country.¹⁴¹

It has been argued that China instrumentalizes the SREB to expand its influence in Central Asia and to reshape regional and national priorities in accordance with its own interests.¹⁴² Moreover, it has been stated that the Xi administration uses the project to expand and consolidate its power.¹⁴³ Reeves describes this as 'imperial brokering' whereby a dominant state which controls the network of states, in this case the SREB initiative, gains influence over domestic and foreign policy priorities of the weaker state.¹⁴⁴ Holslag similarly argues that Chinese increased economic influence will be followed by political influence.¹⁴⁵ In his analysis of economic realism, he argues that economic power and hence the ability to influence external relations will shape the future of international relations, and while China's goals are objectively not better or worse than those of the EU, he argues that China does not fit the EU's vision for creating a better society and empowering people.¹⁴⁶ Considering the human rights

¹³⁷ *ibid.*

¹³⁸ von Hauff (n 125).

¹³⁹ Faiz (n 30).

¹⁴⁰ Marques (n 61).

¹⁴¹ Helena Smith, 'Greece Blocks EU's Criticism at UN of China's Human Rights Record' *The Guardian* (Athens, 19 June 2017) <<https://www.theguardian.com/world/2017/jun/18/greece-eu-criticism-un-china-human-rights-record>>.

¹⁴² Reeves (n 28) 502.

¹⁴³ *ibid* 504.

¹⁴⁴ *ibid* 505.

¹⁴⁵ Holslag (n 36) 3.

¹⁴⁶ *ibid* 11–14.

situation in China itself and the growing concern about the human rights issues surrounding BRI projects, this approach appears detrimental to the EU's promotion of its value system. Consequently, it also poses a hurdle to the EU's norm promotion in Kazakhstan.

Considering these normative challenges, it needs to be acknowledged that the power of setting global norms is not exclusively in the hands of Western powers anymore, as it may have been perceived before.¹⁴⁷ Geeraerts points out that the struggle in EU-China cooperation hinges especially on the fact that they hold such contrasting views on norms, their vision of society and the international community.¹⁴⁸ Overall, the new multipolarity in the international order poses a challenge to the Western value system, and as the US and EU have difficulties to present a unified front, China with its newly acquired influence is promoting its own contrasting narrative of global governance.¹⁴⁹ Yu describes their differing approaches as a rule-based approach on one hand and a 'Hobbesian' approach focused on sovereignty, stability and control on the other hand.¹⁵⁰ This open and powerful opposition to the predominant value system by countries such as China and the BRICS states, influences the EU's ability to be a transformative normative power.¹⁵¹ The success of the EU to maintain this power is dependent on its economic success and social performance but also on its ability to formulate a coherent external policy in order to speak in a unified manner on foreign policy decisions and shaping the global order.¹⁵² At the moment, however, neither of the two normative powers holds exclusive normative influence in Kazakhstan.¹⁵³

This normative competition outlined above supports the first hypothesis that the EU's efforts in human rights promotion are challenged by China's rising influence. This is important to keep in mind in the forthcoming analysis as the original model assumed one set of universal values to be present in the socialization process, whereas now a competing vision is available to state leaders and governments alike. This can hinder and alter the progression of the spiral model.

¹⁴⁷ Geeraerts (n 108) 281.

¹⁴⁸ Geeraerts (n 108).

¹⁴⁹ *ibid* 283.

¹⁵⁰ Jie Yu, 'The Belt and Road Initiative: Domestic Interests, Bureaucratic Politics and the EU-China Relations' (2018) 16 *Asia Europe Journal* <<http://link.springer.com/10.1007/s10308-018-0510-0>> accessed 26 May 2020.

¹⁵¹ Geeraerts (n 108).

¹⁵² *ibid* 284.

¹⁵³ von Hauff (n 125).

The analysis will therefore incorporate the influence of China on the human rights developments in Kazakhstan and its progression throughout the spiral model.

3.1.3 Phase 1 - Repression

The start position of the spiral model is a repressive state with no or only a weak opposition that is no real challenge to the government. The level of repression can vary country by country and might last for a long time because some states are not on the agenda of international advocacy networks. If the level of repression is high, advocacy networks may struggle to gather information about human rights abuses, but once the state is on the agenda of the international community, the socialization process can begin.¹⁵⁴

This period of isolated oppression applied to Kazakhstan during Soviet times as well as immediately after independence. As mentioned above, many major human rights shifts happened between the 1970s and 1990s, but until its independence in 1991, Kazakhstan was still under Soviet rule and largely isolated, which means that these developments did not affect it.¹⁵⁵ In the aftermath of the collapse of the Soviet Union, Kazakhstan became an independent country, but the structures and elites of the old era mostly stayed the same. In most Central Asian countries, leadership saw a need for reform but wanted to maintain power post-independence and so most reforms had a democratic tone to them but ultimately served the ruling elite.¹⁵⁶ Nursultan Nazarbayev had ruled the country since 1991 in an autocratic manner employing political and at times violent repression.¹⁵⁷ None of the four elections keeping Nazarbayev in office was regarded as free and fair by international observers, as the long-time president reached approval rates of up to 97 percent in the absence of real opposition.¹⁵⁸ This lack of any sizable opposition was typical for Central Asian countries post-independence.¹⁵⁹ One of the only viable opposition candidates, former prime minister Akezhan Kazhegeldin, was removed from the ballot due to minor charges and later fled into self-imposed exile.¹⁶⁰ Other oppositional movements never registered for elections and were chronically

¹⁵⁴ Risse, Ropp and Sikkink (n 72) 22.

¹⁵⁵ Cornell and Swanström (n 22) 13.

¹⁵⁶ Zhovtis (n 82) 20.

¹⁵⁷ Susan Ariel Aaronson, 'Repression, Civil Conflict And Leadership Tenure: A Case Study of Kazakhstan' (Institute for International Economic Policy- George Washington University 2017) <<https://www2.gwu.edu/~iiep/assets/docs/papers/2017WP/AaronsonIIEP2017-16.pdf>>.

¹⁵⁸ *ibid.*

¹⁵⁹ Barbara Junisbai and Azamat Junisbai, 'The Democratic Choice of Kazakhstan: A Case Study in Economic Liberalization, Intraelite Cleavage, and Political Opposition' (2005) 13 *Demokratizsiya* 373.

¹⁶⁰ Junisbai and Junisbai (n 159).

underfunded.¹⁶¹ Another opposition candidate, the president's son in law Rakhat Aliyev, was effectively exiled to Austria as an ambassador and later framed for the kidnapping of two high bank officials, removing him as a political opponent.¹⁶² Moreover, under president Nazarbayev, there was no separation of powers as he had direct oversight over police and military who were often instrumentalized to scare off opposition and protest movements.¹⁶³ Interestingly, however, political repression from Soviet times is acknowledged with a national remembrance day for the victims of political repression.¹⁶⁴ With regard to the access of advocacy networks to information, Kazakhstan was not really 'on the map' for most international actors including the EU until fairly recently. Although the EU began its engagement in the region in the late 1990s, it was rather limited and superficial as Central Asia was still presumed to be under the Russian sphere of influence.¹⁶⁵ Even the PCA that was concluded with Kazakhstan did not constitute a real commitment as cooperation remained superficial and ad-hoc.¹⁶⁶ Moreover, the EU was more concerned with the democratization and integration of its immediate eastern neighbours following the fall of the Berlin wall. Thus, little attention was paid to Kazakhstan in general or its human rights situation specifically.

During this time, Central Asia at large was mostly still seen as a connection to other more important partners.¹⁶⁷ Ultimately, the events of September 11th 2001 increased the EU's focus on non-European like Kazakhstan due to its regional proximity to Afghanistan.¹⁶⁸ This new engagement, however, was mostly security-motivated and neglected factors such as democracy and human rights.¹⁶⁹ Up until 2007, human rights promotion and mainstreaming was practically absent from any EU efforts in Kazakhstan.¹⁷⁰ Any projects regarding rule of law were conducted primarily out of economic interest rather than normative obligation.¹⁷¹ Thus, Kazakhstan slowly came into the view of the European Union, but mostly for other reasons than human rights abuses or repression. It was largely viewed strategically and perceived as

¹⁶¹ *ibid* 377–378.

¹⁶² Edward Schatz and Elena Maltseva, 'Kazakhstan's Authoritarian "Persuasion"' (2012) 28 *Post-Soviet Affairs* 45.

¹⁶³ Aaronson (n 157).

¹⁶⁴ *ibid*.

¹⁶⁵ Emilian Kavalski and Young Chul Cho, 'The European Union in Central Eurasia: Still Searching for Strategy' (2018) 16 *Asia Europe Journal* 51, 55.

¹⁶⁶ *ibid* 56.

¹⁶⁷ *ibid* 54.

¹⁶⁸ *ibid* 56.

¹⁶⁹ *ibid* 56–57.

¹⁷⁰ Gordon Crawford, 'EU Human Rights and Democracy Promotion in Central Asia: From Lofty Principles to Lowly Self-Interests' (2008) 9 *Perspectives on European Politics and Society* 172.

¹⁷¹ *ibid* 180.

the gate to other parts of the world. Therefore, the influence of the EU on its human rights situation was minimal.

Similarly, China's engagement with Kazakhstan increased after its independence in 1991. The two countries had a number of mutual concerns including border disputes, the 'Uighur issue', as a part of the Uighur community lives on each side of the shared border and a sizable Kazakh community lives in the Chinese Xinjiang province, and lastly economic relations.¹⁷² During his tour of Central Asia in 1994, China's Premier Peng was determined to start a new era of Sino-Kazakh relations following the dissolution of the Soviet Union.¹⁷³ This was especially based on a common understanding regarding 'national separatism' as China valued Kazakhstan's approach to prevent the emergence of organizations voicing subversive or even anti-Chinese sentiments.¹⁷⁴ This convergence on (Uighur) separatist issues triggered the establishment of the 'Shanghai Five' (S-5) format in the form of multilateral talks between China, Russia, Kazakhstan, Kyrgyzstan and Tajikistan.¹⁷⁵ Throughout the late 1990s, China developed closer ties to Kazakhstan through the S-5 format and in cooperation they effectively abolished all Uighur advocacy groups in Central Asia.¹⁷⁶ Within the S-5, China advocated for a strong position against separatism, extremism and terrorism which would later be coined as the 'three evils'.¹⁷⁷ The S-5 format eventually became the Shanghai Cooperation Organization and following the events of 9/11 and regional incidents of dissent (e.g. the Tulip Revolution) transformed the 'three evils' discourse into a normative framework of inter-state relations in Central Asia, focusing primarily on the maintenance of stability and the principles of sovereignty and non-interference.¹⁷⁸ This understanding of security poses a challenge to human rights promotion and views opposition and democratization as threatening to regime stability.

At the same time, China and Kazakhstan also began to intensify their economic relationship. During Soviet times, the interaction and trade between the two countries had been limited due to conflict between China and the Soviet Union.¹⁷⁹ In 1991, however, Peng held a trade fair in Xinjiang to encourage trade with Central Asian countries. In the first 10 years alone, trade

¹⁷² Clarke (n 99).

¹⁷³ *ibid.*

¹⁷⁴ *ibid.*

¹⁷⁵ *ibid.*

¹⁷⁶ *ibid.*

¹⁷⁷ *ibid.*

¹⁷⁸ *ibid.*

¹⁷⁹ Sébastien Peyrouse, 'Chinese Economic Presence in Kazakhstan: China's Resolve and Central Asia's Apprehension' (2008) 2008 *China Perspectives* 34.

across the Sino-Kazakh border increased almost tenfold.¹⁸⁰ Also in 1991, China and Kazakhstan signed an agreement declaring each other 'most-favoured nations' including reduced customs and taxation on imports and exports.¹⁸¹ Additionally, new joint investments in cross-border infrastructure such as railroads were implemented to further economic relations.¹⁸² Through both the S-5 format and increased bilateral trade, China managed to build a strong relationship with Kazakhstan. The S-5 format constituted a form of normative influence over Kazakhstan and the increasing trade volumes and economic incentives made China an attractive partner.

3.1.4 Phase 2 - Denial

In this second stage, the norm-violating state is on the radar of the transnational human rights networks which raises the level of international attention on human rights abuses. Advocacy groups contribute to this attention mostly through the production and dissemination of information about the human rights situation in a given country and by lobbying international human rights organizations.¹⁸³

Even though the influence of the EU was not significant, Kazakhstan was now more in the focus of international criticism and scrutiny. Due to its accession to several human rights treaties and organizations such as the OSCE, its behaviour was now monitored more closely. Kazakhstan ratified both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) in 2006. It acceded to other major human rights treaties, such as the Convention of the Rights of the Child in 1994 and Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against all Forms of Racial Discrimination and the Convention against Torture (CAT) in 1998.¹⁸⁴ According to the spiral model, however, the ratification of international human rights treaties is projected to happen later in the socialization process. It lists the ratification of relevant treaties in stage four of the model. Thus, Kazakhstan's relatively early accession to many of the core human rights treaties suggests that the trajectory of the model may be changed in this case study due to its later starting point of socialization in 'world time'.

¹⁸⁰ *ibid* 40.

¹⁸¹ Clarke (n 99).

¹⁸² *ibid*.

¹⁸³ Risse, Ropp and Sikkink (n 72) 23.

¹⁸⁴ 'Status of Ratification - Interactive Dashboard' (*United Nations Human Rights Office of the High Commissioner*, 2020) <<https://indicators.ohchr.org/>>.

This increased visibility of Central Asia on the global stage can also be observed in the EU's increased engagement with the region. In the years between 2003 and 2007, the European Union issued around 20 statements in the context of its Common Foreign and Security Policy (CFSP) regarding electoral and civil rights violations in Central Asia. Furthermore, in 2005 the position of the Special Representative for Central Asia with a mandate to '*contribute to the implementation of EU policy objectives in the region, inclusive of the 'strengthening of democracy, the rule of law, good governance and respect for human rights and fundamental freedoms'*' was created, indicating a stronger focus on the region.¹⁸⁵ And lastly, in 2007, the EU concluded its first region-specific strategy. During this time-frame, however, Kazakhstan, maybe because it is the richest country of the region, was never addressed in these statements, although the EU acknowledged the problem of declining freedom of press and harassment of opposition forces.¹⁸⁶ This shows that the region including Kazakhstan was finally on the EU agenda, shedding light on the human rights situation in the five Central Asian countries. It also exemplifies selectivity and political awareness of the consequences of criticism. For example, despite numerous policy commitments to human rights in trade agreements and the conclusion of 2007 Central Asia strategy, the High Representative of the Union for Foreign Affairs and Security Policy did not mention human rights in her 2007 speech in Kazakhstan's capital Astana (now Nur-Sultan) and merely referred to rule of law in the context of economic development.¹⁸⁷

The model suggests that human rights advocacy organizations remind Western governments of their own values and identities when lobbying them to act upon human rights violations in a target state. They do so by pointing out inconsistencies in the government's response to human rights violations elsewhere and engage in the naming and shaming technique. The advocacy networks thereby try to get Western governments on board with the campaign against the target state.

Indeed, the European approach to democracy and human rights in Central Asia shows many inconsistencies. For instance, many European organizations have adopted a 'comparative view' on the region whereby they assess democratic developments of one country in relation to developments in the region.¹⁸⁸ As a result, countries which pretend to implement democratic

¹⁸⁵ Crawford (n 170) 177.

¹⁸⁶ *ibid.*

¹⁸⁷ *ibid* 178.

¹⁸⁸ Zhovtis (n 82).

reforms will be assessed a lot better, as they are seen in comparison to neighbour countries like Uzbekistan and Turkmenistan with even worse human rights records.¹⁸⁹ This suggests that in the case of Kazakhstan, that the EU may be satisfied with smaller improvements in the field of human rights and democratization and is quicker to legitimize its human rights conduct, seen in comparison with its Central Asian neighbours.

In their model, Risse, Ropp and Skikkink explain that states denying human rights norms imply that their governments recognize neither their validity nor their implied international jurisdiction. They perceive the intervention into their internal affairs as illegitimate. Some governments use this ‘intrusion’ to provoke national sentiments against foreign intervention, thereby rendering the first ‘boomerang throw’ largely ineffective as it may allow the repressive regime to bolster their domestic support. Insurgent movements, counterintuitively, may even heighten this perception as they make the narrative of a threat to the nation more credible.¹⁹⁰

In the early 2000s, there was a push for democratic reform in Kazakhstan, which was met with suppression.¹⁹¹ This reform attempt can be seen as a result of elite struggles and instrumental subscription to rule of law and democratic principles for economic prosperity.¹⁹² In 2001, the Democratic Choice of Kazakhstan was founded by economic elites of the country which declared the lack of democratic reform as one of the main threats to the future of the country, and demanded decentralization of leadership, independence of the judiciary and a stronger legislative body.¹⁹³ The regime blamed the organization for inciting ‘chaos and political lawlessness’, and its members were swiftly removed from government offices and served with politically motivated charges.¹⁹⁴ This illustrates that oppositional forces are framed as a threat to stability by the government to discredit their demands.

Another example is Kazakhstan’s stance towards the OSCE’s human rights criticism of former Soviet countries. This denial mechanism is visible in the demarche that Kazakhstan issued to the OSCE together with other post-Soviet member states of the organization. They felt that criticism against their countries on the basis of human rights and democracy criteria were a product of double standards and biased criticism and further stated that the human dimension

¹⁸⁹ *ibid.*

¹⁹⁰ Risse, Ropp and Skikkink (n 72).

¹⁹¹ Savchenko, Osavoliuk and Savchenko (n 26) 11.

¹⁹² Junisbai and Junisbai (n 159) 374.

¹⁹³ Junisbai and Junisbai (n 159).

¹⁹⁴ *ibid* 380.

of security was over-emphasized.¹⁹⁵ Field missions in the countries were to be subjected to strict government control to prevent cooperation with NGOs and human rights agencies.¹⁹⁶ This exemplifies the above-mentioned refusal to accept human rights within their own sphere of governance.

Both of these examples highlight the use of framing critical voices and opposition which promote more democracy and human rights for its citizens as threats to the nation. This narrative is in line with the ‘three evils’ discourse promoted by China which was discussed earlier. Stability and economic development are regarded as superior to freedom and democracy and therefore instrumentalized for suppression of oppositional forces.

Nevertheless, the authors of the model posit that even denial depicts a part of the socialization process as it shows that some initial understanding of the issue must be present. If there was no recognition of human rights norms whatsoever, the state would not feel the need to deny the allegations. In almost all cases, the rejection of the norm is not absolute but usually subordinated to norms that are perceived as more valuable such as sovereignty and non-interference.¹⁹⁷ Authoritarian regimes use the frame of stability and economic growth to legitimate state power. Since they are in control of the information and media available, they control the framing of issues and thereby influence public opinion.¹⁹⁸

Economic growth and stability are important frames for the Kazakh leadership. Countries from the former Soviet bloc often kept their authoritarian leadership post-independence, which hindered reform processes.¹⁹⁹ In Kazakhstan, however, market liberalization led to a considerable improvement of the economic situation leading to a rise in living standards.²⁰⁰ The regime has based its legitimacy on the economic success with a ten percent average growth off the economy between 2000 and 2007 as well as growing integration into global markets.²⁰¹ Thus, in exchange for increasing living standards and economic success, it appears that many

¹⁹⁵ Murat Laumulin, ‘Kazakhstan’s OSCE Chairmanship: History and Challenges’ in IFSH (ed), *OSCE Yearbook 2010* (2011).

¹⁹⁶ *ibid.*

¹⁹⁷ Risse, Ropp and Sikkink (n 72) 24.

¹⁹⁸ Schatz and Maltseva (n 162).

¹⁹⁹ Georgi Gotev, ‘Kazakhstan, a Fledgling Democracy Bent on ‘stability’ *EURACTIV.com* (3 November 2017) <<https://www.euractiv.com/section/central-asia/news/kazakhstan-fledgling-democracy-bent-on-stability/>>.

²⁰⁰ *ibid.*

²⁰¹ Schatz and Maltseva (n 162).

of Kazakhstan's citizens were long willing to overlook human rights violations.²⁰² Consequently, it appears that most Kazakh people are generally trusting their government and are not particularly involved in politics.²⁰³

This denial phase can last relatively long if the target state is immune to external pressure and has succeeded in suppressing the domestic opposition. Kazakhstan managed to achieve this through the duality of subscribing to norms through memberships in European organizations and treaty ratification but simultaneously repressing rights in the name of higher goals, such as economic development and state security.

3.1.5 Phase 3 - Tactical Concessions

The third phase relies extensively on transnational advocacy networks as well as the regime's susceptibility to international pressure which is usually related to material and economic factors, such as conditionality for foreign aid and investment.²⁰⁴

Theoretically, the EU has material leverage over Kazakhstan as it is one of its biggest investors and trading partners as outlined above. The EU is an essential market for Kazakhstan and its source of high-level technology and machinery.²⁰⁵ However, this dependency is not as one-sided as the model might suggest. The EU depends on Kazakhstan for energy imports, especially crude oils. While it may not be the biggest energy exporter for the EU, energy imports from Kazakhstan amount to six percent of the EU's energy imports in total.²⁰⁶ Moreover, as a significant transit country for the emerging BRI, Kazakhstan is the site of major infrastructure projects which will benefit the EU as well. Therefore, the EU appears hesitant to use its economic leverage to promote human rights and democratic reform more aggressively.

Moreover, Kazakhstan's multi-vector foreign policy has enabled the country to have strong relations with multiple economic partners including the rising economic superpower China. Therefore, as mentioned, Kazakhstan is not as dependent on the economic pressures of 'the West' as the model presumes. The Commission's Special Representative for Central Asia, Peter Burian, captured this situation when he remarked that '*China is coming with an offer*

²⁰² *ibid.*

²⁰³ Gotev, 'Kazakhstan, a Fledgling Democracy Bent on 'stability' (n 199).

²⁰⁴ Risse, Ropp and Sikkink (n 72).

²⁰⁵ 'Countries and Regions- Kazakhstan' (n 12).

²⁰⁶ 'Kazakhstan and the EU' (n 93).

*nobody can refuse, while the EU is coming with an offer nobody can understand.*²⁰⁷ At the same meeting, a German business representative stated that it was ‘*almost impossible*’ to compete with China and its BRI in Central Asia.²⁰⁸ This highlights again how China's considerable investments and economic power provide Kazakhstan with diverse economic options. Moreover, Kazakhstan is aware of its crucial position for land-based transport between East Asia and Europe and therefore in a much stronger negotiation position.

In 2011, the relationship between China and Kazakhstan reached a new milestone when the Chinese president Xi and Kazakhstan's president Nazarbayev signed an agreement on an ‘all-round strategic partnership’.²⁰⁹ Moreover, in 2015, Kazakhstan and China aligned their respective ‘Path of Light’ and SREB development strategies and Xi Jinping personally committed to Kazakhstan's economic development.²¹⁰ Moreover, in 2017 the former president declared that Kazakhstan would align with China more as it is becoming a world leader.²¹¹ They further tightened their cooperation in the financial sector and set up a Chinese - Kazakh investment fund under the SREB umbrella.²¹² The SREB initiative also informed the ‘Chinese - Kazakh 2020 Long-Term Plan for Economic Cooperation’ focused on high value and high-tech trade.²¹³ Alongside this economic integration, political coordination also constitutes a large part of the Chinese engagement in Kazakhstan. Increasing political integration affects all levels of government, and Chinese officials have noted that the SREB would entail significant legislative changes.²¹⁴ This economic relationship was further developed recently during president Tokayev's first state visit to Beijing in 2019. The two presidents vowed to develop a long-term, strategic and comprehensive partnership.²¹⁵ The meeting resulted in a number of agreements being signed on issues ranging from aviation to agriculture and border controls as well as a memorandum of understanding regarding the construction of the SREB in Kazakhstan.²¹⁶ Leaders of both countries reiterated the importance of the relationship and their

²⁰⁷ Georgi Gotev, “Almost Impossible” to Rival China's Business Clout in Central Asia’ (*EURACTIV*, 11 October 2019) <<https://www.euractiv.com/section/central-asia/news/almost-impossible-to-rival-chinas-business-clout-in-central-asia/>>.

²⁰⁸ *ibid.*

²⁰⁹ Clarke (n 99).

²¹⁰ Reeves (n 28) 506.

²¹¹ *ibid* 506–507.

²¹² *ibid* 506.

²¹³ *ibid* 507.

²¹⁴ *ibid.*

²¹⁵ Dilshat Zhussupova, ‘Kazakh, Chinese Leaders Agree to Develop Long-Term Strategic Partnership’ *The Astana Times* (12 September 2019) <<https://www.euractiv.com/section/central-asia/news/kazakh-chinese-leaders-agree-to-develop-long-term-strategic-partnership/>>.

²¹⁶ *ibid.*

cooperation in the future. These high-level commitments from China and Kazakhstan illustrate the importance of their economic relationship and the connectedness of their economies and thus Kazakhstan's dependence on China. While Europe has considerable economic influence in the country and its market is attractive to Kazakhstan, it is not its only major economic partner and therefore can only use its economic leverage partially.

This suggests that this economic leverage may not only work in favour of human rights promotion but also in the opposite way. As will be elaborated on later, the Kazakh government has effectively chosen to ignore human rights violations in the neighbouring Chinese province and even cooperates on the extradition and silencing of human rights defenders from Xinjiang due to its economic and institutional relations with China.

Nevertheless, the model posits that a state will be more vulnerable to international pressure if it has made previous human rights commitments and needs to save face on the international stage. Therefore, if a state desires to be part of the 'in-club' of liberal states, it will be more vulnerable to external pressure. Likewise, if the country received significant military or economic aid, it will be more susceptible to pressure.²¹⁷

This holds true for Kazakhstan which puts a lot of emphasis on its membership in the European community. It sees itself as separate from the other Central Asian nations and is eager to fit in with its Western neighbours. Therefore, the approval of Western countries does appear to matter to the Kazakh elites.²¹⁸ Indeed, it can be argued that Kazakhstan has a 'European' identity based on its historical ties to Europe and its geographical proximity.²¹⁹ Moreover, since its independence, it has a European style conception of statehood, namely a civic idea of the nation as well as citizenship-based and inclusive membership.²²⁰ Its ambitions to be perceived as belonging to Europe further become evident in its 2008 'Path to Europe' strategy.²²¹ Kazakhstan stands out from all other Central Asian countries in its eagerness to join the European community as a member of the OSCE, its observer status in the Council of Europe (CoE) and its attempts to join the European Neighbourhood Policy (ENP).²²²

²¹⁷ Risse, Ropp and Sikkink (n 72).

²¹⁸ Hendrych (n 100).

²¹⁹ Svante E Cornell and Johan Engvall, 'Kazakhstan in Europe: Why Not?' [2017] *Silk Road Papers* 4, 64.

²²⁰ Patalakh (n 42) 5.

²²¹ Cornell and Engvall (n 219) 5.

²²² Plenta (n 11).

This demonstrates that the EU does hold some normative power with regard to Kazakhstan which is eager to join its institutions and to be perceived as a member of the European community including its value system. However, one cannot forget that Kazakhstan is similarly involved in Chinese-led institutions such as the SCO and of course the BRI and has pledged to further cooperation with China. As previously mentioned, the establishment of the SCO has improved the engagement between China and its Central Asian neighbours considerably, indicating increasing cooperation in the future.²²³ China uses the SCO as a forum for its interaction with Central Asian countries and to control transnational politics in the region. Through the SCO China is '*deeply embedded in Central Asia*' and enabled to influence the politics in the region in its image.²²⁴

Moreover, in the Kazakh view of Eurasianism, it does not see itself as distinct from either Europe or Asia but as a 'positive meeting space' between the two.²²⁵ This is also reflected in its multi-vector foreign policy towards its powerful neighbours.²²⁶ The Kazakh leadership has been championing the idea of 'Greater Eurasia', a concept that is more political in meaning than geographic²²⁷ and has ambitions to become one of the 30 most developed countries by 2050.²²⁸ At the 2019 Eurasian conference in Nur-Sultan, Kazakhstan's main message was that the 21st century should be defined by the cooperation between Asia and Europe.²²⁹ Again, these observations highlight that the model assumes the existence of a predominant (Western) value set which the target state aspires to be part of. In reality, however, it appears that even though Kazakhstan aspires to be recognized as a member of the European community, it is also influenced by competing narratives. As Acharya points out: '*(...)while common values are necessary for community building, these need not be liberal democratic values. A shared commitment to economic development, regime security and political stability could compensate for a lack of a high degree of economic interdependence. Moreover, if the former conditions are present, they could pave the way for greater economic and functional cooperation (...)*'²³⁰

²²³ Kerr and Laura C. (n 124).

²²⁴ *ibid* 138.

²²⁵ Cornell and Engvall (n 219) 5.

²²⁶ Patalakh (n 42).

²²⁷ Hendrych (n 100).

²²⁸ Lukáš Hendrych, 'Eurasia Comes Together in Nur-Sultan, but Differences Are Still Big' *EURACTIV.cz* (25 September 2019) <<https://www.euractiv.com/section/central-asia/news/eurasia-comes-together-in-nur-sultan-but-differences-are-still-big/>>.

²²⁹ *ibid*.

²³⁰ Aris (n 128) 477–478.

According to the model, as the international pressure continues, states are inclined to perform minimal and cosmetic changes in order to ward off the criticism. Unfortunately, this is mostly a temporary measure rather than real sustainable change. For instance, it could be the release of high-profile prisoners, rather than a reform of the justice system. This phase may allow domestic opposition to regroup and regain strength. The higher the international interest, the more leverage the local human rights networks have due to their links to their international actors, which can amplify their demands.

One example for these cosmetic changes in light of international criticism and domestic discontent is the aftermath of the 2005 election in Kazakhstan. The Nazarbayev administration had become increasingly worried that economic success would not suffice to maintain regime legitimacy and therefore sabotaged the opposition forces in the run up to the election.²³¹ The election, in which Nazarbayev won with 92 percent of the vote was hence highly criticised by the international community.²³² Observers noted campaign restrictions, the pressuring of voters, interferences at polling stations as well as media bias and restriction of freedom of expression.²³³ Local opposition leaders called it an unprecedented violation of the country's constitution and accused the president of establishing a totalitarian government.²³⁴ Thus, in an effort to appease the international community and the oppositional forces, Nazarbayev stated his commitment to comprehensive democratic reforms in his inauguration speech which is also where he first mentioned his bid for the OSCE rotating presidency, another tool for international legitimization.²³⁵ These promises, however, were always contingent on slow and controlled democratization to avoid social chaos and ultimately perceived as a facade that did little to limit the president's powers.²³⁶ This hesitant stance towards genuine democratization is visible in Nazarbayev's 2007 statement: *'The recent experience of our CIS neighbors has demonstrated with all obviousness that democracy cannot be built where citizens do not observe the law and constitutional order, where deep-rooted social chaos reigns. Not in vain do many think that the results of the "colored" revolutions that have taken place constitute crisis and dashed hopes.'*²³⁷ This statement shows again how fear of 'chaos' and looming

²³¹ Schatz and Maltseva (n 162).

²³² *ibid.*

²³³ Knox (n 90) 478.

²³⁴ Knox (n 90).

²³⁵ Schatz and Maltseva (n 162).

²³⁶ *ibid.*

²³⁷ *ibid* 50.

'crisis' are connected to demands for further democratization. This framing illustrates the incorporation of the SCO narrative in Kazakhstan's understanding of security.

As democratic reform was also one of the prerequisites for the OSCE chair bid, the State Commission for Democratic reform chaired by the president was founded in 2006.²³⁸ The Commission made a list of proposals which were signed into law by president Nazarbayev in 2007.²³⁹ Although the reforms slightly strengthened the role of the parliament and imposed a term-limit on the presidency, their real impact was limited. Firstly, the incumbent president Nazarbayev was excepted from the term limited and therefore able to serve for an indefinite period.²⁴⁰ Secondly, the president retained the power to dissolve the parliament and order new elections at any point.²⁴¹ The limited effects of these reforms were visible in the early election of 2007, in which, despite the new proportional seat allocation, none of the opposing parties won even one seat, making the president's Nur-Otan party the only one represented in the new parliament.²⁴²

In 2007, despite protest from other members, such as the USA and the UK, Kazakhstan applied for the 2009 presidency of the OSCE and assumed it with a year of delay in 2010. At the time, Human Rights Watch (HRW) called on the EU to use its influence to bring Kazakhstan up to the OSCE standards.²⁴³ The next year, however, they judged that the EU had failed to do so and that Kazakhstan's presidency in 2010 was threatening the human rights principles of the entire organization.²⁴⁴ HRW further criticized that the promised reforms were a small step in the right direction but did not suffice to address the human rights situation in the country which is a prime example of cosmetic changes with little real reformatory effect.²⁴⁵ HRW further highlighted that journalists were repressed and intimidated by the criminal justice system and that the freedom of assembly was significantly restricted and subject to extreme police control.²⁴⁶ This exemplifies that the international human rights networks were aware of the

²³⁸ Knox (n 90) 485.

²³⁹ *ibid.*

²⁴⁰ *ibid* 486.

²⁴¹ *ibid.*

²⁴² *ibid.*

²⁴³ 'EU: Menschenrechte Sollen Im Zentrum Der Zentralasien-Strategie Stehen' (*Human Rights Watch*, 17 April 2007) <<https://www.hrw.org/de/news/2007/04/17/eu-menschenrechte-sollen-im-zentrum-der-zentralasien-strategie-stehen>>.

²⁴⁴ 'Kasachstan: OSZE-Verpflichtungen Müssen Erfüllt Werden' (*Human Rights Watch*, 1 December 2008).

²⁴⁵ *ibid.*

²⁴⁶ *ibid.*

human rights situation in Kazakhstan and were actively lobbying Western governments to take action. It appears, however, that the EU and the OSCE members were satisfied with minor changes which had no real impact.

At this point of the spiral model, the government has made some tactical concessions and needs to choose between real change or sliding back into repression. Renewed repression can break the spiral movement as the local opposition is usually still small and dependent on a few key figures.²⁴⁷

In Kazakhstan, it appears that the ruling elite initially opted for more repression and the human rights situation worsened considerably.²⁴⁸ After Kazakhstan was granted the chair of the OSCE, based on strong commitments to genuine democratization and reforms, the issue of democratization quickly lost priority to the regime.²⁴⁹ The president, moreover, specified that democratization would be slow and only proceed at the pace determined by Kazakhstan and not by any international organization.²⁵⁰ Hence, the pledges for democratization and reform were clearly used to appease international criticism and did not produce tangible results.²⁵¹ One blatant example of this rhetoric-action gap is the brutal response to the oil workers protests in 2011, a year after Kazakhstan had assumed the OSCE chair position. Oil workers in Zhanaozen, who were protesting for better wages, were brutally attacked by police forces, leaving at least 10 protestors dead.²⁵² The government felt threatened by the intensity and longevity of the unexpected protests and declared them illegal.²⁵³ Moreover, it restricted information on the protests and police violence by blocking several independent media outlets online.²⁵⁴ This illustrates that severe restrictions of the freedom of assembly and freedom of press were still prevalent even after Kazakhstan had promised to reform. In the following days, hundreds of civilians were arrested and arbitrarily beaten by police officers as well as subjected to degrading and humiliating treatment.²⁵⁵ One detainee died as the result of his injuries.²⁵⁶ Moreover,

²⁴⁷ Risse, Ropp and Sikkink (n 72).

²⁴⁸ 'Kazakhstan/Germany: Make Rights Key to Good Relations' (*Human Rights Watch*, 6 February 2012) <<https://www.hrw.org/news/2012/02/06/kazakhstan/germany-make-rights-key-good-relations>>.

²⁴⁹ Schatz and Maltseva (n 162).

²⁵⁰ *ibid.*

²⁵¹ *ibid.*

²⁵² 'Kazakh Oil Strike: 10 Dead in Zhanaozen Clashes' (*BBC News*, 16 December 2011) <<https://www.bbc.com/news/world-asia-16221566>>.

²⁵³ *ibid.*

²⁵⁴ *ibid.*

²⁵⁵ 'Kazakhstan/Germany: Make Rights Key to Good Relations' (n 248).

²⁵⁶ *ibid.*

extremely strict laws for public assemblies were instrumentalized against the opposition party Azat and its three main leaders.²⁵⁷ This crackdown of the government against protesters and especially against key figures of the opposition movements, show that the government is not ‘walking the walk’ of human rights improvements. Nevertheless, during this time, EU members such as Germany were still trying to foster economic connections, thereby undermining the human rights principles.²⁵⁸

Another example is the extradition of Uighur ‘separatists’ despite international criticism about the treatment of the minority in China.²⁵⁹ In 2011, Kazakhstan extradited Arshidin Israil to China on charges of terrorism despite the outspoken criticism of the UN Human Rights Committee which later found this to be a violation of articles six, seven, and nine of the ICCPR.²⁶⁰ The man of Uighur ethnicity had sought asylum in Kazakhstan after fleeing China due to persecution as he had cooperated with foreign media on a story about violent police practices against Uighur protesters.²⁶¹ In Kazakhstan he was put under house arrest despite his refugee status and subsequently arrested upon an extradition request by China accusing him of terrorist activities and endangering public safety.²⁶² Disregarding the UN Human Rights Committee's request for interim measures to delay extradition due to the real chance of him facing torture or even the death penalty upon his return to China, Kazakh authorities extradited him.²⁶³ This is a continuing problem as Kazakhstan has been repeatedly criticized by the UN Committee Against Torture for the extradition of individuals to countries where they are likely to be subjected to torture.²⁶⁴ For example, despite the clear statement of the UN Human Rights Committee that the non-refoulement principle needed to be upheld even in light of extradition agreements within the SCO, in June 2011, Kazakhstan extradited 28 men to Uzbekistan on ‘anti-state’ and religion-related charges and ignored interim procedures by the Committee against Torture.²⁶⁵ This exemplifies Kazakhstan's loyalty to the SCO security principles and its

²⁵⁷ *ibid.*

²⁵⁸ *ibid.*

²⁵⁹ Dave and Kobayashi (n 27).

²⁶⁰ Matthew Windsor, ‘Case Watch: UN Holds Kazakhstan Accountable in Uighur Extradition Case’ (Open Society Justice Initiative 2012) <<https://www.justiceinitiative.org/voices/case-watch-un-holds-kazakhstan-accountable-uighur-extradition-case>>.

²⁶¹ *ibid.*

²⁶² *ibid.*

²⁶³ *ibid.*

²⁶⁴ ‘Kazakhstan: Improper Prosecution of Asylum Seekers from China Men from Xinjiang at Risk of Arrest, Torture’ (*Human Rights Watch*, 9 January 2020)

<<https://www.hrw.org/news/2020/01/09/kazakhstan-improper-prosecution-asylum-seekers-china>>.j

²⁶⁵ Windsor (n 260).

extensive cooperation with China on suppressing dissent under the guise of terrorism and separatism charges. Indeed, the 'Uighur problem' in the Xinjiang province is the main reason for China's continued promotion of the SCO mechanisms since the early 2000s and Kazakhstan has similarly become concerned with extremists groups on its territory.²⁶⁶ The SCO has been used as a forum for China and Central Asian countries to cooperate on the 'Uighur' problem by targeting activists and rebels and especially the Kazakh security forces are closely observing the Uighur community in their territory.²⁶⁷ It moreover showcases a blatant disregard for international human rights law and its enforcing bodies on Kazakhstan's part and raises concerns about Kazakhstan's commitment to the principles inherent in the treaties it has ratified.

Overall, Kazakhstan's stance towards the human rights violations in China is ambiguous at best. In a 2019 interview, president Tokayev declared that the accusations against China's human rights abuses in the bordering province of Xinjiang were made up and purposefully exaggerated.²⁶⁸ He moreover insisted that Kazakhstan did not want to become the arena of the global 'anti-Chinese' front supposedly based on the geopolitical interests of the US.²⁶⁹ Thus the president is hesitant to criticize any human rights violations in China based on the principle of non-interference in domestic affairs which illustrates the extent of influence China has over Kazakhstan.

Moreover, in recent years, Kazakhstan's civic space has become increasingly restricted due to legislation regulating foreign funding. Since 2015 the scope of NGO work has been further confined to the social sphere, restricting work in the democracy and human rights sector severely.²⁷⁰ The new funding law further requires all NGO funding to be managed through a state operating system which gives the government control over the NGOs which are eligible to receive funding and does not list human rights as one of the recognized fields of NGO activity.²⁷¹ This has also affected media freedom. One example is the targeting of Zhanbolat

²⁶⁶ Aris (n 128).

²⁶⁷ *ibid.*

²⁶⁸ Zhanna Nemzowa, 'Präsident Tokajew: "Deutschland Ist Für Kasachstan Ein Wichtiger Partner"' *Deutsche Welle* (4 December 2019) <<https://www.dw.com/de/pr%C3%A4sident-tokajew-deutschland-ist-f%C3%BCr-kasachstan-ein-wichtiger-partner/a-51517692>>.

²⁶⁹ *ibid.*

²⁷⁰ Aina Shormanbayeva, 'Kazakhstan: A Showcase for Shrinking Civic Space' (*OpenDemocracy*, 7 June 2017) <<https://www.opendemocracy.net/en/odr/kazakhstan-showcase-for-shrinking-civic-space/>>.

²⁷¹ Joanna Lillis, 'Kazakhstan: NGO Law Approved Amid Civil Society Resistance' (*Eurasianet*, 2 December 2015) <<https://eurasianet.org/kazakhstan-ngo-law-approved-amid-civil-society-resistance>>.

Mamai by Kazakh authorities. He is the editor of one of Kazakhstan's few independent newspapers and the leader of the human rights initiatives 'Liberty' and 'Kady-kassiet'.²⁷² Media outlets are often persecuted on charges of insult, slander or damaging the reputation of officials. This has created an atmosphere of self-censorship and a media landscape which is highly dependent on the state.²⁷³ Moreover, in 2017, Kazakhstan amended its penal code on anti-extremism. As will be elaborated on later, the new law suffers from vague definitions on what is considered extremism and terrorism and is therefore easily misappropriated to squash opposition movements and suppress the freedom of assembly.²⁷⁴ All of these examples show that despite official commitments to liberalization and democracy, widespread violations of the freedom of assembly, association, opinion and press remain.

Following the model, however, renewed repression will not suspend the opposition forever but simply delay the timeframe of the spiral model. At this stage, ongoing repression is costly for the government's legitimacy and may invite ongoing criticism and validate previous concerns.²⁷⁵ At the same time, the opposition may consistently gain strength. In this case the government is no longer in control of the situation as any new indiscretion will trigger criticism from below and above. The pressure from above could take the form of foreign aid contingent on human rights improvements. Pressure from below would mean that the state repression loses its efficiency and people lose their fears. New opposition movements are then often centred around the notion of human rights.

Although Kazakhstan has become the target of international criticism for a long time, it does not seem to have considerably affected regime legitimacy. The majority of the population seemed to prioritize the economic growth provided by the incumbent regime over an improvement in civil liberties. This mindset is perfectly captured in an interview with an Almaty resident before the 2019 election, who said: *'I cast my ballot for Tokayev. You never know what could happen if an opposition politician came to power (...) Revolutions, pogroms,*

²⁷² Shormanbayeva (n 270).

²⁷³ *ibid.*

²⁷⁴ 'Preliminary Findings of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism on Her Visit to Kazakhstan' (*United Nations Human Rights -Office of the High Commissioner*)

<<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24637>>.

²⁷⁵ Risse, Ropp and Sikkink (n 72) 25.

*unrest. What do we need all that for? I want peace and stability.*²⁷⁶ Nonetheless, local opposition has been growing. In 2019, Kazakhstan witnessed a great increase of protests and demonstrations, especially leading up to the presidential elections.²⁷⁷ A new youth movement called Oyan, Qazaqstan (Wake up, Kazakhstan) has emerged in the run-up of the presidential election and is the first real display of political confrontation in the country's history since its independence.²⁷⁸ The movement is centred around demands for political freedoms and human rights and is aiming for radical political reform by abolishing the presidential mode of governance and creating a parliamentary democracy to counter the concentration of power.²⁷⁹ However, one of the movement's most prominent leaders, Alzhanov, was arrested twice during the three-day protests, among 700 other protesters which showcases the degree of political repression.²⁸⁰

The model suggests that at this stage, domestic governments no longer deny the validity of human rights when making tactical concessions that were solely strategic before. Instead, shaming by other (Western) countries and INGOs now creates an ingroup and an outgroup of states, and violation positions them in the outgroup which could be negative for their international image.²⁸¹ This shaming process is often backed by material sanctions. The governments that thought the first tactical concessions were not costly now become entrapped in their own rhetoric and realize too late that the situation is no longer in their control.²⁸²

Although Kazakhstan has suffered international criticism from organizations, such as the OSCE, the European Parliament and several UN bodies, these have not affected its relationship with the EU or China significantly. Despite international and even internal criticism, the EU moved to conclude the EPCA agreement with Kazakhstan as early as 2016 in provisional application. No economic or political sanctions were employed despite the negative human rights record of Kazakhstan and repeated criticism for the European Parliament. During the negotiation phase, the EU could have made a stronger claim for human rights, as this is the

²⁷⁶ Peter Leonard, 'With Kazakhstan's Presidential Election over the Real Work Begins' (*Eurasianet*, 10 June 2019) <<https://eurasianet.org/with-kazakhstans-presidential-election-over-the-real-work-begins>>.

²⁷⁷ 'Kazakhstan - Events of 2019' (2020) <<https://www.hrw.org/world-report/2020/country-chapters/kazakhstan>>.

²⁷⁸ Joanna Lillis, 'Kazakhstan: Waking up to Reform' (*Eurasianet*, 11 June 2019) <<https://eurasianet.org/kazakhstan-waking-up-to-reform>>.

²⁷⁹ *ibid.*

²⁸⁰ *ibid.*

²⁸¹ Risse, Ropp and Sikkink (n 72) 27.

²⁸² Risse, Ropp and Sikkink (n 72).

time when the EU is in its strongest negotiating position before concluding a new trade agreement. The European market and the closer cooperation in many subject areas would be suitable material incentives for stronger human rights commitments. Unfortunately, despite ongoing and repeated criticism from the European Parliament and NGOs, the EPCA was ratified despite ongoing human rights concerns.

The model posits that eventually, the target government will engage in genuine human rights dialogue. Though it may still reject the validity of allegations, they now engage in the controversy. This controversy may take place in public, such as International Organizations and their dedicated human rights bodies. The more governments become entrapped in this discourse, the more they will also make rhetorical concessions and the concern about their reputation will keep them in this ongoing dialogue. As a result, INGOs will take governments more seriously and engage in genuine dialogue and vice versa. In this way, the originally instrumental dialogue becomes a real one. In some cases, countries will engage in so-called ‘controlled liberalization’ and begin to implement human rights norms domestically.²⁸³

Ever since 2015, Kazakhstan has begun to implement reforms including a 100-step programme for the improvement of government transparency and efficiency and in 2017, the government adopted a wide-reaching constitutional reform package including a limitation of the president’s powers.²⁸⁴ Although Kazakhstan has largely liberalized the economy, the political process remains to be controlled from the top down.²⁸⁵ However, the new reforms suggest that the country is moving toward a slightly more pluralistic system.²⁸⁶

Some of these processes are visible in recent political developments in Kazakhstan. When the long-time president Nursultan Nazarbayev stepped down after ruling the country for 30 years, the new president Tokayev was officially elected in 2019.²⁸⁷ In his first address to the country, he contended that the economic development of Kazakhstan is not possible without socio-political reform, hinting at liberalization.²⁸⁸ He made it clear, however, that this will be a controlled process as he stated that unsystematic political liberalisation is a threat to statehood

²⁸³ *ibid.*

²⁸⁴ Cornell and Engvall (n 219) 5.

²⁸⁵ *ibid* 6.

²⁸⁶ Cornell and Engvall (n 219).

²⁸⁷ Georgi Gotev, ‘Kazakhstan’s New President Vows to Pursue Controlled Democratisation’ *EURACTIV.com* (3 September 2019) <<https://www.euractiv.com/section/central-asia/news/kazakhstans-new-president-vows-to-pursue-controlled-democratisation/>>.

²⁸⁸ *ibid.*

and stability.²⁸⁹ In this address, he outlined a vision of more engagement of the state with its citizens and civil society as well as improved pluralism and cooperation with the opposition. Moreover, he used this national address to stress the constitutionally guaranteed freedoms of press and assembly by taking a stance on the demonstrations that had been banned to the outskirts of the capital.²⁹⁰ Despite these promising statements it is important to remember the recent use of force against peaceful protesters and to keep in mind that Tokayev was the chosen successor and mentee of Nazarbayev. He formerly served as the speaker of the senate and subsequently as the interim president.²⁹¹ Therefore, his sweeping success of 70 percent of the vote did not come as a surprise to many observers.²⁹²

Moreover, during the 2019 presidential elections, several human rights violations were found. In a preliminary statement the OSCE noted several irregularities in the election process as well as widespread detention of protestors on election day.²⁹³ The protesters, led by the opposition groups, were claiming that the election had a predetermined outcome and was merely a democratic facade.²⁹⁴ Meanwhile, the government described the protests as radical and seeking to destabilize society.²⁹⁵ Here the rhetoric of painting political opposition as extremists or a threat to inner stability can be observed once again.

Interestingly, however, in the 2019 election, the opposition candidate Kosanov won 16 per cent of the vote, which is the most any opposition candidate has ever won in Kazakhstan's history, offering a glimmer of hope for more pluralism in the future.²⁹⁶ In an attempt to appease public discontent about the election, the newly elected president Tokayev established a committee for public confidence which raised hopes for a more cooperative and inclusive government.²⁹⁷ Moreover, the main opposition candidate, Amirzhan Kosanov, claimed that although he had faced major difficulties as a representative of the opposition, including violence, he believed

²⁸⁹ *ibid.*

²⁹⁰ *ibid.*

²⁹¹ Sarantis Michalopoulos, 'Tokayev Triumphs in Kazakh Elections amid Tensions' *EURACTIV.com* (10 July 2019) <<https://www.euractiv.com/section/central-asia/news/tokayev-triumphs-in-kazakh-elections-amid-tensions/>>.

²⁹² *ibid.*

²⁹³ 'Kazakhstan Election Condemned by International Observers' (*BBC*, 10 June 2019) <<https://www.bbc.com/news/world-asia-48580226>>.

²⁹⁴ Michalopoulos (n 291).

²⁹⁵ 'Kazakhstan Election Condemned by International Observers' (n 293).

²⁹⁶ Leonard (n 276).

²⁹⁷ Lillis (n 278).

that the new central government had realised that the opposition was needed.²⁹⁸ An anonymous diplomat even claimed that the new president was going to put opposition members in charge of human rights related issues.²⁹⁹ Thus, a positive development can be seen with the first change in leadership since Kazakhstan's independence. President Tokayev openly commits to the values of democratization and human rights and seems to be open to more dialogue with civil society. The first tactical concessions have been made and the country has made numerous official commitments to change. It remains to be seen whether Tokayev will be able (and willing) to bring about meaningful change for the human rights situation in the country. Nevertheless, repression remains, and the former president maintains a powerful position behind the scenes. Moreover, China's economic and normative influence remains to pose a challenge to the realization of human rights and fundamental freedoms in Kazakhstan.

3.1.6 Phase 4 - Prescriptive Status

The fourth phase is reached when the target state refers to human rights norms when talking about its own behaviour as well as those of others. The validity of such norms is no longer controversial and argumentative behaviour is most important. It remains difficult to tell whether the government truly means what it says or if it is simply 'talking the talk' to win approval from Western governments. Three main developments can show whether a country has reached the prescriptive status: (1) It ratified international human rights conventions and their protocols; (2) Norms are institutionalized into domestic law and institutions; (3) Discursive practices of human rights acknowledge the validity of human rights. It is important to assess the argumentative consistency of the state independent of its audience and the political and economic circumstances. Also, words need to be matched with action in order to progress to the final phase.³⁰⁰

(1) Ratification of International Human Rights Instruments

The rate of ratification of international human rights conventions in Kazakhstan is high. Kazakhstan is a state party to 13 of the main 18 human rights treaties and protocols, signed two and has taken no action on three,³⁰¹ although it is moving towards action on the second protocol

²⁹⁸ Michalopoulos (n 291).

²⁹⁹ *ibid.*

³⁰⁰ Risse, Ropp and Sikkink (n 72) 29–30.

³⁰¹ 'Status of Ratification - Interactive Dashboard' (n 184).

to the ICCPR on the abolition of the death penalty.³⁰² Most of the core treaties were ratified after the dissolution of the Soviet Union in the late 1990s and early 2000s.³⁰³ For reference, this number of ratifications is considerably higher than that of the USA with five ratifications and China with eight ratifications but equal to Canada.³⁰⁴ It has been argued that the ratification of international human rights treaties does not necessarily lead to an improvement of the human rights situation in a given country.³⁰⁵ Indeed, countries with very negative human rights records tend to ratify human rights treaties at a similar rate as those with positive records, showing that the mere number of ratification is not a good indicator for a real commitment to the values therein.³⁰⁶ This appears to be especially relevant for countries in which the government is highly autonomous and the state is subjected to external normative pressure to commit to human rights.³⁰⁷ Therefore, ratifying human rights treaties is a simple way for regimes to react to international human rights criticisms.³⁰⁸ Recently, during a visit of the new foreign minister to Brussels, members of the European Parliament (EP) especially applauded Kazakhstan's ambitions to accede to the second protocol of the ICCPR on the abolition of the death penalty, as well as promises to decrease restrictions on the freedom of press and association.³⁰⁹ It is hard to tell whether these official commitments will bring about real change or further contribute to the prescriptive status to win approval from Western governments. As previously mentioned, Kazakhstan ratified many of the core human rights treaties relatively quickly after its independence and thus during an earlier stage of the spiral model. However, its human rights record does not reflect its commitment to the rights inherent in these conventions, especially the ICCPR and the CAT. This raises further doubts about the genuine impact of treaty ratification on the internalization of human rights norms in Kazakhstan.

(2) Institutionalization of Human Rights Norms

Some examples for the institutionalization of human rights in Kazakhstan are the human rights institutions created by former president Nazarbayev, namely the Presidential Commission on

³⁰² Elya Altynasarina, 'FM Visits Brussels in Advance of Start of New Kazakhstan-EU Cooperation Agreement Entry into Force' *Astana Times* (Nur-Sultan, 23 January 2020).

³⁰³ 'Status of Ratification - Interactive Dashboard' (n 184).

³⁰⁴ *ibid.*

³⁰⁵ Emilie M Hafner-Burton, Kiyoteru Tsutsui and John W Meyer, 'International Human Rights Law and the Politics of Legitimation: Repressive States and Human Rights Treaties' (2008) 23 *International Sociology* 115.

³⁰⁶ *ibid* 117.

³⁰⁷ *ibid.*

³⁰⁸ *ibid.*

³⁰⁹ Altynasarina (n 302).

Human Rights established in 1994, and the Ombudsman for Human Rights established in 2002.³¹⁰ It is interesting to note that these institutions were established relatively shortly after independence and thus earlier than the spiral model predicted. Though these institutions sound promising, they only have a limited impact. The commission lacks the ability to enforce any of its recommendations and the Ombudsman is directly appointed by the president and therefore not impartial.³¹¹ Though the Ombudsman is supposed to interact with civil society, this interaction is closely monitored to contain any threat to the ruling elite.³¹² Moreover, Kazakhstan has established preventive mechanisms regarding torture and ill-treatment. However, these are inaccessible to the affected persons and lack confidentiality and transparency.³¹³ Furthermore, torture and ill-treatment and their impunity remain to pose a significant challenge in Kazakhstan due to the lack of a truly independent investigation mechanism. In 2018, despite 176 complaints to the General prosecutor, not a single conviction took place, and of 31 criminal procedures, 29 were discontinued.³¹⁴ Lastly, Kazakhstan initiated a National Action Plan on human rights in 2009, but even four years after its launch almost no significant improvements were visible, calling into question the genuine commitment of the Kazakh leadership to human rights.³¹⁵ These examples show that despite the institutionalization of human rights norms in various forms, their reach remains extremely limited. The design of these institutions restricts them in their intended function and therefore does not allow for independent work or genuine challenge to the regime. Again, the institutionalization of human rights norms took place earlier than predicted by the spiral model. It suggests that Kazakhstan was already aware of the importance of human rights to its international standing early on within the socialization process in the 1990s due to its socialization in a different stage of 'world time'. Overall, Kazakhstan's institutionalization of these human rights norms, does not reflect a genuine commitment to them, as the previous examples have shown.

³¹⁰ Aaronson (n 157).

³¹¹ *ibid.*

³¹² *ibid.*

³¹³ 'Preliminary Findings of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism on Her Visit to Kazakhstan' (n 274).

³¹⁴ 'Kazakhstan 2019' (*Amnesty International*, 2019) <<https://www.amnesty.org/en/countries/europe-and-central-asia/kazakhstan/report-kazakhstan/>>.

³¹⁵ Tsertsvadze and Axyonova (n 92).

(3) Discursive Practices

Tokayev's own description of his country even before his presidency matches the argumentative behaviour described in the spiral model. He praised the progress in party pluralism and the multitude of NGOs in Kazakhstan.³¹⁶ Further, he contended that stability should not come at the expense of the democratic values and rejected the claim that Kazakhstan is an undemocratic country defending it as a young democracy which is still developing.³¹⁷ Despite this clear commitment to democratic values he maintained that there needs to be a balance between democracy and stability.³¹⁸ The new president has made many very promising speeches and commitments to more democracy, civil freedoms and diversity in the political life of Kazakhstan. In an address to the newly established National Council on Public Trust, he stressed the importance of including multiple opinions.³¹⁹ Tokayev further introduced the idea of a 30 percent quota for women and youth and eased the requirements for forming a political party. This could potentially lead to more civil engagement and political plurality in the parliament.³²⁰ Moreover, he spoke of plans to fundamentally change the laws on the freedom of assembly, which would be a major achievement.³²¹ Lastly, he announced to launch investigations into torture allegations in Kazakhstan's prisons.³²² Nevertheless, it is important to keep in mind that former president Nazarbayev remains on the political scene and still has considerable powers. He remains the head of the Nur-Otan party and chairs the Security and Constitutional Council.³²³ This could hamper the ability of Tokayev to introduce meaningful change and pose challenges to future human rights promotion. Moreover, as previously shown, Tokayev appears unlikely to address human rights violations with China and remains reluctant to criticize its neighbour internationally. Thus, his discursive practices on human rights are very dependent on his audience.

³¹⁶ Gotev, 'Kazakhstan, a Fledgling Democracy Bent on 'stability' (n 199).

³¹⁷ *ibid.*

³¹⁸ *ibid.*

³¹⁹ Alberto Turkustra and Calum Thomson, 'Note of Comment on President Tokayev's Address to the National Council of Public Trust' (*European Institute for Asian Studies*) <<https://www.eias.org/news/note-of-comment-on-president-tokayevs-address-to-the-national-council-of-public-trust/>>.

³²⁰ *ibid.*

³²¹ *ibid.*

³²² Martin Russell, 'Kazakhstan: Transition, but Not Much Change' (European Parliamentary Research Service 2019).

³²³ *ibid.*

Even though the criteria of stage four are fulfilled to some extent, it seems too early to say that Kazakhstan has moved on to the final phase of rule-consistent behaviour. Violations of fundamental rights and freedoms remain and promises of more liberalization stay unfulfilled. It appears that the prescription to human rights norms is mostly performative and has not led to genuine internalization. In 2019, Freedom House still classified Kazakhstan as ‘not free’ with only 22 out of 100 points combining scores on civil liberties and political rights. In 2020, the score merely increased by one point.³²⁴ Moreover, in its 2019 report, Amnesty International criticized that many restrictions, especially regarding the freedoms of assembly, association and press remain and have partially even become more restricted under the new anti-extremism laws.³²⁵ In 2019 alone, there were multiple instances of protesters and activists being arbitrarily detained without access to legal representation.³²⁶ Following her visit to Kazakhstan in 2019, the UN Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism raised serious concerns about the impact of anti-extremism and anti-terrorism legislation on fundamental rights in the country.³²⁷ She noted that the legislation was clearly misused to obstruct the work of civil society actors, religious minorities and political opposition.³²⁸ The preliminary findings of her visit outline that the vague language of the legislation and its arbitrary application undermine several fundamental freedoms stipulated in the ICCPR to which Kazakhstan is a party.³²⁹ These include violations of the freedom of expression, and association as well as freedom from ill-treatment and torture and the right to a fair trial.³³⁰

A concrete example is the activist Bilash who has been raising awareness about the human rights violations in China's Xinjiang province against ethnic Uighurs. He was one of the most vocal and important activists raising awareness about the situation in China's 're-education camps' and regularly cooperated with human rights NGOs such as Amnesty International on

³²⁴ ‘Freedom in the World 2020 - Kazakhstan’ (*Freedom House*, 2020)
<<https://freedomhouse.org/country/kazakhstan/freedom-world/2020>>.

³²⁵ ‘Kazakhstan 2019’ (n 314).

³²⁶ *ibid.*

³²⁷ ‘Kazakhstan: UN Expert Urges Reform of Law and Practice on Terrorism and Extremism’ (*United Nations Human Rights -Office of the High Commissioner*, 17 May 2019)
<<https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=24620&LangID=E>>.

³²⁸ *ibid.*

³²⁹ ‘Preliminary Findings of the Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms While Countering Terrorism on Her Visit to Kazakhstan’ (n 274).

³³⁰ *ibid.*

the issue.³³¹ The Kazakh government refused to recognize his human rights activist group Atayurt.³³² He has since been banned from activism after being arrested on grounds of 'incitement', a vague term related to the anti- extremism and terrorism legislation.³³³ He was released from prison into house arrest under the condition that he would cease all activism against China.³³⁴ Williamson of Human Rights Watch argues that this plea bargain not only shows an utter disregard for justice and the rule of law but also further '*demonstrates Kazakhstan's readiness to sacrifice human rights to maintain good relations with its neighbour, China*'.³³⁵ Bilash's detention shows Kazakhstan's compliance in China's human rights abuses due to its financial dependence on its neighbour.³³⁶ It further exemplifies that China is using its economic influence over Kazakhstan to sway its opinion and to shape the narrative on its conduct in Xinjiang in its favour.³³⁷ This is especially prominent in Kazakhstan due to the shared border but not restricted to it alone. Other countries involved in the BRI, such as Pakistan, have also become quiet on the Uighur situation and denied any knowledge of re-education camps.³³⁸ Bilash's lawyer Umarova was quoted saying "*Our government doesn't want to spoil relations with China. (...) Chinese investment is important, and any information or activism that can damage that is extremely sensitive to the Kazakh government.*" which perfectly summarizes Kazakhstan's approach to anti-Chinese activism.³³⁹ Reactions from European governments have been moderate at best. No official statements have been issued by the EU, but the European Parliament submitted a resolution on Bilash's and related arrests of activists in Kazakhstan.³⁴⁰

Moreover, freedom of association, especially for trade unions remains extremely restricted.³⁴¹ Even under President Tokayev's promised new law which was supposedly aimed at making

³³¹ Daniel Balson, 'Who Will Speak for Serikzhan Bilash? Not Washington.' *The Diplomat* (20 May 2019) <<https://thediplomat.com/2019/05/who-will-speak-for-serikzhan-bilash-not-washington/>>.

³³² 'Kazakhstan - Events of 2019' (n 277).

³³³ *ibid.*

³³⁴ Hugh Williamson, 'Silencing of Activist Shows Kazakhstan's Contempt for Rights' (*Human Rights Watch*, 21 August 2019) <<https://www.hrw.org/news/2019/08/21/silencing-activist-shows-kazakhstans-contempt-rights>>.

³³⁵ *ibid.*

³³⁶ Balson (n 331).

³³⁷ Reid Standish, 'Our Government Doesn't Want To Spoil Its Relations With China' *The Atlantic* (3 September 2019) <<https://www.theatlantic.com/international/archive/2019/09/china-xinjiang-uighur-kazakhstan/597106/>>.

³³⁸ *ibid.*

³³⁹ *ibid.*

³⁴⁰ GUE/NGL Group, 'European Parliament Resolution on Human Rights Situation in Kazakhstan (2019/2610(RSP))' <https://www.europarl.europa.eu/doceo/document/B-8-2019-0206_EN.html>.

³⁴¹ 'Kazakhstan 2019' (n 314).

assemblies easier, little has changed.³⁴² Though not requiring an official permit, protests still need to be registered with the competent authorities at least 3-7 days prior and remain limited to designated areas chosen by the administration.³⁴³ Restrictions on union activities are ongoing and have been heavily criticized by the International Labour Organization.³⁴⁴ Unions were continuously denied registration and three leaders, Kushakbaev, Eleusinov and Kharkova, remain banned from leading a union.³⁴⁵

Another example that illustrates that Kazakhstan is still far from reaching human rights compliance and is influenced by China's economic interests, is the violent response to criticism of Chinese investments in the country. In September 2019, anti-Chinese protests were met with force and resulted in around 300 arbitrary arrests, showcasing the level of political repression.³⁴⁶ Protests initially occurred in the western city of Zhanaozen but quickly drew support from other cities including the capital.³⁴⁷ The list of complaints included upset about promises of additional factories that were supposed to be moved from China to Kazakhstan as well as environmental pollution by Chinese enterprises and lastly the persecution of Kazakhs in Xinjiang which the government ignores in favour of Chinese investments.³⁴⁸ Moreover, Kazakhstan is following China's model of civilian surveillance. In October 2019, the Kazakh president ordered the use of Hikvision technology, the same company that supplied the technology for the surveillance and suppression in the Xinjiang province, for video surveillance and data processing of Kazakh citizens.³⁴⁹

Concluding the spiral model's application, it appears that Kazakhstan is momentarily between phase three and four of the spiral model. Although the state has made some concessions and openly committed itself to human rights norms through ratifications of international human rights law, trade agreements and more, the reality on the ground looks different. Even though in the speeches of new president Tokayev one can see hints of ambition to liberalize the

³⁴² Mihra Rittmann, 'Kazakhstan's "Reformed" Protest Law Hardly an Improvement Serious Restrictions on Right to Free Assembly Remain' (*Human Rights Watch*, 28 May 2020) <<https://www.hrw.org/news/2020/05/28/kazakhstans-reformed-protest-law-hardly-improvement>>.

³⁴³ *ibid.*

³⁴⁴ 'Kazakhstan - Events of 2019' (n 277).

³⁴⁵ *ibid.*

³⁴⁶ Savchenko, Osavoliuk and Savchenko (n 26).

³⁴⁷ Umarov Temir, 'What's Behind Protests Against China in Kazakhstan?' (*Carnegie Moscow Center*, 30 October 2019) <<https://carnegie.ru/commentary/80229>>.

³⁴⁸ *ibid.*

³⁴⁹ Savchenko, Osavoliuk and Savchenko (n 26) 9–10.

political life of Kazakhstan, it is always made contingent on development and stability. This authoritarian approach of ‘economy first, rights later’ shows hints of the Chinese inspired development model discussed above. Moreover, China’s influence on the repression of civil society and human rights activists in Kazakhstan has become apparent throughout the analysis and there is little that suggests that the new president will stand up to China. It remains to be seen if Tokayev will keep his promises and lead the country into an era of more openness and respect for human rights. Until now, however, it appears that little progress has been made.³⁵⁰ The country succeeded at portraying a positive image of itself abroad while only performing cosmetic changes at home.³⁵¹ The fulfilment of the international demands, such as those of the European Union, are only partially implemented due to the diverse economic and political influence in the country. Thus, it has not yet reached the threshold of moving onto phase five of the spiral model in which external pressure is no longer needed for compliance.

3.1.7 Phase 5 - Rule-Consistent Behaviour

It is essential to understand that prescriptive status is not the same as consistent behaviour. It is therefore crucial to keep up the pressure to achieve sustainable improvements. This is especially important because gross and visible human rights abuses may decrease and therefore reduce international attention while other human rights violations persist away from the public eye.³⁵² Western governments are often satisfied with the prescriptive status, but sustainable success will only be achieved with continuous pressure from above and below.³⁵³ Especially in the early phases, pressure from Western regimes, organizations and human rights networks is crucial to put repression on the international agenda, to start the shaming process and to engage in moral consciousness raising.³⁵⁴ Moreover, these actors need to empower and strengthen the weak opposition. In the later stages, the domestic support is more important. This process of internalization can only work if the pressure from above is supplemented with pressure from below. Thus, further engagement from the EU is needed for Kazakhstan to move ahead within the spiral model of human rights socialization. In the following section, selected EU instruments for human rights promotion will be discussed and evaluated on their efficiency to contribute to sustainable human rights change in Kazakhstan.

³⁵⁰ Tsertsvadze and Axonova (n 92).

³⁵¹ *ibid.*

³⁵² Risse, Ropp and Sikkink (n 72) 31–33.

³⁵³ *ibid.* 32.

³⁵⁴ *ibid.* 34.

3.2 EU Tools for Human Rights Promotion

According to the former Commission president Barroso, the EU is looking for a politically stable partner in Central Asia and believes to have found one in Kazakhstan.³⁵⁵ However, the stability does not come from good governance and democratic structures but from a ‘strong man’, thus contradicting the EU’s security conception based on democracy, human rights and the rule of law.³⁵⁶ While Kazakhstan is maybe more stable than other countries in the region, it cannot be described as democratic and adherent to human rights principles.³⁵⁷ Although the European Union is so committed to even these principles, it appears hesitant in promoting its core values when dealing with a resource-rich country such as Kazakhstan.³⁵⁸

It is important to consider that neglecting human rights and democratization efforts in favour of economic cooperation can have negative consequences for Kazakhstan, Central Asia, and the EU itself. The prevalence of authoritarian regimes in the region has led to social tensions which could become incubators for radicalization and conflict.³⁵⁹ Interaction with countries like China may be more comfortable for Kazakhstan’s leadership as they do not require democratic reforms or human rights standards but they may come at the cost of economic dependency and loss of sovereignty.³⁶⁰ Similarly, by continuously justifying further cooperation with authoritarian regimes which blatantly ignore human rights principles, the EU is contributing to their legitimization in the long run. However, the EU also has some leverage which it could use to move Kazakhstan towards compliance, as it is an important partner for technology and export and depicts an alternative to traditional partners such as Russia.³⁶¹

In the 2013 review of the spiral model, Risse and Sikkink point out the different methods of human rights promotion that can be used within the spiral model.³⁶² There is no one fits all approach to human rights promotion that is suitable for every context; rather a balanced and tailored approach needs to be applied in order to achieve the best results.³⁶³ Depending on whether a state is willing but not able to implement human rights or vice versa, techniques may

³⁵⁵ Tsertsvadze and Axyonova (n 92).g

³⁵⁶ *ibid* 1.

³⁵⁷ Tsertsvadze and Axyonova (n 92).

³⁵⁸ *ibid*.

³⁵⁹ Savchenko, Osavoliuk and Savchenko (n 26).

³⁶⁰ *ibid*.

³⁶¹ Tsertsvadze and Axyonova (n 92).

³⁶² Risse and Sikkink (n 78) 276.

³⁶³ Risse and Sikkink (n 78).

vary.³⁶⁴ The authors name (1) coercion, (2) incentives – sanctions and rewards; (3) persuasion and discourse, and (4) capacity-building as four possible techniques.³⁶⁵ The thesis posits that the EU already has developed mechanisms for three out of the four techniques and needs to apply them more consistently and genuinely in its promotion of human rights. With the exception of coercion, as the EU is not a military actor and this thesis is focused on its normative influence, the remaining three techniques can be found in already existing human rights instruments of the EU. In the following, I will therefore outline some of the instruments available to the EU and discuss their effectiveness and possibilities for improvements in the future. The section will first discuss the impact of the Central Asia strategies at large and then focus on three specific instruments, namely trade agreements, the human rights dialogues and the rule of law initiative.

3.2.1 Central Asia Strategy

The first EU Central Asia strategy of 2007 was a big step for the EU's activity in Kazakhstan but it quickly had to take a backseat to other priorities of the Union including the war in Georgia, the relationship with Russia and the ongoing conflict in Afghanistan.³⁶⁶ Moreover, the overly generalized goals voiced in this first strategy only produced very modest results with the exception of continuous political dialogue.³⁶⁷ Even though both the 2007 strategy and the previous regional strategy paper had sections devoted to human rights, they were not prioritized. As Hoffmann puts very fittingly in her analysis of the 2007 strategy's impact on good governance in Central Asia: *'it seems quite likely that the Central Asian states will be able to ignore critical governance-related initiatives from the European Union, given that the latter's strategy does not seem to place equal emphasis on interest- and value-based elements.'*³⁶⁸ This perfectly summarizes the critiques of the 2007 strategy which prioritizes economic and security concerns over genuine promotion of the EU's core values. It is moreover important to note that the strategy constituted a shift in the EU's approach to human rights promotion away from sanctions and hard conditionality to norm diffusion through dialogue as the EU did not have enough credible leverage over any Central Asian country at the time.³⁶⁹ Overall, the 2007 strategy had little to no impact on the human rights situation and some critics

³⁶⁴ *ibid.*

³⁶⁵ *ibid* 276.

³⁶⁶ Plenta (n 11).

³⁶⁷ *ibid.*

³⁶⁸ Hoffmann (n 6) 101.

³⁶⁹ Hoffmann (n 6).

even argue that the EU's engagements coincided with severe rollbacks of freedom of speech and press freedom.³⁷⁰ Thus, there was a clear need for a new and improved approach to the region.

In the development phase of the new strategy, the EU's internal struggles were hindering the development of a coherent strategy.³⁷¹ In Central Asia, the EU faces a new reality of promoting its values, as the Central Asian countries have no realistic chance of EU membership and they are not part of the European Neighbourhood Policy (ENP) either.³⁷² Kavalski and Cho point out that the EU urgently needs to find an alternative to its norm promotion beyond enlargement prospects to avoid an approach that is simply reactive, inconsistent and disconnected.³⁷³ As Grabbe argues, in the enlargement process, the negotiations were combined with a Europeanization process which is focused on a common future together.³⁷⁴ The prospect of membership was so strong that countries were more likely to accept stricter conditions or seemingly unfavourable deals.³⁷⁵ Kazakhstan, however, has no such immediate prospects and thus the incentives offered by the EU are considerably weaker. Despite the EU's close engagement with Kazakhstan, membership or steps of deeper integration have thus far been absent from the Central Asia strategy or any negotiations.³⁷⁶ In 2009, the EU established the Eastern Partnership (EaP) programme to deepen its political relationships and economic integration with its eastern neighbours. However, the EaP draws a harsh line at the Caspian Sea, separating European and non-European partners, including Kazakhstan.³⁷⁷ This prospect of deeper integration will be essential for the future role of the EU in Kazakhstan's balanced foreign policy as well as its influence on domestic reform in the country.³⁷⁸

Nevertheless, the EU's new Central Asia Strategy of 2019 shows considerable progress compared to its predecessor and proves that the EU has learned from the past 12 years of engaging with the region.³⁷⁹ Over the years of engagement, EU officials have started to take

³⁷⁰ Melvin (n 21).

³⁷¹ Kavalski and Cho (n 165).

³⁷² *ibid.*

³⁷³ *ibid.* 54.

³⁷⁴ Heather Grabbe, *The EU's Transformative Power* (Palgrave Macmillan UK 2006) 3 <<http://link.springer.com/10.1057/9780230510302>> accessed 22 June 2020.

³⁷⁵ *ibid.* 2.

³⁷⁶ Cornell and Engvall (n 219) 49.

³⁷⁷ *ibid.* 48–49.

³⁷⁸ *ibid.* 50.

³⁷⁹ 'EUCAM Watch -New EU Strategy for Central Asia: First Reactions' (EUCAM & CESS 2019) 21.

Central Asian countries more seriously and began treating them as political actors rather than means to an end.³⁸⁰ Therefore, it is essential that the EU keeps the positive momentum of the inclusive negotiation process and carries it into the implementation phase.³⁸¹ Moreover, the new strategy is much more broad and flexible as it is less focused on energy and security concerns.³⁸² Human rights and democracy are featured as an essential part under the heading ‘resilience’ in this new strategy.³⁸³ Resilience, is a relatively new term in the EU’s foreign policy, and has prompted mixed responses. In the 2016 EU Global Strategy for Foreign and Security Policy (EUSG), resilience is tied to the EU’s new ‘principled pragmatism’ approach to foreign relations with its eastern and southern neighbours.³⁸⁴ Moreover, the ENP lists ‘resilience’ as one of its main priorities.³⁸⁵ In these contexts, resilience refers to the ability of a society to deal with crises and to reform in the presence of internal and external challenges, thereby limiting the external influence of Western powers through coercion and conditionality.³⁸⁶ Juncos argues that the term resilience is perceived as less threatening than ‘democracy promotion’ and that in states outside its immediate neighbourhood, the EU is focussing less on the promotion of democracy but rather promotes ‘responsive and accountable governance’.³⁸⁷ This rather technocratic engagement is perceived as less threatening by other international actors as it puts less focus on the promotion of the EU’s liberal values set. On one hand, it could offer a move away from one-size-fits-all approaches towards more bottom-up approaches.³⁸⁸ On the other hand, the entry point for any engagement remains the state who is ultimately responsible for building resilience, and this approach may legitimize and strengthen authoritarian governments.³⁸⁹ Moreover, critics have described the new focus on resilience and pragmatism as self-serving as it ultimately benefits the security needs of Western nations, by removing responsibility.³⁹⁰ Ultimately, in its engagement with authoritarian states such as Kazakhstan, the EU is opting for a more pragmatic approach by promoting its liberal value set through long-term engagement and through economic means to further prosperity, such as

³⁸⁰ Cornell and Starr (n 10).

³⁸¹ ‘EUCAM Watch -New EU Strategy for Central Asia: First Reactions’ (n 379).

³⁸² *ibid.*

³⁸³ *ibid.*

³⁸⁴ Ana E Juncos, ‘Resilience as the New EU Foreign Policy Paradigm: A Pragmatist Turn?’ (2017) 26 *European Security* 1.

³⁸⁵ *ibid.*

³⁸⁶ *ibid.*

³⁸⁷ *ibid.*

³⁸⁸ *ibid.*

³⁸⁹ *ibid.*

³⁹⁰ *ibid.*

increased trade and open access to energy-producing and transit countries.³⁹¹ In a similar vein, research suggests that the EU has a history of under-prioritizing democracy promotion in its relations with oil-rich countries.³⁹²

Barbara von Ow-Freytag argues that civil society engagement should be at the heart of the EU's implementation of the Central Asia strategy. She points out that if the EU fails to do so, it will not be successful in attaining its ambitious goals.³⁹³ Although the EU has lost influence due to the rise of China, it has a unique offer for Kazakhstan that could be mutually beneficial if implemented correctly, and with the proper involvement of civil society.³⁹⁴ The new strategy could be a 'blueprint' to regain some leverage in the region, especially by focusing on the needs of the younger generation, such as education, skill sharing, and access to independent media.³⁹⁵ Central Asian states are in a state of flux right now, experiencing political and social change, which is visible in the emergence of the Kazakh youth movements and the increase in protests against the elites.³⁹⁶ Civil society has become more active and more connected than ever before. Their work will be essential to meet the long-term goals set out in the 2019 strategy, including the improvement of human rights and the rule of law.

Though the relationship between state and civil society is well-institutionalized in Kazakhstan through legislation which encompasses political parties, religious groups, public associations, non-profits and state-social contracts, its autonomy has decreased in recent years.³⁹⁷ Nevertheless, Civil Society Organizations (CSOs) help the government assess social issues at the local level and produce information to tackle these shortcomings, thereby balancing the lack of feedback in an authoritarian regime.³⁹⁸ Civil society in Central Asian countries is generally more apolitical and non-confrontational than in Western democracies. They usually seek a voluntary partnership with the government and are often even so-called Government Owned NGOS (GONGOs). Though not contributing to liberal democratic change, they help to enhance

³⁹¹ *ibid.*

³⁹² 'EUCAM Watch -New EU Strategy for Central Asia: First Reactions' (n 379).

³⁹³ Barbara von Ow-Freytag, 'Civil Society - the EU's Best Partner in Central Asia' *EURACTIV.com* (21 February 2020) <<https://www.euractiv.com/section/central-asia/opinion/civil-society-the-eus-best-partner-in-central-asia/>>.

³⁹⁴ *ibid.*

³⁹⁵ *ibid.*

³⁹⁶ *ibid.*

³⁹⁷ von Hauff (n 125) 8.

³⁹⁸ von Hauff (n 125).

government responsiveness.³⁹⁹ This has increased the functionality of public and civil services in Kazakhstan and thus contributed, if only partially, to the EU's goals of increasing its own concept of security and stability through increased government awareness of social issues.⁴⁰⁰ According to a 2013 study, the NGO sector in Kazakhstan is diverse and provides different services: NGOs especially seem to be active in the fields of education, youth policy and culture as well as gender, legal rights and social issues.⁴⁰¹ Thus, a good basis for their engagement is present and needs to be supported by the EU. The majority of these NGOs is active in the southern part of the country, while in the west the smallest number of NGOs is registered.⁴⁰² Out of the approximately 36.815 NGOs roughly 34 percent were active in fields of human rights, gender and the environment combined.⁴⁰³ The study further found that international projects and investments, alongside population size and density were fuelling the establishment of more NGOs, and that urbanized areas have a higher number of NGOs.⁴⁰⁴ According to the study, most of the NGO's leaders are women, pointing to the importance for a gender sensitive approach. However, the study also found that many of these NGOs lack the support of the constituents as well as important skills to identify and serve local needs.⁴⁰⁵ Moreover, civil society has faced more restrictions in the past, including mandatory registration and new tax regulations restricting foreign funding.⁴⁰⁶

In the time span between 2007 and 2012, merely nine percent of all EU funding was allocated to the support of civil society in the form of grants, the rest was allocated to government assistance projects.⁴⁰⁷ Since then, the focus on civil society from the EU's side has increased. The 2019 strategy puts a strong focus on civil society engagements, especially focusing on youth.⁴⁰⁸ Moreover, input from civil society was included into the drafting process of the strategy itself.⁴⁰⁹ In the coming implementation of the strategy, more funding could be reallocated towards civil society to strengthen the local population. Moreover, the EU should

³⁹⁹ *ibid.*

⁴⁰⁰ *ibid.*

⁴⁰¹ Aliya Kabdiyeva, 'Developing Sustainable NGOs in Kazakhstan' (2013) 9 *Asian Social Science* 299.

⁴⁰² *ibid.*

⁴⁰³ *ibid.*

⁴⁰⁴ *ibid.*

⁴⁰⁵ *ibid.*

⁴⁰⁶ Lillis (n 271).

⁴⁰⁷ Plenta (n 11).

⁴⁰⁸ 'EUCAM Watch -New EU Strategy for Central Asia: First Reactions' (n 379).

⁴⁰⁹ *ibid.*

promote exchange between EU-based and Kazakh NGOs and support their ability to monitor the implementation of human rights and rule of law principles on the ground.⁴¹⁰

Another challenge to the implementation of the EU's new strategy is internal. In his analysis of the new Central Asia strategy, Pelta shows that the EU has been engaged in a two-level approach towards Kazakhstan by balancing the pragmatic interests of its member states and the delicate political discussion on norms and values.⁴¹¹ Especially the Visegrad-Countries are delegating concerns about democracy and human rights promotion to Brussels in favour of lucrative cooperation with Central Asia.⁴¹² Moreover, the aforementioned 17+1 format, including EU members which closely cooperate with China on its BRI project, poses challenges to a unified EU position towards China, Kazakhstan and human rights promotion at large. This leaves the EU in a difficult position. While cooperation in areas of mutual interest, such as trade, is thriving, it compromises the normative aspect of the relationship between the EU and Kazakhstan.⁴¹³

Overall, the EU needs to opt for a more cohesive and value-based engagement in Kazakhstan. Instead of trying to compete on hard power levels with other countries like China it needs to centre its engagement around its unique values set and integrate its other interests with them in order to remain a credible normative actor.⁴¹⁴

3.2.2 Trade Agreements

Trade and cooperation agreements clearly fall within the second technique of incentives proposed by Risse, Ropp and Sikkink because access to the EU's market as well as improved trading conditions and cooperation are a major incentive for Kazakhstan.

The nature of EU trade agreements has developed from simply reducing tariff barriers to including new sets of standards including labour rights and environmental protection.⁴¹⁵ In the EU's 'new generation' of trade agreements, human rights are an essential element including clauses which stipulate that severe human rights violations can be considered as a breach of the

⁴¹⁰ Savchenko, Osavoliuk and Savchenko (n 26) 13.

⁴¹¹ Pelta (n 11).

⁴¹² *ibid.*

⁴¹³ *ibid.*

⁴¹⁴ Melvin (n 21).

⁴¹⁵ Liam Campling and others, 'Can Labour Provisions Work beyond the Border? Evaluating the Effects of EU Free Trade Agreements' (2016) 155 *International Labour Review* 357.

agreement and justify unilateral suspension.⁴¹⁶ Although human rights clauses have been included in the Union's trade agreements since the 1990s, they were previously not connected to such a non-execution clause.⁴¹⁷ This is based on Article 21 TEU and 205 TFEU which stipulate that the EU needs to follow its values in all of its external relations, including commercial policy.⁴¹⁸ Overall, the EU operates on the assumption that free trade can improve living conditions and human rights everywhere.⁴¹⁹ The usefulness of these clauses for the advancement of certain rights and values is questionable.⁴²⁰ Indeed, in some cases market liberalization may lead to a decrease in human rights standards.⁴²¹

It has been argued, however, that trade agreements, as part of hard law, may be more effective than other human rights agreements in changing state behaviour.⁴²² As soft law works solely through persuasion rather than coercion, it has less leverage to sanction human rights violations.⁴²³ When trade agreements only include soft or weak human rights provisions, their influence will be similar. When hard human rights standards are coupled with material and trade benefits however, reforms in the sphere of human rights are more likely to be implemented.⁴²⁴

In March 2020, the PCA which Kazakhstan and the EU had since 1999, was upgraded to a Enhanced Partnership and Cooperation Agreement, making Kazakhstan the first Central Asian country to conclude a new generation agreement with the EU.⁴²⁵ Negotiations began as early as 2011 and the agreement provisionally entered into force in 2016. The EPCA sets a legal framework for cooperation in 29 policy areas.⁴²⁶ According to Commission official Guitton,

⁴¹⁶ Nicolas Hachez, "Essential Elements" Clauses in EU Trade Agreements Making Trade Work in a Way That Helps Human Rights? (Leuven Centre for Global Governance Studies 2015) Working Paper 158.

⁴¹⁷ *ibid* 89.

⁴¹⁸ C Titi, 'International Investment Law and the European Union: Towards a New Generation of International Investment Agreements' (2015) 26 *European Journal of International Law* 639.

⁴¹⁹ *ibid*.

⁴²⁰ Evita Schmiege, 'Human Rights and Sustainability in Free Trade Agreements Can the Cariforum-EU Economic Partnership Agreement Serve as a Model?' (2014) 24 *SWP Comments*.

⁴²¹ Campling and others (n 415).

⁴²² Emilie M Hafner-Burton, 'Trading Human Rights: How Preferential Trade Agreements Influence Government Repression' (2005) 59 *International Organization* <http://www.journals.cambridge.org/abstract_S0020818305050216> accessed 9 June 2020.

⁴²³ *ibid* 595.

⁴²⁴ *ibid*.

⁴²⁵ 'Countries and Regions- Kazakhstan' (n 12).

⁴²⁶ Vlagyizlav Makszimov, 'Kazakhstan President Reshuffles Key Positions' *EURACTIV.com* (20 December 2019) <<https://www.euractiv.com/section/central-asia/news/kazakhstan-president-reshuffles-key-positions/>>.

Kazakhstan has strong ambitions to become more than a logistics hub and transit country between China and the EU, and this EPCA will help to establish long term business cooperation.⁴²⁷ Moreover, Kazakhstan's leadership sees an opportunity for Kazakhstan to become a regional leader.⁴²⁸ The Commission further stated that the relationship with Kazakhstan and the EU has never been stronger or better.⁴²⁹ According to European Union, the new EPCA would elevate relations between the EU and Kazakhstan to a new level, thereby reinforcing political dialogue and expanding the inclusion of civil society in social and economic matters.⁴³⁰

The EPCA puts a strong emphasis on democracy, the rule of law, human rights, fundamental freedoms, and civil society cooperation.⁴³¹ Indeed, human rights are prominently featured as general principles in Article 1 of the agreement.⁴³² Overall, they are mentioned 20 times throughout the document.⁴³³ This focus on human rights, however, seemed to have little effect on ongoing human rights violations in the country. In 2016, the two human rights activists Max Basayev and Talgat Ayan were arbitrarily arrested and imprisoned for five years.⁴³⁴ However, the EU merely issued statements and made no use of its economic leverage.⁴³⁵ In a resolution dedicated to the EPCA in 2017, the EP already voiced concerns about the effectiveness of the agreement and included a long list of remaining and worsening human rights standards in the country.⁴³⁶ It further explicitly mentioned the essential elements clause and possible suspension of the agreement.

⁴²⁷ *ibid.*

⁴²⁸ *ibid.*

⁴²⁹ Georgi Gotev, 'MEPs Overwhelmingly Ratify EU-Kazakhstan Landmark Partnership Agreement' *EURACTIV.com* (12 December 2017) <<https://www.euractiv.com/section/central-europe/news/meps-overwhelmingly-ratify-eu-kazakhstan-landmark-partnership-agreement/>>.

⁴³⁰ 'EU - Kazakhstan Relations' (n 91).

⁴³¹ Gotev, 'MEPs Overwhelmingly Ratify EU-Kazakhstan Landmark Partnership Agreement' (n 429).

⁴³² 'Enhanced Partnership and Cooperation Agreement between the European Union and Its Member States, of the One Part, and the Republic of Kazakhstan, of the Other Part' <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2016.029.01.0003.01.ENG&toc=OJ:L:2016:029:TOC>.

⁴³³ *ibid.*

⁴³⁴ European Union, 'EU Statements on the Sentencing of Max Bokayev and Talgat Ayan' <https://eeas.europa.eu/sites/eeas/files/pc_1129_eu_on_sentencing_of_bokayev_ayan.pdf>.

⁴³⁵ *ibid.*

⁴³⁶ European Parliament, 'EU-Kazakhstan Enhanced Partnership Agreements (Resolution)' <<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:C:2018:369:FULL&from=DE>>.

The debate before the ratification of the EPCA by the European Parliament was characterized by concerns about the human rights situation but ratified nevertheless by an overwhelming majority of 511 in favour to 115 against.⁴³⁷ A member of the S&D group submitted a report in which she called for the prioritization of human rights and the rule of law over trade.⁴³⁸ She even argued that the EU would ‘lose its soul’ if economic interests were to take precedence over human rights and called for tangible reforms.⁴³⁹ The report clearly indicates the strong concerns of the EP over the ratification of the EPCA in light of the ongoing human rights violations. It explicitly calls for a strict and effective monitoring process to ensure the agreed upon essential elements are respected.⁴⁴⁰ It frames its expectations of the EPCA in a clear manner, including the strengthening of the rule of law and democratic participation, and stresses that negotiations should be contingent on real political progress in the spheres of human rights, rule of law and democratization.⁴⁴¹ It encouraged Kazakhstan to continue its work with the Venice Commission and issued a call to release political prisoners as well.⁴⁴² Again, the representative emphasized the need for strong monitoring mechanisms to ensure that these demands are met.⁴⁴³ The view of the Commission, however, appeared a lot more optimistic, as they reiterated that the relationship with the Central Asian country had never been better or stronger.⁴⁴⁴ Moreover, they named Kazakhstan as a prime example of advancing shared objectives and the speaker for the Commission also emphasized the strong focus of the agreement on human rights, the rule of law and democracy.⁴⁴⁵ During the debate, there were contrasting opinions on the human rights situation, while some representatives urged to vote against the agreement due to a worsening human rights records, others contended that human rights would have to be improved but did not take it as a reason to reject the agreement.⁴⁴⁶ This exemplifies the divided opinion on the approach to Kazakhstan with regards to human rights and economic interests.

Another resolution adopted by the European Parliament in 2019 shows that widespread concerns over human rights practices including arbitrary arrests and restriction of freedom of

⁴³⁷ Gotev, ‘MEPs Overwhelmingly Ratify EU-Kazakhstan Landmark Partnership Agreement’ (n 429).

⁴³⁸ *ibid.*

⁴³⁹ *ibid.*

⁴⁴⁰ European Parliament (n 436).

⁴⁴¹ *ibid.*

⁴⁴² Gotev, ‘MEPs Overwhelmingly Ratify EU-Kazakhstan Landmark Partnership Agreement’ (n 429).

⁴⁴³ *ibid.*

⁴⁴⁴ *ibid.*

⁴⁴⁵ *ibid.*

⁴⁴⁶ *ibid.*

press, association and opinion remain.⁴⁴⁷ The demands and recommendations of the Parliaments in these resolutions show that genuine human rights change was not implemented prior to the ratification. The 2019 resolution highlights that the number of political prisoners had increased and the suppression of peaceful protests had intensified.⁴⁴⁸ It further mentions the tightening restrictions for NGO work including discriminatory tax regulations, extreme control of the media and non-compliance with recommendations from other international bodies such as the International Labour Organization or the UN Special Rapporteur on the freedom of peaceful assembly and freedom of association. Overall, the resolution shows that human rights violations in Kazakhstan remain severe and widespread, yet the EU appears hesitant to act decisively or make efficient use of its economic leverage.

As Barroso said, the purpose of this agreement was, to '*facilitate stronger political, economic and strategic relations as well as the flow of trade, services and investments between Kazakhstan and the European Union and contribute to Kazakhstan's political, rule of law and economic reform as well as modernization and prosperity*'.⁴⁴⁹ Its principal targets are to build an institutional framework for cooperation, to support democratization and economic development, facilitate trade and to build stable collaboration in the field of transport and energy, whereas the last two subjects take up the majority of the agreement.⁴⁵⁰

It is argued that the EU could have made stronger use of its leverage during the negotiation stage in order to achieve more progress in the fields of human rights before signing the agreement.⁴⁵¹ Statements from officials of both sides confirm the difficulty of the negotiation process as Kazakhstan preferred a more general agreement without strict and concrete clauses, while the EU tried to implement the opposite.⁴⁵² Moreover, EU officials noted that the EU had a more difficult negotiation position as Kazakhstan was now presented with a multitude of economic opportunities in Asia.⁴⁵³ This showcases again how the normative role of the EU is compromised due to the rising influence of China which presents a viable economic alternative for Kazakhstan. Although the EU is undoubtedly a crucial economic partner for Kazakhstan,

⁴⁴⁷ European Parliament, 'Human Rights Situation in Kazakhstan'.

⁴⁴⁸ *ibid.*

⁴⁴⁹ Cornell and Engvall (n 219) 47.

⁴⁵⁰ Cornell and Engvall (n 219).

⁴⁵¹ Hugh Williamson, 'Live up to the Rhetoric' (*Development and Cooperation*, 15 December 2019) <<https://www.dandc.eu/en/article/eu-needs-press-central-asia-harder-human-rights>>.

⁴⁵² Plenta (n 11) 87.

⁴⁵³ *ibid.*

the dependence is mutual, and China offers a strong economic alternative without strict conditionalities.

Research suggests that the EU seems generally hesitant to make use of the human rights clauses in its new generation agreements.⁴⁵⁴ Indeed, it appears that the EU prefers ‘constructive engagement’ over any harsh measures or suspensions of trade benefits, often contrary to the suggestions of the European Parliament and civil society.⁴⁵⁵ Therefore, rather than hoping for human rights improvements after the conclusion of new trade agreements through market liberalization, the EU should decisively push for concrete human rights improvements during negotiation.⁴⁵⁶

The negotiation phase with Kazakhstan is over and now monitoring and follow-through are of the utmost importance. The EU needs to be more decisive in calling out and addressing human rights issues as stipulated in the essential elements clause. Economic interests alone cannot and should not override fundamental values. This should be reflected at all levels of the Union’s engagement as well as that of its member states. Thus far it has been primarily the European Parliament which has been critical towards human rights developments in Kazakhstan and has regularly submitted resolutions on the matter. Other representatives of the Union, however, remain mostly silent thereby compromising the Union’s supposed strong commitment to human rights and democracy in its engagement in Kazakhstan in favour of economic benefits.

3.2.3 Human Rights Dialogues

The third technique of persuasion and dialogue is clearly represented in the EU’s Human Rights Dialogue (HRD) with Kazakhstan. As set out in its 2007 strategy, the EU established structured Human Rights Dialogues in all five Central Asian countries and set up seminars for civil society actors and NGOs.⁴⁵⁷ The main aim of HRDs is the improvement of human rights in the target country and a continued line of communication on human rights issues.⁴⁵⁸ Though a good

⁴⁵⁴ Lorand Bartels, ‘Human Rights and Sustainable Development Obligations in EU Free Trade Agreements’ in Jan Wouters and others, *Global Governance through Trade* (Edward Elgar Publishing 2015) <<http://www.elgaronline.com/view/9781783477753.00010.xml>> accessed 9 June 2020.

⁴⁵⁵ Ionel Zamfir, ‘Human Rights in EU Trade Agreements- The Human Rights Clause and Its Application’ (European Parliamentary Research Service 2019) Briefing PE 637.975.

⁴⁵⁶ *ibid.*

⁴⁵⁷ Vera Axyonova, ‘The EU-Central Asia Human Rights Dialogues: Making a Difference?’ [2011] *EUCAM Policy Briefs* 1.

⁴⁵⁸ Jan Wouters and others, ‘EU Human Rights Dialogues- Current Situation, Outstanding Issues and Resources’ (Leuven Centre for Global Governance Studies 2007) Policy Brief.

forum to raise human rights concerns, the HRDs have shown significant shortcomings and policy inconsistencies in the past.⁴⁵⁹ A sobering account of a Kazakh analyst who said that the HRD is ‘*not completely useless*’ and that ‘*the situation would possibly be worse without the EU present*’ illustrates their limited impact.⁴⁶⁰ However, the HRDs prove useful to raise concerns over critical human rights issues. In 2019, for instance the EU used the HRD with Kazakhstan to raise concerns about Article 174 of the penal code on incitement and its effect on the freedom of expression and moreover encouraged a review of the assembly laws including the legislation on trade unions.⁴⁶¹

Although they aim to promote consistency in the EU’s promotion of human rights while still allowing for country-specific solutions,⁴⁶² the HRDs are often inconsistent and not properly aligned with the EU’s overall engagement. Albeit the Mid-Term Review of the EU’s Action Plan on Human Rights and Democracy (2015-2019) evaluates their performance quite positively by linking them to domestic legal changes, the release of detained persons and the ratification of treaties,⁴⁶³ the HRDs have many shortcomings in their current design. They often lack appropriate representation of civil society, academia and officials from diverse policy fields as far as meaningful cooperation is possible in authoritarian regimes.⁴⁶⁴ HRDs further lack a consistent form of assessment with clear benchmarks and goals posts to evaluate their efficiency. Even if benchmarks exist, they are often kept confidential due to political sensitivities and therefore do not allow for external scrutiny and evaluation.⁴⁶⁵

Lastly, the HRDs are often criticized for being too one sided as they usually do not allow for reciprocal criticism.⁴⁶⁶ More openness to criticism on the EU’s side may encourage more genuine participation from partner countries.⁴⁶⁷ This also comes into play regarding double-standards across partners, in which some are criticized more heavily over similar issues than

⁴⁵⁹ Axyonova (n 457).

⁴⁶⁰ Plenta (n 11) 86.

⁴⁶¹ ‘Kazakhstan - Events of 2019’ (n 277).

⁴⁶² Wouters and others (n 458).

⁴⁶³ High Representative of the Union for Foreign Affairs and Security Policy, ‘JOINT STAFF WORKING DOCUMENT -EU Action Plan on Human Rights and Democracy (2015-2019): Mid-Term Review’.

⁴⁶⁴ Wouters and others (n 458) 3.

⁴⁶⁵ Wouters and others (n 458).

⁴⁶⁶ Balázs Majtényi, Lorena Sosa and Alexandra Timmer, ‘Human Rights Concepts in EU Human Rights Dialogues’ (FRAME 2016) Deliverable Large-Scale FP7 Collaborative Project GA No. 320000 73.

⁴⁶⁷ *ibid.*

others, creating suspicions about underlying political motives.⁴⁶⁸ This is mirrored in the statements of Kazakh political analysts in which they describe the approach of EU officials as ‘mentoring’ and ‘lacking understanding for local context’.⁴⁶⁹ More is to be achieved through cooperation on eye to eye level.⁴⁷⁰ The HRD with Kazakhstan should be more than a mere exchange but included a structured process with set goals and benchmarks on human rights issues on which further cooperation is contingent.⁴⁷¹

Moreover, it is important that these dialogues are not utilized to ‘remove’ the human rights topic from other forms of discussion and cooperation and thereby de-politicize them.⁴⁷² Unfortunately, this has been the case in Kazakhstan. By fragmenting topics into separate political dialogues, they have been removed from the political core of the cooperation with the EU.⁴⁷³ Instead they should be a central part of the EU’s engagement in Kazakhstan. The EU should aim to have an open channel of communication on human rights, rather than depoliticizing the issue in favour of economic and strategic cooperation.

3.2.4 Rule of Law Initiative

The EU’s efforts of increasing the rule of law in Kazakhstan, clearly fall under the fourth strategy of capacity building. According to the EU, rule of law reforms in Central Asian countries are crucial for the protection of human rights as well as socio-economic development and further development of trade and investment with European partners.⁴⁷⁴ The latter aspects, however, appear to be the driving force of the EU’s interest in increased rule of law in Central Asia.⁴⁷⁵ Since the 2007 strategy, rule of law features as one of the prime topics of cooperation with Central Asian countries and was primarily developed to provide an overarching framework of already existing programmes of the Venice Commission and national agencies of selected EU member states.⁴⁷⁶ The approach was based on two main concepts namely

⁴⁶⁸ *ibid* 72.

⁴⁶⁹ Plenta (n 11) 85.

⁴⁷⁰ Plenta (n 11).

⁴⁷¹ Williamson (n 451).

⁴⁷² Melvin (n 21).

⁴⁷³ *ibid*.

⁴⁷⁴ ‘EU Rule of Law Initiative for Central Asia’ (European Commission External Relations) <https://eeas.europa.eu/headquarters/headquarters-homepage_en/4936/EU%20Rule%20of%20Law%20Initiative%20for%20Central%20Asia>.

⁴⁷⁵ Rico Isaacs, ‘The EU’s Rule of Law Initiative in Central Asia’ (EUCAM 2009) Policy Brief 9.

⁴⁷⁶ *ibid*.

political dialogue and technical training assistance.⁴⁷⁷ More recently, the EU has also recently launched a Rule of Law programme as part of its EU Regional Conference on Enhanced Integration for Prosperity in Central Asia in cooperation with the Council of Europe⁴⁷⁸ in line with its previous Rule of Law Initiative (RLI) under the 2007 strategy.⁴⁷⁹ In an effort to further streamline the project, the EU launched the Rule of Law Platform in 2011, to improve coordination and dialogue on rule of law issues through ministerial conferences, workshops and training programs.⁴⁸⁰ Additionally, a steering committee including the EEAS, the Commission, interested partner countries, and Central Asian governments was established.⁴⁸¹ Unfortunately, the budget for the programme appears insufficient and increases the risk of further fragmentation of the initiative due to reliance on national co-sponsors with potentially divergent interests.⁴⁸² Despite these efforts to coordinate and improve upon transparency, the EU's RLI remains confusing and lacks visibility.⁴⁸³ Documents and strategy papers about the initiative are hard to obtain and often not accessible to the public.⁴⁸⁴ Moreover, a limited group of actors has created a separate coordination group including some, but not all, EU member states which again fragments the approach to the rule of law.⁴⁸⁵ Furthermore, the documents and agreements with Central Asian governments are lacking clear benchmarks and goals for development which would increase effectiveness and transparency.⁴⁸⁶ This is largely due to the authoritarian nature of the cooperating governments which favour opaque and general agreements over concrete commitments. Indeed, one of the main achievements of the 2008 Ministerial conference which launched the initiative was the fact that Central Asian governments allowed the discussion and assistance in matters of rule of law in the first place.⁴⁸⁷ Moreover, the initiative relies heavily on shared ownership between the EU and the respective Central Asian countries, which results in human rights or corruption issues rarely being part of

⁴⁷⁷ 'EU Rule of Law Initiative for Central Asia' (n 474).

⁴⁷⁸ 'Launch of the EU/CoE Central Asia Rule of Law Programme' (*Council of Europe*, 2 December 2019) <<https://www.coe.int/en/web/programmes/-/launch-of-the-eu-coe-central-asia-rule-of-law-program-1>>.

⁴⁷⁹ Isaacs (n 475).

⁴⁸⁰ Martin Schuster, 'The EU's Rule of Law Initiative for Central Asia: From Initiative to More Substance?' (EUCAM 2011) Policy Brief 18 <https://www.files.ethz.ch/isn/133493/PB_EUCAM-18-1.pdf>.

⁴⁸¹ *ibid.*

⁴⁸² *ibid.*

⁴⁸³ *ibid.*

⁴⁸⁴ *ibid.*

⁴⁸⁵ *ibid.*

⁴⁸⁶ Isaacs (n 475).

⁴⁸⁷ *ibid.*

the political discussion.⁴⁸⁸ This is largely due to the fact that the EU's normative influence in the region remains limited despite its advanced knowledge and experience with democratic transition in post-Soviet countries during its enlargement process.⁴⁸⁹ Overall, however, Russia and China offer quicker and more efficient assistance possibilities due to their similarities in authoritarian leadership as well as the absence of conditionality and democratic consensus-building slowing down the process.⁴⁹⁰

One of the main parts of the RLI is ongoing political dialogue on issues of rule of law, opting for a more cooperative approach over the use of sanctions.⁴⁹¹ Due to this unconditional approach to the matter, political dialogue can serve the international legitimization of authoritarian Central Asian governments without improving upon international standards of human rights, democracy and the rule of law.⁴⁹² Moreover, the constant focus on the political dialogue is not sufficient to realize the initiative fully.⁴⁹³ In addition to difficulties concerning transparency and coordination, the RLI further raises concerns over the EU's normative influence. Much of the implementation is focused on commercial and trade improvements to the benefit of the EU and Central Asia respectively rather than on a genuine promotion of fundamental values and the protection of human rights.⁴⁹⁴ Although the focus on economic legal reform eases the cooperation with authoritarian countries like Kazakhstan and provides a tool for development and growth, the EU struggles to combine its normative power with economic and strategic interests and the fragmented implementation of the RLI contributes to this perception of a contradictory approach of the normative power Europe.⁴⁹⁵

The second main part of the RLI is technical assistance in the form of workshops, reform assistance, and training programmes. This part of the RLI also has significant shortcomings. Hoffmann criticizes that thus far, assistance programmes have been largely technocratic and focused almost exclusively on government agencies and technocrats, thereby excluding civil society actors.⁴⁹⁶ Moreover, the programmes offered by the EU have been met with very limited

⁴⁸⁸ *ibid.*

⁴⁸⁹ Schuster (n 480).

⁴⁹⁰ *ibid.*

⁴⁹¹ Isaacs (n 475).

⁴⁹² *ibid.*

⁴⁹³ *ibid.*

⁴⁹⁴ *ibid.*

⁴⁹⁵ *ibid.*

⁴⁹⁶ Hoffmann (n 6).

engagement from the Kazakh side and are therefore conditional on the willingness of the regime to cooperate.⁴⁹⁷ Thus, the administration can benefit from such cooperation without facing any real challenges to its power.⁴⁹⁸ Moreover, even training of independent or individual legal professionals will be hampered if there is no genuine change within the judicial system which remains highly personalized and government-controlled.⁴⁹⁹

Despite the mentioned shortcomings, the rule of law engagement of the EU can be credited with contributing to the reform of Kazakhstan's criminal justice system according to international norms.⁵⁰⁰ Nevertheless, concerns about the selectivity of legal norms and the coherence of the EU's rule of law strategy remain. In order to be a credible actor in this field, the EU should establish clearer benchmarks and improve transparency for its technical training programmes. The aim should be to improve conditions for trade, but to improve the access and rights of citizens as well, rather than limiting the scope of engagement to trade-related issues.⁵⁰¹ The current focus on trade law and development could undermine the EU's credibility and suggest to others that human rights are not a real priority to the EU.⁵⁰² Moreover, as previously mentioned the inclusion of civil society actors and youth is also essential to build sustainable development and ensure genuine and broad engagement. In the long-run, rule of law and human rights need to be incorporated into the EU's external policy which clearly reflects the prioritization of its values.

Overall, the analysis of these techniques has shown that the EU has a diverse set of tools for human rights promotion at its disposal but does not implement them to their fullest potential. This analysis has thus confirmed the second working hypothesis of this thesis in showing that despite the existence and institutionalization of several human rights tools, the EU is at times hesitant to employ them due to its economic interest in and even dependence on both Kazakhstan and China. For instance, the EPCA was concluded despite human rights concerns and the HRD has achieved little success and possibly even depoliticized the matter of human rights in the cooperation with Kazakhstan. Capacity building programmes in the field of rule of law have furthermore suffered from lacking coordination and engagement from the Kazakh

⁴⁹⁷ *ibid.*

⁴⁹⁸ *ibid.*

⁴⁹⁹ Isaacs (n 475).

⁵⁰⁰ Russell (n 45).

⁵⁰¹ Isaacs (n 475).

⁵⁰² *ibid.*

side. In contrast to previous human rights promotion efforts, in its immediate neighbourhood, in which the EU had the undeniable upper hand and stronger economic leverage, it now finds itself in a different negotiation position. These economic concerns have been shown to halt its ambition in value promotion. The limited effect of the EU policy is largely due to its various interests in the fields such as security, trade, and energy policy. To stay true to its own values, however, human rights need to stay on top of the EU priority list.⁵⁰³ It appears that the EU's influence in Kazakhstan could be relatively strong giving it substantial economic influence, but it fails to use it efficiently and thereby enables the authoritarian regime.⁵⁰⁴ Moreover, the normative and economic influence of China appears to pose a challenge to the EU's value promotion in Kazakhstan

4 Discussion

The following section will briefly touch upon three issues that emerged during the application of the spiral model of human rights internalization to Kazakhstan as a case study as well as the EU's conduct in Kazakhstan.

Firstly, the analysis overall has shown that the original spiral model of human rights internalizations is limited in the present case as it only accounts for one predominant and universal set of values. The model does not fully account for a competing interpretation of international affairs and human rights and thereby fails to encompass the complexities of norm promotion in the 21st century. The 2013 edition of the spiral model mentions the counter-frames of 'stability' and 'security' as a possible hurdles for the socialization of human rights norms and we can see the influence of these two concepts on the human rights developments in Kazakhstan throughout the analysis. However, the original model did not account for a distinct normative system promoted by another normative entrepreneur in contestation with liberal values. China promotes its own distinct vision of international affairs and the role of human rights in its growing sphere of influence including Kazakhstan. The 'three evils' narrative, which it has disseminated through the SCO, provides the normative basis for a state-centred and authoritarian form of governance. It uses the aforementioned frames of 'stability' and 'security' to relativize human rights principles and to subordinate them to higher goals of

⁵⁰³ 'EU: Menschenrechte Sollen Im Zentrum Der Zentralasien-Strategie Stehen' (n 243).

⁵⁰⁴ Savchenko, Osavoliuk and Savchenko (n 26) 11.

development and regime survival. Moreover, the analysis has shown that some measures expected to bring about normative change by Western governments, such as conditionality and material incentives, are perceived as threatening and wrong when employed by an opposing normative entrepreneur, such as China. As Holslag pointed out, however, it is important to recognize that China's ambitions are objectively no different from those of the West, but they do not fit the EU's understanding of international conduct and human rights.⁵⁰⁵ As such, the spiral model approach could be regarded as eurocentric as it has a strong focus on the normative, political, and economic influence of Western governments on the human rights socialization of third countries, assuming a unified 'Western' front of human rights and implicitly prescribing human rights to Western states. This further disregards the tensions within the European Union and alongside its 'Western' allies, such as the US, on human rights issues. Moreover, although the model is heavily focused on the influence of transnational advocacy as well as naming and shaming processes, the impact of material sanctions and conditionality of aid is mentioned repeatedly. Thus, the promotion of human rights is to a certain extent tied to the notion of an economically superior West. This notion could also be regarded as eurocentric and does not reflect the changing global economic power structures which have become increasingly multipolar with the rise of new powers, such as China. Overall, the spiral model does not account for normative competition in the field of human rights and is primarily focused on the role of 'the West' in socializing other countries to its norms without incorporating a more holistic view of global power structures.

Secondly, the analysis has shown that the spiral model can be applied to Kazakhstan but does not perfectly fit in a chronological manner. It appears that some of the steps are happening simultaneously or in a slightly different order. This may be the case as the spiral model was originally published in the 1990s and applied to cases studies that started the process of human rights socialization around the 1970s and 1980s. This case study shows that some steps, such as treaty ratification, an essential part of the fourth phase, may happen a lot earlier in the process due to a change in so-called 'world-time'. Treaty ratification specifically, does not appear to be a meaningful indicator of normative subscription or even compliance, as the analysis as shown. Moreover, in Kazakhstan, human rights norms were institutionalized shortly after independence with the Presidential Commission on Human Rights founded in 1994 and the creation of the position of the Ombudsman for Human Rights in 2002. Again, this step was

⁵⁰⁵ Holslag (n 36).

anticipated in phase four of the model. The different time in which Kazakhstan entered the human rights socialization process has most likely affected the order of events in this case study. It appears that due to the norm cascades prior to Kazakhstan's independence, human rights had already acquired a status in the global order, which made formal prescription to them necessary to become a part of the international community, even if they were not internalized into domestic practice. Thus, some indicators of the model may have to be adjusted in order to more accurately represent progress. Moreover, the case of Kazakhstan has also exemplified that seemingly positive steps towards liberalization such as the recent constitutional reforms in Kazakhstan or the first change in presidential power still coincide with significant displays of political repression and human rights violations. This suggests a slightly different trajectory in the case of Kazakhstan given the multiple normative influences and its multi-vector engagement. Moreover, it highlights the need to critically analyse each 'achievement' in the socialization process such as ratifications or the establishment of human rights institutions for their real impact on the human rights record of the target country as not all the indicators mentioned seem to properly represent the stage of internalization suggested.

Thirdly, in addition to the observations regarding the application of the spiral model to Kazakhstan, the following section discusses several findings from the analysis. The issue of the EU's ability to combine and balance its values with its strategic and economic interests surfaced in several parts of the analysis, highlighting the internal struggle of the EU. In many ways, values and interests were almost perceivable as a dichotomy when they should theoretically reinforce each other. It appears that value-based engagement of the EU often had to take a backseat to economic considerations especially in a relationship with a resource-rich country, such as Kazakhstan. In his analysis of the EU's engagement in Central Asia, Melvin posits an alternative model of value-based realism in which the EU concentrates its efforts more decisively on issue areas in which it can realistically make a difference.⁵⁰⁶ He argues that by trying to achieve all economic, security and value-based interests in Central Asia, the EU is over-exhausting its own resources and creating contradictions in its own engagement. Thus, he proposes that the EU should focus more on its expertise in promoting and furthering good governance and modernization in Kazakhstan and integrate its other interests within these efforts rather than side-lining its values in favour of economic cooperation.⁵⁰⁷ This would

⁵⁰⁶ Melvin (n 21).

⁵⁰⁷ *ibid.*

propose one alternative to the perceived dilemma of value-based and interest-based engagement. Others argue that the criticism of the modest progress in human rights promotion is due to unrealistic expectations of the EU and note that the EU has specifically opted for a long-term approach focused on establishing prerequisites for sustainable change such as poverty reduction and education.⁵⁰⁸ Thus, the EU has chosen to implement such measures in cooperation with the government rather than trying to undermine it and demand immediate political change.⁵⁰⁹ Nevertheless, the almost non-existent progress in fundamental political and civil liberties in Kazakhstan also causes doubts about this explanation, as 12 years of engagement with the government seem to have brought about little change. Indeed, the analysis has shown that political and civil liberties, especially the freedoms of assembly, press, and association remain severely restricted. Moreover, Kazakhstan's extradition practices and police violence have raised concerns over the freedom from torture and ill-treatment in the country. As the EU cannot compete with other international actors in terms of military strength and traditional hard power, its unique value-based approach could set it apart from the other powers active in Kazakhstan. Due to its extensive experience in democratization processes, it could offer expertise and support to the political liberalization of Kazakhstan. By compromising its own values in favour of economic benefits, however, the EU risks to use credibility both in Kazakhstan at home. As mentioned throughout the analysis, the EU has vast experience in socializing post-Soviet states to its norms of democracy, rule of law and human rights. However, these are mainly limited to its direct neighbourhood with possibilities for closer engagement or countries with prospects of membership. In these cases, the EU was in a very favourable negotiation position without normative contestation and the promise of membership or association were major incentives for compliance in Central and Eastern European countries. Kazakhstan, however, falls outside of this scope and thus puts the EU in a position in which it needs to defend its values in face of normative opposition and another major power with equally (if not more appealing) economic leverage. The challenge remains for the EU to genuinely integrate its values and other priorities, including the diverse interests of its members.

Another controversial issue throughout the analysis was the point of entry for the EU's engagement in Kazakhstan. Although the spiral model suggests an approach that unifies

⁵⁰⁸ Cornell and Starr (n 10).

⁵⁰⁹ *ibid.*

bottom-up and top-down approaches to human rights promotion, the EU has seemingly opted for a largely top-down approach in cooperating mostly with government agencies and potentially legitimizing the Kazakh government in the process. As presented in the research, however, support for grassroots organizations and civil society may be more sustainable and a better focus for the EU's engagement. Engaging in ongoing projects with government agencies without explicit expectations, benchmarks or objectives could be an ineffective use of EU resources considering the reluctant and sparse participation from the Kazakh side. Thus, more efforts should be devoted to civil society in the fields of human rights, democracy, and rule of law in order to provide a balance to the government information and increase the population's awareness of human rights issues. The analysis has also shown that the European Parliament remains the most vocal body of the EU concerning human rights violations and its concerns should be taken more seriously in the engagement with partner countries in order to maintain credibility as a normative actor.

Lastly, the Kazakh government is successfully employing the 'counter-frames' of stability and economic development mentioned previously. Risse, Ropp and Sikkink already pointed out that counter-frames can be used to subordinate human rights to seemingly more pressing issues. Under the guise of the 'three evils', the Kazakh government has effectively made democratization and with it human rights strictly contingent on economic development and stability. Many examples throughout the analysis have shown how the fear of instability, extremism and terrorism has been invoked to squash opposition and dissent. This regime-centred approach to security, inspired by China, has provided a strong base for these counter-frames which are routinely employed to discredit calls for more democratization and freedom in Kazakhstan. These 'counter-frames' are not unique to Kazakhstan but have proven to be a real hurdle for the EU's engagement in the country. Moreover, one could argue that in some aspects, the EU is guilty of employing these frames itself as the analysis suggests that in its engagement with Kazakhstan and China alike, the EU has a tendency to underprioritize its core values in favour of economic and strategic interests.

5 Conclusion

This thesis has analysed the progression of Kazakhstan's internalization of human rights using the spiral model by Risse, Ropp and Sikkink and analysed the role which the EU has played in each of the phases along the way. Moreover, it has critically evaluated the effect of China's

normative influence on the progression within the spiral model and thereby pointed out the considerably normative differences between the EU's approach to human rights and democracy promotion and China's authoritarian developmental approach. Throughout the analysis, it has shown how the increasing institutional and normative involvement of China in Kazakhstan has influenced the country's approach to human rights and democratization. It also shed light on the difficult situation the EU finds itself in as it attempts to balance its normative agenda with economic interests vis-a-vis China and Kazakhstan.

Overall, this thesis supports the notion that Kazakhstan has made some progress in the field of human rights since independence, but much more remains to be done. Hence, the analysis confirmed the first hypothesis, namely that China's rising influence does pose a challenge to the EU's set of fundamental values. This has become clear in the juxtaposition of their understandings of human rights and security and subsequently illustrated in their different engagements in Kazakhstan. As China's sphere of political influence is growing alongside its economic reach, it has become more assertive in promoting its own vision of international affairs and human rights, which poses a challenge to the 'Western' understanding of human rights and international relations as it offers a more authoritarian-friendly mode of cooperation with seemingly less political conditionality. Especially due to Kazakhstan's membership in the SCO, the frames of terrorism and extremism are routinely employed to undermine human rights principles. The common border with the Chinese Xinjiang province further poses human rights challenges for the Kazakh government given its close cooperation with China. Nevertheless, opportunities for European engagement remain and Kazakhstan is eager to deepen its cooperation with the EU and actively seeks to do so.

The second hypothesis can only be partially confirmed. The analysis of the EU's human rights instruments shows that the EU has a large variety of tools at its disposal to promote its core values through economic incentives, dialogue and capacity building. However, it has become evident that the EU remains hesitant in making full use of these instruments. This is partially due to its conflicting economic and security interests in Kazakhstan and its multifaceted relationship to China. Moreover, the discrepancy between the EU's tasks of promoting a common set of values and the member states' more pragmatic approach to cooperation produces confusion and does not allow for a truly unified position of the EU in Kazakhstan. Further, the analysis has shown that many of the human rights instruments require changes to become more transparent and function more effectively. It needs to be noted, however, that the

moderate success of the EU's human rights tools in Kazakhstan is not only due to an incoherent normative approach of the EU itself, but also stems from the Kazakh government's limited willingness to cooperate and participate in genuine dialogue on human rights norms. Nevertheless, the EU has a unique opportunity to fulfil its commitments to human rights and democracy in its external conduct. It should ensure that its core values are consistently included and prioritized in all relations with its partners in order to present a unified and clear message to its partners and the international community.

Overall, this thesis has shown that the EU faces new and unprecedented challenges to its normative agenda and self-understanding as a promoter of liberal values and human rights. China's increasing economic influence is not decoupled from its political and normative power in a growing sphere of the world. Through its promising investments and counter-frames to the existing (Western) global order in a more authoritarian-friendly and development-centred approach, it poses a challenge to the EU itself and to its ambition of promoting democracy and human rights beyond its sphere of influence. Especially its 'three evils' discourse, which is frequently framed in favour of repression of opposition and dissent represents a real challenge to the promotion of human rights. The EU needs to adapt to this new reality and find a way to balance its value-based and economic interests in order to remain a credible normative actor and uphold the values of democracy and human rights on the global stage and in its relations with third countries. If the EU is going to weather these challenges will depend on the willingness of its member states and their commitments to the Union's fundamental values.

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