

# A duty to address human rights violations?

The EU and Japan's involvement in the enforcement of  
human rights against North Korea in the UN Human Rights  
Council

# Abstract

This thesis concerns the impact of instrumental benefits and norms on state behaviour in international relations. This is studied on the case of the EU's and Japan's initiation of enforcement against North Korea in the UN Human Rights Council, which has garnered increased attention since 2013 when a commission of inquiry successfully put the issue on the international community's agenda.

I ask why these actors choose to enforce human rights against North Korea, and how it is possible for them to do so. To answer this question I develop a theoretical framework aimed at developing the research on norm development and enforcement. This framework combines a rationalist cost-benefit approach with a constructivist approach, and results in five hypothesized relationships. I use process-tracing to study official statements made by the actors at meetings in the Human Rights Council concerning the North Korean human rights situation, and find affirmation on all hypothesized relationships. I find suggestions that indicate that the human rights norm's robustness is an underlying variable constituting the actors' identities and thus guiding their interest to act in a certain way.

*Key words:* norm enforcement, human rights, norms, identity, interests

*Words:* 19 933

# Table of contents

<b>1</b>	<b>Introduction.....</b>	<b>1</b>
1.1	Research overview .....	2
1.2	Purpose and research design .....	5
1.2.1	Material.....	6
1.3	Road map .....	7
<b>2</b>	<b>Towards a theoretical framework .....</b>	<b>9</b>
2.1	Norms.....	9
2.1.1	Definition and origins .....	9
2.1.2	Development, spreading and change .....	9
2.2	Norm enforcement .....	10
2.2.1	Self-interest.....	12
2.2.2	Self-affirmation and group interest.....	13
2.3	Theoretical framework.....	14
<b>3</b>	<b>Method .....</b>	<b>16</b>
3.1	Process-tracing.....	16
3.1.1	How to do theory-centric process-tracing.....	17
3.2	Causality and constitution.....	18
3.3	Methodological framework.....	21
<b>4</b>	<b>Analysis.....</b>	<b>23</b>
4.1	Self-interest.....	23
4.1.1	Material benefits .....	23
4.1.2	Social benefits.....	25
4.2	Self-affirmation and group interest.....	28
4.2.1	Community and identity .....	29
4.2.2	Communication and reputation.....	33
4.2.3	Discourse and institutions.....	36
4.3	Complementary analysis.....	38
4.4	Constitution of the norm .....	39
<b>5</b>	<b>Conclusions.....</b>	<b>42</b>
5.1	Further research .....	43
<b>6</b>	<b>References.....</b>	<b>44</b>
6.1	Academic articles.....	44
6.2	Books and dissertations .....	45
6.3	News articles and press releases .....	45
6.4	Interview .....	45

6.5	Resolutions, official documents and other material.....	46
6.6	Statements.....	47

# Abbreviations

CHR	Commission on Human Rights
COI	Commission of Inquiry
DPRK	Democratic People's Republic of Korea/North Korea
HRC	Human Rights Council
ICC	International Criminal Court
MS	Member State/-s
OHCHR	Office of the High Commissioner for Human Rights
SR	Special Rapporteur
UNGA	United Nations General Assembly
UNSC	United Nations Security Council
UPR	Universal Periodic Review
WEOG	Western European and Others Group

# 1 Introduction

It is now up to the Member States of the United Nations to fulfil [their obligation]. The world is now better informed about Korea. It is watching. It will judge us by our response. This Commission's recommendations should not sit on the shelf. Contending with the scourges of Nazism, apartheid, the Khmer Rouge and other affronts required courage by great nations and ordinary human beings alike. It is now your duty to address the scourge of human rights violations and crimes against humanity in the Democratic People's Republic of Korea.

*(Statement by Michael Kirby, chair of the Commission of Inquiry on North Korea, at the 25th session of the Human Rights Council, Geneva, 17 March 2014)*

Michael Kirby, an expert appointed by the United Nations mentions the duty of the UN member states to act against the human rights violations in North Korea. Since 1973 the influence of human rights has increased rapidly, with international social structures of human rights institutions being built and receiving increased power (Risse & Sikkink, 1999:21-22). Human rights are however not implemented fully in any part of the world, most notably in North Korea where severe human rights violations has been on-going for the last 60 years. So do sovereign states feel duty from an inherently anarchical international system, and how is that possible? States are often portrayed in international relations as self-interested utility-maximizers, and enforcing human rights can both be costly and harmful. However, in 2013 the UN Human Rights Council (HRC), with the EU and Japan in the fore-front, set up the commission of inquiry (COI) to investigate the human rights abuses in North Korea. The COI issued an extensive report in 2014 with detailed indications of crimes against humanity. This led to calls for referring the regime of the Democratic People's Republic of Korea (DPRK) to the International Criminal Court (ICC); a call which passed through the UN Human Rights Council and the General Assembly, and is now on the table of the Security Council. This marks an unprecedented momentum on the DPRK human rights issue.

When the EU and Japan suggested that the Human Rights Council should expand its actions taken against the human rights violations in North Korea in 2013, consequently leading to the elevation of the issue to a new international arena, it was after ten years of relative continuity. In 2003 the predecessor to the HRC issued its first resolution on the suggestion of the EU, expressing concern over the human rights situation in the DPRK, and calling for the North Korean government to improve its human rights situation and cooperate with the international community (EU, 2003). The following year, the same body set up the mandate of the special rapporteur (SR) on the situation of human rights in the DPRK, to investigate how the country was complying with its obligations under

international human rights instruments. Each following year the mandate has been renewed at the proposal of the EU, and from 2008 Japan as well.

However, the SR had never been granted access to the country nor received any greater attention from the DPRK government or the international community. When the COI filed their report in 2014, the North Korean government initiated a “charm offensive” (Landler, 2014) and several world media outlets, including Reuters, Al Jazeera, New York Times and Newsweek, reported on the issue of referring the DPRK to the ICC. Undoubtedly, a change occurred when the COI report led to the issue of the North Korean human rights violations being put permanently on the Security Council agenda.

Thus, in 2013 “increased action” against the DPRK was clearly called for according to the EU (EU, 2013b). The question remains why it was in the interest of the EU and Japan to initiate this increased action. No state conform to international norms in all aspects of their policies, meaning that defiance of human rights norms could not in itself be the only cause of international sanctions (Klotz, 1995:4-5). What motivates these specific actors to take on the, most likely ungrateful task, of enforcing human rights norm in a country such as North Korea, which has shown little regard for the norm?

The research question for this thesis is: **“Why do states enforce norms against other states, and how is this possible?”**

Any of the 47 member states in the HRC, but also any of the remaining observer states (a total of 192 states in the HRC), can put forward resolutions on an issue, even though only member states can vote on and adopt resolutions as decision of the council. However, all governments participating in the HRC, no matter if they are current members or not, have the possibility to set the agenda of the council through debates, negotiations and resolutions. At least one state must take the lead on an issue and convince a sufficient number of other states to act and support the HRC to take action (Votes Count, n.d. A). Thus it is of interest to understand why the EU and Japan specifically are motivated to take this stand in exactly this case and at this moment.

## 1.1 Research overview

Why is it fruitful to focus on the dynamic of norms? Firstly, it introduces social relations and identity as a variable into the political process, which in the setting of meso-level organization analysis can provide insights departing from traditional rationalist approaches. After all, states coordinate and cooperate with other like-minded states rather than independently deciding their line of action.

Secondly, norms are, despite a recent surge in research, still not completely understood and explained. Norms can affect behaviour due to their enforcement but also because people have the expectation of them being enforced. If no enforcement and sanctions occurs, people stop expecting punishment and the norm eventually fades. Thus, without enforcement there will be no norm. Due to enforcement being an essential part of norms, and norms being unique in this way,

one must explain why people enforce norms in order to explain norms themselves (Horne, 2007:139-140, Horne et al, 2009:200). Our understanding, Klotz claims, of the relationship between norms and sanctions remains limited, and hence to enhance our understanding of when and why norms matter for sanctions and multilateral policies is of crucial importance (1995:6-8).

Recent research relating to the influence of norms has for the most part stemmed from constructivism, arguing that shared ideas and intersubjective understandings shapes state behaviour and identity. Klotz, when studying the sanctioning of the apartheid-regime in South Africa, notes that her case was puzzling for neorealists and similar IR theorists emphasizing the primacy of material interests and the difficulty of coordinating multilateral policies (Klotz, 1995:4-5). She suggests a constructivist/interpretivist approach instead, and argues that variations in sanctions policies across different multilateral institutions show the importance of both collective interests and procedural rules of the institution in question. The institution can empower weak and nonstate actors by setting agendas and defining group identities (Klotz, 1995:9-10).

Martha Finnemore delves deeper into the issue of national interest in international society. She argues that the process of defining interests is as political and consequential as the pursuit of those interests. Much of international politics is about defining rather than defending national interests. Before states can pursue their interests, they have to find out what those interests are (1996:ix). The assumption of state interests, rather than the problematization of them, is dominant within neorealism and neoliberalism, which makes parsimonious assumptions about state interests. These interests are assumed to be some combination of power, security and wealth. Finnemore does not question these assumptions, noting that many states *do* want these said things. But she questions the underlying meaning of these assumptions, and aims to address this silence by investigating an international structure of meaning and social value, and not power. States are embedded in dense networks of transnational and international social relations that shape their perceptions of the world and their role in that world (Finnemore, 1996:1-2).

Consequently, state interests are defined in the context of internationally held norms and understandings about what is good and appropriate. This context is normative and influences the behaviour of decision makers and mass publics. This normative context changes over time; when internationally held norms change, coordinated shifts in state interests and behaviour across the system will follow as a consequence. States' redefinitions of interest are thus often not the result of external threats or demands by domestic groups, but rather shaped by internationally shared norms that structure and give meaning to international political life (Finnemore, 1996:2-3).

Returning back to the issue of norm enforcement, sociology has for a longer time studied the influence of norms than political science. The conventional view of norm enforcement in this area is a rationalist assumption that argues that norm enforcement needs to be explained by identifying factors that overcome individual self-interest, since enforcement can be costly, may take time and emotional energy and even result in personal harm (Horne, 2007:139-140).



Horne et al argues instead for a need to move beyond cost-benefit analyses, meaning that explanations of norms might not be as parsimonious as desired. There is a need to make only context-specific predictions rather than general ones, and one will need to focus on the processes through which shared meanings emerge. Both classical instrumentalist, rational factors seem to be important but also non-rational factors. Future research on norms should, according to Horne et al, thus explore the effects of objective structural conditions, non-instrumental factors and the intersection of the two (2009:219-220).

The combination of these theoretical strands could be boiled down to two different kinds of logic of action. Rational choice is often used in theories that consider agents and interests unproblematic, and it requires knowledge of utilities since one must know what one wants before one can calculate means to those ends. An alternative to this notion is that social structures (i.e. norms of behaviour and social institutions) can provide states with direction and goals for action. Actors conform to the values and rules and roles that the structures define in part because of “rational” reasons, but also because they become socialized to accept these values, rules and roles. They internalize these roles and rules to which they conform because they understand these behaviours to be appropriate and not out of conscious choice. This means that actors ask “What am I supposed to do now?” rather than “How do I get what I want?”. Thus, notions of duty and obligation might govern political behaviour just as self-interest and gain might do so (Finnemore, 1996:28-29). The “logic of appropriateness” is driven by social structures of norms and rules that govern the kinds of action that will be contemplated and taken. The structures also define responsibilities and duties and therefore determine who will contemplate and take action. The “logic of consequences” in contrast is driven by agents, who are pre-specified and make means-ends calculations and devise strategies to maximize utilities. Norms will serve the interests of powerful actors (Finnemore, 1996:29).

The difference between these two logics of action are however not as distinct as one portrays them in theory. They are intimately connected, since actors create structures which take on a life of their own and in turn shape subsequent action. Social structures create and empower actors who may act to overturn structures for reasons of their own. In all situations both logics will play a role, so the separation of the two is mainly due to analytical clarity rather than an empirical reality (Finnemore, 1996:29-30). The explanations based on Horne’s theories connected to the cost and frequency of a behaviour are more instrumental and thus based on a “logic of consequences”. The explanations based on constructivist theories as presented by Klotz below, are tied to social structures and identity and thus based on the “logic of appropriateness”.

This case with these two different actors provides an empirical puzzle that seems to be difficult to explain for constructivist or rationalist theories alone. By combining the two, and study to what extent shared norms or material aspects has lead to the action taken by the EU and Japan towards North Korea, I will develop a more comprehensive and pluralistic framework combining approaches in line with what is suggested by both Horne, Klotz and Finnemore.

## 1.2 Purpose and research design

The purpose of this thesis is to develop a theoretical framework to understand and explain international norm development and enforcement, which I argue to be connected. I do so by testing and assessing both causal and constitutive effects leading to norm enforcement. I develop a theoretical framework looking at interests, arguing that the enforcement of human rights against the DPRK can be explained by that it was in the interest of the EU and Japan to stand in the forefront of such an initiative, as well as in the interest of the HRC to support it. These interests are not taken for granted but problematized, and argued to be a result of the social structure the EU and Japan resides within. Whether these interests have been the same during the whole time period or whether they have changed, thus marking a clear difference with the much more influential COI initiative will also be addressed. I thus study both how state interests are formed but also how these interests shape state behaviour in the form of norm enforcement.

Several researchers argue that a combination of different theoretical perspectives is essential to understand norm enforcement and policy change. Horne suggests that a combination of rational instrumental approaches and non-rational constructivist approaches can account for the most complete explanation of why norm enforcement occurs (2009:219-220). Lowndes and Roberts suggests it is essential to develop a multi-theoretic perspective from various strands to examine the full range of possibilities for actors' motivation, seeing as how traditional institutionalist theories are too inflexible to cope with the mixed motivations of states (2013:2, 6). Klotz likewise argues that no absolute dichotomy exists between material interests and ethical ideals: "In practice, actions are motivated by a complex combination of self-interest [...], self-affirmation [...], and group interest" (1995:13). Similarly, Finnemore notes that both a cost-benefit calculating "logic of consequences" and a normative "logic of appropriateness" are present in the empirical reality (1996:29-30), also suggesting that arguing for one or the other is an incomplete representation of reality.

Thus, at one hand I will use Christine Horne's instrumental theory. This focuses on the cost-benefit calculations made by actors when facing the choice of enforcing norms, as well as the impact of social relations in a rationalist perspective. Analysing the case of North Korea and the HRC from a rationalist assumption only would lead to emphasis on cost-benefit calculations in terms of material, rather than social gains and losses. However (as both Horne, Klotz and Risse and Sikkink notes) affirming human rights norms can offer important social benefits (Klotz, 1995:10). Thus, at the other hand I will use Audie Klotz's constructivist theory. In it, she illuminates the independent role of norms in determining actors' identities and interests. Thus, my aim is to use these two theories as complements to each other, rather than competing. By combining the two, I will contribute to the development of theory on norm enforcement and a more complete understanding of all the mixed motivations that can play a part in norm enforcement change and continuation.

I will assess the impact of these different theories by turning to the method of process-tracing, which revolves around tracing the causes that led to a known outcome: in this case the human rights enforcement against the DPRK. George and Bennett describes this method as “attempts to empirically establish the posited intervening variables and implications that should be true in a case if a particular explanation of that case is true” (2005:147).

However, my theoretical framework builds upon a combination of rationalist instrumental arguments and constructivist constitutive ideas. These theories regarding norm enforcement are stemming from different epistemological backgrounds: positivism and post-positivism. The task to combine these is lined with possible pitfalls, but I have already argued for the benefits of a pluralistic approach; it will provide us with a much more complete view of the empirical reality than just looking at one aspect or another. By differing the theories depending on their causal or constitutive effects, arguing that both has an influence on the outcome, I will offer a more comprehensive view of causes leading an actor to enforce norms. Alexander Wendt argues that the difference between “explanation” and “understanding” is not a difference between explanation and description, but that both provide explanations *and* descriptions. They just do so by asking different kinds of questions – causal and constitutive (1998:102-103).

### 1.2.1 Material

My main source of empirical material will be official statements made by Japan and the EU during Human Rights Council sessions between 2008 and 2014. These statements include those made during interactive dialogues with the Special Rapporteur or the Commission of Inquiry on the DPRK, as well as statements made when the resolutions on DPRK has been up for adoption at each council session. These documents vary in availability, some only available through the recorded webcast of the council, other not at all. But from each session some statements have been able to be extracted from both actors, apart from the years 2006 and 2007. These two years were however dedicated to the setting up of the new institution Human Rights Council, replacing the Commission on Human Rights, and thus did not include any discussion on the mandate of the SR for DPRK or similar. Instead the mandate was renewed in the General Assembly. Session 22, 24 and 25 of the HRC (2013 and 2014) are available as recorded videos online<sup>1</sup>. Session 19 (2012) of the HRC is available online<sup>2</sup>. Previous sessions are not available as recorded videos, but as written statements. These are found password-protected at the “HRC extranet”, but where registration to get a

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<sup>1</sup> Available at: <http://webtv.un.org/meetings-events/human-rights-council/regular-sessions/>

<sup>2</sup> Available at: <http://www.unmultimedia.org/tv/webcast/c/nineteenth-session.html>

general password is available for anyone<sup>3</sup>. The years 2003, 2004 and 2005 was during the Commission on Human Rights<sup>4</sup>.

I have also conducted one interview with a EU-diplomat based in Geneva, who provided me with some reflections and thoughts on the process around the DPRK resolution. This interview was conducted via Skype, and was of an informant-based character. Where the theoretical framework demanded it, I have used other source material.

In 2003 the Commission for Human Rights (CHR) adopted its first resolution on the situation for human rights in North Korea, and will mark the starting point of my analysis. The end point of the analysis will be when the Human Rights Council (HRC) adopted the resolution in 2014 which recommended that the General Assembly submitted the report to the Security Council for its consideration and appropriate action, in order to ensure that those responsible for the human rights violations were held to account to the International Criminal Court (Human Rights Council, 2014). When this resolution was adopted the issue of North Korea's human rights compliance moved from one international arena to another, namely the UN General Assembly. It then moved on to the agenda of the Security Council, where it today has become a fixed point on the council's agenda.

### 1.3 Road map

This thesis proceeds as follows. In chapter 2 I develop my theoretical framework. I present my definition and constitution of the norm of human rights, how this develops and spreads, and what is believed to underlie the motivations to enforce norms. Thereafter I turn to mechanisms of norm enforcement, presenting on one hand relationships hypothesizing that costs and benefits motivated by self-interest are guiding in states decision to enforce norms. On the other hand I present the relationships hypothesizing that self-affirmation and group interest, related to the identity of the EU and Japan, guides their interest to enforce human rights in North Korea. Thereafter I sum it up in a theoretical framework to be used in the analysis, with five hypothesized relationships.

In chapter 3 I develop my methodological approach in the form of process-tracing. I explain how I combine the different theoretical strands into a combined framework, by introducing the concept of constitution as a difference from causality.

In chapter 4 I apply the theoretical and methodological framework on my empirical material, and assess the extent that the different hypothesized

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<sup>3</sup> Register for access at: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCRegistration.aspx> (or by searching for "HRC extranet" at Google)

<sup>4</sup> Can be found at this address: <http://www2.ohchr.org/english/bodies/chr/regular-sessions.htm>

relationships has influenced the EU and Japan's decision to enforce human rights in the DPRK in the context of the HRC.

I end in chapter 5 with summing up my conclusions and the value added of this thesis. I conclude with presenting some suggestions for further research.

## 2 Towards a theoretical framework

In this chapter I will present the theories underpinning my theoretical framework, and sum it up with a number of hypothesized relationships. This framework will then be used to analyse the empirical material in combination with the process-tracing method.

### 2.1 Norms

#### 2.1.1 Definition and origins

Horne defines norms as rules accompanied by social sanctions, while Klotz defines norms as shared understandings of standards of behaviour. Finnemore defines norms as shared expectations about appropriate behaviour held by a community of actors. Common for all is that norms are seen as structures underpinning social relations. For my purpose, I define norms as a combination; norms are shared understandings of standards of behaviour in a community of actors, accompanied by enforcement. They thus guide social interaction and relations at all levels.

Klotz notes that there are constitutive and regulative roles for norms. Constitutive norms partially define actors' interests and identities, and are thus a crucial part of the international system. As an example, Klotz mentions how states exist today due to the socially derived norm of territorial sovereignty, leading all states and other international actors to be inherently socially constructed. Regulative norms influence policy choices through processes of coercion, encouragement and legitimation (1995:16-17, 26-27). In accordance with Klotz view, I argue that norms originate from within previously existing social institutions, which includes other norms. Thus emerging new norms can be analysed from within a context of already established norms. Human rights can be argued to have its origin within liberal individualism. Consequently, norms and institutions will be stable despite changes in power distributions and actors' interests (1995:21-23).

#### 2.1.2 Development, spreading and change

State leaders are not either selfish or social, but both at the same time. A social state is required to balance internal notions of interests with each other and also the pressures arising from the needs of social approval and a positive self-image.

Which of these two prevails depends on the context, and whether the norm is robust or not (Shannon, 2000).

Legro shares this notion and develops the concept of robust norms more. He concurs that norms matter, but not necessarily in the ways or extent expected. Since norms come in varying strengths rather than just exist or not, the constitutive and regulative roles of norms will be stronger if the norm is more robust (1997:31, 33).

The robustness of the norm can be identified by use of three criteria: specificity, durability and concordance. Specificity refers to how well the guidelines for restraint and use are defined and understood, and is assessed by examining actors' understandings of the simplicity and clarity of the prohibition in the norm. Durability concerns how long the rules have been in effect and how they tackle challenges to their prohibitions. If norm enforcement occurs, and deviants are punished, the norm is reinforced and reproduced. Concordance is an issue of how widely accepted the rules are in diplomatic discussions and treaties, i.e. to what degree there is an intersubjective agreement on the norm. However, reaffirmations of the norm can also be a sign of the weakening of the norm, and this can vary depending on the context. By reviewing records of discussions that involve the norms, it is possible to see whether states concur on the acceptability of the rules and take the rules for granted, or if they put special conditions on their acceptance of the prohibitions of the norm or similar (Legro, 1997:34-35).

The expectation is that the clearer, more durable and widely endorsed a norm is, the greater will be its impact on behaviour and actions (Legro, 1997: 35). This develops in the norm life cycle, which has three stages; the first one is the norm emergence, the second is norm cascade, and the third involves internalization. Between the first and second stage is a tipping point, when a critical mass of relevant states adopt the norm. Different actors, motives and mechanisms of influence characterize change at each stage. The motivation for this second stage may vary, and that is what I will continue to delve deeper into in the section on norm enforcement. But at this stage socialization, demonstration and institutionalization of the norm are the most dominant mechanisms, aimed at making norm breakers to become norm followers. If a norm cascade is completed, the norm reaches a taken-for-granted quality and is no longer a topic for broad public debate (Finnemore & Sikkink, 1998:895).

## 2.2 Norm enforcement

Since norms guide social relations by regulating understandings of behaviour and sanctions, they work both as constraints and motives. Norms act as a constraint when actors comply with the norm, and by determining both appropriate means and goals. Thus they indicate what behaviour is seen as legitimate and acceptable to do, and indicate an actor's "duty". Norms also legitimize goals, thus defining actors' motives or interests and worldview. An actor's interest is formed out of

global processes of norm change (Klotz, 1995:25-26). Thus norms independently play a role in determining actors' interests and identities (1995:17).

Norm enforcement and sanctioning are here used as synonyms, and in my case concerns the negative reactions and punishment that can be brought about by an actor's behaviour. The COI against North Korea is not a material punishment unlike traditional economic or material sanctions, but likewise is a punishment affecting the state's reputation and diplomacy.

What purpose does norm enforcement fill? And consequently, what reason is there for an actor to enforce a norm? Kaempfer and Lowenberg notes that international economic sanctions do not always play an instrumental role, but can also be an expressive goal. Some pressure groups can "obtain utility from taking a moral stance against some other nation's objectionable behaviour" (1988:786). Klotz suggests a structural explanation, based on the role of norms as fundamentals of social relations, behaviour and identity, arguing that two political processes are at play characterizing continuity and change. The first process is constitutive, and concerns struggles to define the mutual understandings or norms that underpin identities, rights, grievances and interests. The other process is instrumental, and concerns the use of social sanctions to control behaviour (Klotz, 1995:27). But sanctioning also constrains and affirms identity (1995:29), thus also marking sanctioning or enforcement as a constitutive process. Due to this constraining effect, one can return to the definition of norms and note that norm enforcement is inherent in norms themselves. As Horne notes, without enforcement people stop expecting punishment or rewarding and thus the norm eventually fades. Without sanctioning there will consequently be no norm (2007:139-140). And since the same norm underpins actors' identity, behaviour and interests, they will have an incentive to enforce the norm – as a tool to define the norm and thus affirm their own identity and interests. This indicates that state interests are supplied externally, and that states are receptive to what actions are seen by other actors as appropriate and useful, which thus follows the logic of appropriateness (Finnemore, 1996:11).

Costs and benefits also act as reasons for actors to enforce norms. As Horne notes, sanctioning can be costly. That norms are enforced despite the costs is because the benefits outweigh the costs. These benefits can be driven by incentives defined by an actor's self-interest, meaning that they will enforce norms because they want a share of the benefit that the sanctioning will produce (Horne, 2007:140-142). With this reasoning, actors will have an interest in the sanctioning that regulates behaviour, because they want a share of the benefits associated with the sanctioning. The greater that benefit the stronger the interest of other group members will be (Horne, 2007:145), which follows a logic of consequence.

Horne's approaches concern agents being driven by self-interest with rational consequentialist logic. Klotz focus rather on normative structures as the driving force in norm enforcement, and argues that these structures also underpin actors' interests and self-affirmation (1995:13). In my analysis I will aim at mapping out the extent that these components – material self-interest, group interest and self-affirmation, affect actors' behaviour and policy choices, or in other words states'



decision to engage in international norm enforcement. I thus place self-affirmation and group interest under Klotz's constructivist view. This provides me with a constitutive explanation of the actor's behaviour. The material self-interest is placed under Horne's instrumental approach, which will provide me with a causal explanation. Underpinning all these components are structural norms forming actors' identity and thus also their behaviour and interests. This identity of the states is related to human rights to varying degrees, for example some states will have a larger interest to be known as human rights "defenders". This approach will by and large provide me with a constructivist explanation, but including instrumental rationalist factors as well.

### 2.2.1 Self-interest

Klotz uses material self-interest as a baseline (1995:14), meaning that all actors have this at heart when operating. The extent to which group interest and self-affirmation will affect behaviour and policy choices apart from the self-interest will thus vary, and be stronger vis-à-vis self-interest at times and at other times not. Horne notes problems with the assumptions of the material self-interest, since the empirical reality shows that this rarely can explain all variation (2007:142). However, both agree that it can account for at least some variation, thus indicating that it can be of some use in combination with other explanatory factors. It is thus an issue of identifying possible material costs and benefits that sanctioning will produce for the sanctioners, which can also include the benefits provided by the metanorms at play.

Metanorms are norms that regulate enforcement. If states do not punish other who deviates from the norm, those states will themselves be punished. Similarly, if punishment is carried out of the "deviant" the state will be rewarded for doing so. Incentives to reward or punish a sanctioner stems from a wish to receive a share of the benefits of sanctioning (thus being dependent on there actually being substantial benefits of the sanctioning in the first place) (Horne, 2007:143). Metanorms are enforced because actors care about their social relations. They have a positive effect on norm enforcement, since people want others to think well of them. When an actor makes a decision about sanctioning they will consider the reactions of others, because they want to show that they are a "good type" worth interacting with and want others to respond to their behaviour in a positive way. The stronger and more favourable reactions there are to sanctioning, the more likely people are to enforce norms (2007:148).

This is strongly influenced by rationalist assumptions, which assume that actors are utility maximizers. This means that the actor has clearly defined goals and objectives (for example national security and territorial sovereignty), and when facing a set of alternatives with different consequences will choose the alternative whose consequences will give the biggest pay-off and smallest cost according to the actor's set of objectives. The utility-maximization implies that actors have perfect information and clear alternatives (Allison & Zelikow, 1999:18, 30-33).

## 2.2.2 Self-affirmation and group interest

How to identify an actor's behaviour as motivated by self-affirmation or group interest? Klotz introduces three central tools that illustrate how norms affect policy choice, in this case the choice to enforce the human rights norm. The constitutive, regulative and procedural roles of norms are illustrated with these tools.

Firstly, several international communities exist rather than one, as sites of identity and interest formation. Thus the variation in enforcement can be due to change in memberships and external norms forming a socio-historical context (Klotz, 1995:27). Identity and interests thus depend on this context. This view implies that there is no dominant international order. These communities are developed out of shared values and interests, and a state may maintain several simultaneous community memberships or group identities. Foundational principles and collective articulations of threat can be indicators of an identity distinct from interests and behaviour, illustrating the constitutive norms that define collectivities of actors.

States may thus remain members of institutional arrangements for identity-affirming reasons, but also for material gains. These communities prove to be crucial arenas in which identities influence actors' behaviour. Membership offers both social costs and benefits, but not solely economic or functional incentives. Behaviour will have different meanings depending on the context and the legitimation offered. The community standards define how far behaviour can diverge from norms, enabling sanctions to work as instruments of socialization through identity constraint and identity affirmation (Klotz, 1995:28-29). Thus, an international community is not only constraining, but also constitutive and generative since it creates new interests and values for actors. By changing state preferences it changes state action (Finnemore, 1996:5-6).

The second tool, the reputations of actors in regards to the norm can give an indication of the legitimation processes of norms as well as their constraining effects (Klotz, 1995:27-28). Self-affirmation and legitimation is based on the prevailing norm, and is therefore not only observable in behaviour but also through the process of communication. To analyse the communication process it is necessary to study words and intentions as well as behaviour. Intentionality and acceptability are central to this, rather than compliance and deviance to a norm (Klotz, 1995:30)

Reputation is relational since it is defined by the opinions of others, and normative constraint thus depends on how a deviant is perceived by other community members. Specifically it depends on how others have interpreted an actor's actions. A community relationship defines which actors matter: whose judgments matter, who the receivers of justifications are and whose sanctions are of the most concern to the deviant. Reputation is therefore a source of vulnerability and potential constraint on an actor's ability to achieve its goals. The effect of a negative reputation will however vary in seriousness. Some degree of deviation from the community standards helps to define those norms. If repeated deviation occurs, responses to that will depend partly on the types of norms being

flouted and the previous reputation of the deviant. If a state deviates repeatedly or extremely from the community standards, it might lead to serious consequences such as expulsion from the community. Thus, the norms by which behaviour is judged set the boundaries of political conflict and cooperation (1995:30-31).

Naturally, states cannot determine their own reputations but can try to convey a particular image in order to minimize any negative repercussions of community criticisms. This can be achieved by being associated with and evaluated through the framework of the community's shared values, thus emphasizing desirable traits. Consequently, the community relations of an actor mainly involve the control or manipulation of information in attempts to fit into the normative frameworks within which other members evaluate its actions. The ability to communicate becomes critical for navigating among the constraining effects of identity in the form of reputation (Klotz, 1995:31).

The third tool concerns international and domestic discourse, and also formal institutions, which can be examined to trace the impact of norms in the process of policy-making (Klotz, 1995:28). This is connected to norms as motives, since it links identity and interests to policy and behaviour, and concerns group interest rather than self-affirmation. Various avenues exist for norms to influence the determination of national interests and political goals through international and domestic decision-making processes. These transmission mechanisms include multilateral institutional memberships, bilateral persuasion or learning, elite changes, domestic coalition building and more dramatic domestic social transformation

Shared norms underlie dominant ideas and knowledge. Individual ideologies develop into shared, intersubjective community conceptions of normality and deviance through social interaction. This produces relatively consistent interpretations of the empirical world among the actors. Norms are guides for understanding, and are thus crucial in defining and shaping reactions to the world they interpret. By identifying the norms guiding the actions of the states in their norm enforcement it can thus explain their behaviour. These intersubjective understandings, i.e. the standards by which behaviour is judged, are also essential in setting the boundaries of political struggle and cooperation. In other words, instead of depending only on individuals' beliefs or understandings, the policy-making processes involve shared assumptions about the political process and national interests. By focusing on consistencies in assumptions within decision-making processes one reasserts the importance of shared norms. Variation in the permeability of discourse across decision-making institutions can explain why organizations and states adopt different types of sanctions and policies (1995:32-33).

## 2.3 Theoretical framework

So how is this put together? In sum, causal self-interest is identified by looking at the material and social benefits that can be gained by states if they choose to

enforce the norm. Then constitutive self-affirmation is identified by looking at the subsystemic communities of the sanctioners, and the constitutive norms that define these collectives of actors. Membership influences the identity of the actors, which in turn indicates what behaviour will be seen as self-affirming. Thereafter the reputation and communication is looked at, also a step in identifying to what extent self-affirmation has played a role. Reputation constrains the behaviour of an actor, meaning that in order to communicate a better reputation in relation to the prevailing norm in the community, states might choose to behave in a certain way; in this case, to enforce a norm. This will affirm their identity in relation to the norm. Last, I look at the discourse and constitutive group interest; what prevailing discourse or shared assumptions seems dominant over time and how can this be seen to affect the policy choice of the institution of the HRC and thus affect the group interest?

These will be boiled down to five hypothetical connections or relations summed up below. The first two are causal and will be tested by a traditional process tracing hypothesis test. The last three are constitutive in their effects and will be explored by a typology of constitutive causation. The aim of these relationships is to test the causal and constitutive connection, and with the results being able to contribute to development of theory on norm enforcement towards a more pluralistic approach.

1. Material benefits cause an actor to enforce norms against another
2. Social benefits cause an actor to enforce norms against another
3. Group membership cause an actor to want to enforce norms against another
4. The wish to enhance reputation cause an actor to enforce norms against another
5. Shared norms in the community cause an actor to enforce norms against another

While these five connections stem from different theoretical backgrounds they will likely be mutually reinforcing and complementary.

Behind these is however an underlying variable, which is also constitutive. This variable is the norm in itself, which have constitutive effects since it makes social roles and identities possible. Without the norm of human rights, there would be no defined identity for the norm-defending actors or the norm-violating actors, thus also not making it possible for the actors to define their self-interest and group interest in this situation, nor to make it possible for them to act in a self-affirming way. I return to the role of constitutive effects versus causal effects in the next chapter, but my aim is to look for observations that can show how the norm of human rights makes it possible for actors to enforce norms against others. As mentioned, norms guide social interaction and relations at all levels. The more robust norm the greater the effect of the norm on actors' behaviour can one expect, and it will similarly have a stronger constitutive effect on the behaviour of norm enforcement.

## 3 Method

In this chapter I will present the method of process-tracing, as well as how I will use it with my theoretical framework. Constitutive causality is a central concept that enables a combination of rationalist and constructivist theories.

### 3.1 Process-tracing

Process-tracing is a method for identifying the intervening causal process between and independent and dependent variable (George & Bennett, 2005:206). It is best applied to emphasize change at the meso-level (Kay & Baker, 2015:10). The starting point is an awareness of the outcome, and one then studies the process by which the outcome happened – not the outcome in itself. One can start by studying decisions close in time to the final outcome and then work oneself backwards in time (Esaiasson et al, 2010:145). By tracing the process that may have led to an outcome one can narrow the list of potential causes. However, it may prove difficult to eliminate all potential explanations but one, because when human agents are involved they may be trying to conceal causal processes. But process-tracing forces a researcher to consider alternative paths through which the outcome could have occurred, which makes it an important tool for theory testing and development; not only through the generation of numerous observations within a single case, but also because of a lack of independence between the observations. This makes it necessary to link the observations in particular ways to create an explanation of the case and reduces the problem of indeterminacy (George & Bennett, 2005:207).

A theory may not leave observable implications, or its predictions about a causal process may be ambiguous or questionable. To prove that a particular process did occur can be very difficult, and if the theory is not specified enough it might not allow identification of causal processes with confidence. However, at least some explanations can be excluded by a single case-study (George & Bennett, 2005: 217-218, 220).

When a well-specified theory is available, the theory testing can work its way from effects to their possible causes. All but one theory might not be eliminated due to insufficient evidence. The theories might also be complementary rather than mutually exclusive and thus several theories may have contributed to the observed effect (George & Bennett, 2005:218).

Kay and Baker identify three types of process-tracing, and I will conduct a theory-centric kind. This concerns theory testing, and its purpose is to ask whether the mechanism the theory hypothesizes is present in the case, and if this

mechanism functions as assumed. This is used since existing theories are extracted in my theoretical framework, and since my aim is to test whether these mechanisms are present or absent in my case (2015:6-7). However, these inferences will be used in order to develop theory as well, and I will combine them with constitutive inferences.

### 3.1.1 How to do theory-centric process-tracing

In my theoretical framework I have mapped out different potential mechanisms that could bring about norm enforcement. This is the first step in a process-tracing approach according to Kay and Baker, and they also press the point of using counterfactual hypotheses as well (2015:10). In my analysis I will include considerations of relevant null hypotheses. The second step is to collect diagnostic evidence, which can indicate whether the image of the world implied by the theory is consistent with multiple actions and statements of the actors at each stage of the causal process. The observations are not necessarily actual manifestations of a variable but can rather be indicators or markers of its existence (Kay and Baker, 2015:12).

However, these observations are not all necessarily equally important to the outcome, and it is necessary to assess its diagnostic weight. This is done by considering the frequency of the observations, whether an observation would likely occur if alternative explanations would be true, and assessing the spuriousness of the observation (Kay & Baker, 2015:13).

The weighting assigned to pieces of evidence should be determined in relation to the nature of its source. If it is primary evidence it is created during the time period under analysis and has not been subjected to scientific interpretation. This includes speeches, media articles and policy documents among others. These types of evidence are what I will mainly be using, and should be used to reflexive inquiry: who, for whom, where, when and why was the evidence created and how do these factors insinuate bias? Secondary evidence is interpretations of primary evidence created after the time period under analysis, like historic accounts and key informant interviews (Kay & Baker, 2015:13-14).

The third and last step in the process tracing analysis is hypotheses testing. This can be done by the use of four tests based on the degree of belief in a hypothesis (Kay & Baker, 2015:15). The more unexpected a piece of evidence is, i.e. the more unique it is, the greater a hypothesis' affirming power. This means that one has to formulate the expectations one has to find confirmation in observations of the hypothesis, which I will do in the analysis.

Below is a table from Rohlfing (2014:611) illustrating the tests out of their uniqueness/sufficiency and certainty/necessity. He defines certainty/necessity as the probability with which one expects to find an observable implication confirmed (something assessed before the analysis), and uniqueness/sufficiency as whether the observation is specific to one explanation or can be derived from multiple hypotheses (2014:610).

Table 1. Rohlfing's "Types of Hypothesis Tests and Causal Inference"			
		Certainty (passing test is <i>necessary</i> for inferring causation)	
Uniqueness (passing test is <i>sufficient</i> for inferring causation)		High (Yes)	Low (No)
	High (Yes)	Doubly decisive	Smoking gun
	Low (No)	Hoop	Straw-in-the-wind

The tests can be used to determine whether something actually took place, but also whether an independent variable was the cause of the dependent variable (Kay & Baker, 2015:15). The four tests are: a doubly decisive test, a smoking gun, a hoop test and a straw-in-the-wind, and are dependent on the available material. A doubly decisive test is the strongest, confirming a hypothesis and eliminating others. It requires an observation to be both necessary and sufficient. A smoking gun test is a strong sufficiency test, when evidence is sufficient but not necessary to support the presence of a causal factor or the operation of its mechanism. With this, one can confirm a hypothesis, but the absence of such evidence does not eliminate that hypothesis. If multiple causes are necessary for the same outcome, the rarest of those causes is the most important empirically. The third test, a hoop test, is a strong necessity test. If necessary evidence is absent one can eliminate the hypothesis, but if it is present it can establish the importance of it but does not confirm it. The straw-in-the-wind test finally is the weakest, and applied when evidence may have some probative value to the hypothesis but is neither necessary nor sufficient to affirm or reject the hypothesis. It supplies leverage for or against a hypothesis (Kay & Baker, 2015:16).

These tests may not be possible to conduct robustly due to possible spuriousness of evidence and the complexity of policy phenomena. This challenge, that it might never be possible to completely eliminate nor affirm a hypothesis, can be solved by adhering to Rohlfing's claim that we should test each argument comparatively in terms of their relative explanatory power, rather than competitively. Theoretical pluralism suggests that it is useful to include multiple explanatory factors in a research design since independent variables marking separate theories will often correlate to some extent. This type of comparative hypothesis testing recognizes that the policy processes are complex in which causal factors and mechanisms are context dependent and can interact with one another to generate nonlinear effects (2015:16-17).

### 3.2 Causality and constitution

My theoretical framework poses answers to two kinds of questions: causal and constitutive. I ask both why Japan and the EU chooses to enforce human rights

against North Korea in the HRC, and argue that it might be explained by motivations based on self-interest. But I also ask how is it possible for them to do this - what social structures underlie the norm enforcement, making one state want to sanction another for human rights violations?

Causal theories answer “why?” and “how?” questions. To answer such causal questions, i.e. by finding that X causes Y, three assumptions are made: 1) X and Y exist independent of each other, 2) X precedes Y in time, and 3) without X, Y would not occur. It is mainly the third counterfactual assumption posing challenges to causal theories, since these cannot be observed. But constitutive questions do not make the two first assumptions, because these two reflect the aim to explain *change* in the phenomena being studied. Causal theories can thus be called transition theories (Wendt, 1998:102).

Constitutive theories account for the properties of things by reference to the structures of which they exist, and can thus be called property theories. These are *static* rather than explaining events through time. The structures can contain dynamic properties, being continually reproduced through time even if they do not change, but the theory will only aim at taking a static snapshot to explain how the structure is constituted. The constitutive question is “how are things in the world put together so that they have the properties that they do?”, or “how is it possible for A to do B”. A constitutive theory needs to fulfil the counterfactual third assumption made in causal theories, but do not adhere to the first two since it does not concern change. When the properties constituting a phenomenon come into being, the phenomena come into being with them at the same time. Talking about independent and dependent variables in this context thus makes no sense in the traditional sense, but can be interpreted differently in that case; when constituting conditions vary, then so do their constitutive effects by definition (Wendt, 1998:103, 105-106). Constitutive theories are however not causal, but still provide an *explanation* of a phenomenon (Wendt, 1998:110).

The distinction between a claimed positivist *explanation* and post-positivist *understanding* is commonly made in social science, arguing that these are fundamentally different. The argument is that the goal when explaining a phenomenon is to find causal mechanisms and social laws. The goal of understanding is to recover the individual and shared meaning that motivated actors to do what they did. As Alexander Wendt argues, the difference between these can be seen not as a difference between explanation and description, but between explanations that answer different kinds of questions – causal and constitutive. Thus the difference is rather relating to the type of questions one asks, but both provide explanations (1998:102-103).

Both constitutive and causal theories imply a similar epistemology since they both are true or false in relation to how they correspond to the state of the world, because both are guided by a desire to make the theories correspond to how the world works. Both also provide both description and explanation. Ideas or norms have constitutive effects since they make social roles and identities possible. Those shared understandings also have causal effects on the actors by motivating and generating their behaviour (Wendt, 1998:106-107, 117).



This is what is central to bridging the gap between the theoretical strands in my approach. My theoretical framework identifies material aspects to have causal effects, i.e. leading to change, but ideas to have constitutive effects, in other words defining properties of a structure. I believe self-affirmation, self-interest and group interest to all have effects on norm enforcement. Or in other words, if these three aspects are absent an actor will not have the motivation to enforce norms against other actors who deviate. However, I do not stop there, since the norm being enforced also constitutes a structure for the actors to act within. This means that self-affirmation, self-interest and group interest do not exist independently of the *norm*, which constitutes the social structure the actors behave and act in, i.e. the meso-level institutional context of the HRC and its constitutive norms. Constitution, or the properties of the social structure that the actors are situated in, thus also provides an explanation as to why norm enforcement occurs. By combining both constitution and causation they can provide complementary explanations, rather than competing ones. By applying this softer causality one can abandon the search for general laws partially, and focus on clarifying the meaning of the causal process (Björkdahl, 2002:12).

So while I will study causality in the traditional sense as defined by Wendt, I will go deeper to also clarify the meaning or the properties of the process. This will provide me with an explanation that is context-specific. Process-tracing applied to within-case studies can only claim cause-effect relationships to that case only. While a mechanism can operate the same way under different contexts, they cannot alone cause outcomes. Causation resides in the interaction between the mechanism and the context within which it operates (Kay & Baker, 2015:5, 7).

Many positivists would agree upon this view that causation and constitution are two different things. But several constructivists have touched upon a more combined view of causality. It is suggested that constitutive causality occurs whenever “antecedent conditions, events, or actions are ‘significant’ in producing or influencing an effect, result, or consequence” (Lebow, 2009:213). However, it seems like neither Wendt would disagree that constitution can have effects or consequences, but simply that they just do not bring about *causal* effects in the strictest sense as defined by the three assumptions mentioned above. As Lebow argues, “constitutive causality” offers no X that causes Y. Hypothesised causes are not claimed to be necessary or sufficient, and in its *strongest* form constitutive causality theorises conditions that can pass hoop tests at the most. Weaker forms of causal claims offer possible and insufficient conditions. To identify all causes will never be possible, but Lebow argues that this is not necessary to develop a reasonable understanding of the behaviour in question (2009:214-215).

Lebow provides a useful tool to assess the effects of constitution, or the constitutive causality as he puts it. I adhere to Wendt’s definition that this is not causality in its strictest sense, but that this type of constitutive effects still provides a good explanation that can have causal effects, as noted above. Thus, constitution can *cause* effects. Lebow describes a continuum with strong forms of constitutive “causality” on one end and weak forms at the other (2009:211). The high end with strong forms of causation has frames of reference that make some behaviour all but necessary and some almost inconceivable. In the middle of the

continuum are frames of reference that make some behaviour more likely and other actions correspondingly less so. At the low end with weak “causality” are identities and frames of reference that have little effect on actors’ behaviour, but however can be used by the actors to help sell or justify particular behaviour or policies (Lebow, 2009:215).

A strong constitutive causality mainly include religious beliefs, where it can be possible to demonstrate that the behaviour in question would be inconsistent with other identities and frames (a null-hypothesis of a sort) (Lebow, 2009:215-216). The middle range strength of constitutive causality can however include social and political identities, which will make some behaviour more likely and other actions less likely. Weaker constitutive causality is often associated with frames of reference that are less determining, meaning that a behaviour being analysed can be consistent with multiple identities or frames. In other words, to explain the behaviour through its constitution several explanations relating to properties might be true, thus being insufficient. Lebow suggests that this is the most common situation since actors almost always have multiple frames of reference. Chance, confluence and other contextual features may determine why any of these come to the fore at a certain point, which makes it essential to situate any inquiry in a broader social and causal context. At the lowest end of the continuum are identities and frames of reference that are used as rhetorical devices to justify behaviour and policies. Lebow mentions “Western civilization” and “sovereignty” as two examples which both divided actors into “us” and “others” (2009:217-218).

Lebow suggests that one studies how actors formulate their appeals in order to identify where exactly on the continuum an observation is situated. If actors attempt to “sell” the frames they are at the low end, if they try to appeal to the frames they are at the middle end, and if they make no reference to them but still act and speak in terms of them they are at the high end (2009:219).

### 3.3 Methodological framework

How do I then actually combine all these components into the actual method to be used in my analysis? The aim is to evaluate the causal and constitutive causes leading Japan and EU to enforce human rights against the DPRK. I will start with the three steps presented by Kay and Baker, but add additional steps in order to include consideration of the constitutive effects.

The analysis will start with looking at the five hypothesized connections presented in the theoretical framework relating to the three different kinds of motivations: self-affirmation, self-interest and group interest. These connections are aimed at developing theory on what motivates norm enforcement.

The first two relationships presented are causal and will thus be tested. I will identify my expectations of finding these relationships confirmed, which is crucial for the hypothesis testing, since it provides me with a measure of the certainty or probability that I expect to find the observation confirmed by evidence, prior to

evidence being collected. I will go on to identify the observations related to this connection that could support or undermine it. I will assess the probable weight of these observations in order to be able to move on to the next step, the hypothesis testing. The hypothesis testing starts with the probability of finding evidence that supports the hypothesis, i.e. an assessment of the hypothesis' certainty or necessity. Thereafter I will collect evidence to see whether these observations only can be accounted for by the theory in question or by other explanations as well.

Thereafter I will turn to the following three connections and aim to place them on the typology of constitutive "causality" presented by Lebow and assess how these mechanisms affect the behaviour of the EU and Japan. When the tests and assessments have been made I will discuss how these relationships might be complementary rather than competitive, which is most likely.

I will end by turning to the constitutive causality and the wider norm making norm enforcement possible for the actors to engage in. I will study this by looking at the human rights norm's robustness.

## 4 Analysis

My theoretical framework posits that norms guide social interaction and relations at all levels, and are both constitutive and regulative. They originate from previously existing social frameworks, and change within these structures. Norm enforcement is motivated by a combination of self-interest, group interest and self-affirmation, to varying degrees. Enforcement is an instrumental process as it controls behaviour. Underlying enforcement is however a constitutive process aimed at defining the mutual understandings in the community that underpin the actors' identities and interests.

I will start each of the following five sub-sections with presenting the hypothesized relationship. Below the first two I will also present my expectations of finding supporting evidence for the hypothesis. After this I will turn to actually presenting the evidence and observations relating to each hypothesis. I will end by assessing the uniqueness of this evidence, in other words, whether the observation is specific to this one explanation provided or whether it can be derived from other hypotheses as well.

After these hypotheses tests have been carried out I will turn to assess the constitutive effects and the last three relationships. I will end with assessing the norm's constitutive influence in general by assessing its robustness, which returns the focus to the constitutive process of international politics.

### 4.1 Self-interest

The theoretical framework suggests that if there are material or social benefits to be gained for the individual actors from sanctioning, enforcement is more likely to occur, and likewise that it is less likely if there are material or social costs of sanctioning.

#### 4.1.1 Material benefits

As noted in the theoretical framework, it should be possible to observe material benefits for the actors themselves in order to support the causal relationship that material benefits increases sanctioning. If material benefits are not present, or if there are material costs, i.e. as a null-hypothesis, the sanctioning will not occur. This is summed up with that material benefits cause an actor to enforce norms against another.

This relationship is based on the expectation that states are motivated by material gains only, be they financial, military or power related, want to maximize these gains and have perfect information on how to achieve this. Based on empirical knowledge of the case I do not expect the EU to have any clear material benefits to gain from the enforcement, nor any costs. I would not expect to find observations confirming the relationship for the EU. Japan is an actor geographically closer to the DPRK and thus more affected by the country's actions. Thus, I would expect that Japan do have material benefits to be gained by norm enforcement. Hence the probability that I will find supporting evidence is low for the EU, but high for Japan.

In the statements of EU and Japan over the years in the HRC, not many material aspects are raised. Rather they emphasize the benefits for the DPRK itself to comply with the norm (Japan, 2013a, 2009). They do not discuss the extra economic costs of appointing the COI nor the costs of having the special rapporteur continuing his work year after year without ever achieving any substantial improvement in the country. However, a western diplomat in Geneva suggests that establishing a permanent COI on the DPRK was overlooked due to financial reasons and the doubt whether this would produce any more concrete results than a temporary one. Similarly some "obligatory" opposition was made informally due to financial reasons, but these did not seem to have clear influence on the outcome (Informant 1, 2015). This indicates that the material costs are weighed against the expected enforcement results.

In 2014 the decision was also made to establish a "field-based structure" in South Korea to continue monitoring the situation (EU, 2014 b), further increasing the financial costs. This cost is neither anything that those states opposing the mandate seem to raise, despite the OHCHR having limited resources but an ever-increasing demand for their activities. The OHCHR's operations are mainly funded by voluntary contributions from states and other organizations (OHCHR, n.d. B). The voluntary contributions are largely from western states; Sweden, USA and the European Commission were the top three donors during 2013. Japan did not donate at all. Obviously, a new mandate does not immediately increase the cost of the voluntary contributors, but the contributions have increased more or less steadily along with the expanding undertakings of the OHCHR (OHCHR, 2013:131, 133).

Thus, new mandates and increased work for the OHCHR could eventually be causing an increase in the voluntary contributions from the EU and other actors, turning into sanctioning costs. In these terms it seems that the EU is materially invested in the issue, at least in terms of finance. This is not emphasised at all in their statements, but these statements being primary material aimed at a certain audience it is also dubious that material benefits or costs would be emphasized in any statements in this global council for upholding human rights. After all, human rights are not seen as a question of wins and losses in material aspects, but rather of human dignity. Thus, in the context it would be surprising to encounter clear references to material benefits, while it is indicated that this is an issue when mandates are negotiated informally.

Despite individual costs being present for the EU they are however the driving force in the enforcement of human rights in DPRK, which runs counter to the null-hypothesis. This undermines the hypothesized relationship on material self-interest for EU, and the observation that the EU is financially invested in the enforcement might be coherent with other explanations. Due to this the observation's sufficiency or uniqueness is low; the observation is not specific to one explanation. As noted earlier the certainty or necessity is also low, meaning that the first relationship so far has failed to pass a straw-in-the-wind test, which only slightly weakens the relationship.

Japan is seemingly not very financially tied up to the mandate, but is however far more clear with one "material" benefit of sanctioning North Korea, namely the so called abduction issue (Japan, 2004, 2012a). Since the 1950's many Japanese nationals have been abducted to the DPRK, and the Japanese government has a material interest in returning these individuals to their country. This is noted in every statement by Japan in the HRC and CHR during the studied years, making it a very frequent observation. Such a behaviour is however also consistent with theories regarding identity-affirming behaviour, granted that the Japanese identity in the HRC is that of a human rights promoting kind. It also seems to be one of the few material benefits possible to advance in the context of HRC, since it also applies to a human rights promoting action and preserving human dignity.

However, the counterfactual hypothesis does not fit, since material benefits are present for Japan. In regards to the hypothesis test, the observation falls under a hoop test, with a high certainty that this observation can be confirmed with the observations but a low uniqueness since the observation also can be accounted for by other explanations as noted. The passing of a hoop test does not confirm the relationship but only affirms its relevance. Thus, the hypothesized relationship of material benefits for a self-interested actor has been weakened in the case of the EU while its relevance is only affirmed, not confirmed, in the case of Japan. However, notable is that the observations are continuous over time, so the frequency of the behaviour is clear, thus strengthening the evidence somewhat.

#### 4.1.2 Social benefits

Social benefits and costs can also have an influence, guided by metanorms. If it is possible to observe social benefits for the EU and Japan by the enforcement of North Korea, the relationship could be true. If no such social benefits are observed, the enforcement should not take place. This is summed up as: "social benefits in a group cause an actor to enforce norms against another".

This relationship expects that states are motivated by social gains or losses when acting in this context, and that the states want to maximize the gains. For them to gain socially there needs to be favourable reactions to sanctioning in the context by other states. I expect that such reactions can come in different forms. The reactions opposing sanctions might be more vocal, while those states supporting sanctioning simply can act as co-sponsors or vote yes to the resolution. I would expect that the support for the resolutions on the DPRK is greater than the

opposition since the resolutions have been renewed every year. Thus the certainty is high that I can find observations confirmed for both actors.

In order to find evidence of this I look at what kind of support the resolution on the DPRK has received over the time period. Generally, a resolution adopted by vote can be said to be characterized by conflict and controversy, while a resolution adopted without a vote and thus by consensus is less so. I would expect that states only support the resolution if it is in their interest and thus relates to their identity to do so, which then translates into policy and behaviour. Below is a table with the percentage of votes in favour, against and abstaining, rather than the exact numbers due to the differing number of voting members from the CHR to the HRC.

<b>Table 2. Share of votes on resolutions on DPRK</b>			
	<b>Yes</b>	<b>No</b>	<b>Abstaining</b>
<b>2003 (SR)</b>	52.83%	18.83%	26.41%
<b>2004</b>	54.71%	15.09%	30.18%
<b>2005</b>	56.60%	16.98%	26.41%
<b>2006-2007, HRC replaces CHR, 47 voting MS instead of 53</b>			
<b>2008 (Japan joins)</b>	46.80%	14.89%	38.29%
<b>2009</b>	55.31%	12.76%	31.91%
<b>2010</b>	59.57%	10.6%	27.65%
<b>2011</b>	68.18%	6.81%	25%
<b>2012</b>	Adopted without a vote		
<b>2013 (COI)</b>	Adopted without a vote		
<b>2014 (UNGA- UNSC)</b>	63.82%	12.76%	23.40%

While the replacement of the CHR with the HRC led to a direct slight decline in support between 2005 and 2008, the number of votes against had also declined during the same time period. Rather it was the number of abstaining states who had increased, but already the following year the resolution gained in support. The overall trend seems to be a continuous increasing support of the resolutions on the DPRK, all up to the final report of the COI in 2014 and the adoption of referring the DPRK to the ICC. This was a landmark resolution in ensuring accountability, and the first time the HRC took such a clear stance in this regard. It marked a step away from previous resolutions, and was also a step outside of the HRC mandate since they have no power to by themselves send a country to the ICC. This also resulted in many states asking what it meant to themselves; whether they also could be at risk for such a recommended referral to the ICC. It also was a risk to

those who were actually indirectly involved in human rights abuses in the DPRK such as China (Informant 1, 2015).

The result indicates a continuously larger group in support of sanctioning than the group strongly against it, meaning the EU and Japan can expect to receive social benefits from the majority supporting their sanctioning and who can view them as “good” actors.

The EU and Japan frequently mentions the duty and obligation of the international community to respond to the situation in the DPRK, and a clear wish for the DPRK to increase its cooperation with the international community as well as to improve the human rights situation (EU, 2010, 2005b, 2003 inter alia, Japan, 2014b, 2010 b, 2005 inter alia). As noted, actors who care about their social relations will enforce metanorms, which in turn have a positive effect on norm enforcement. If other states react to sanctioning in a positive way, the sanctioner will receive social benefits, and thus it increases the likelihood of sanctioning. This can also be established by looking at the composition of member states. The more “pro-sanctioning” states are voting members of at a certain point in time, the more sanctioning would thus be expected to be produced.

Below is a table presenting when China, Russia, Cuba, Pakistan and Venezuela were members of the 53-member strong Commission of Human Rights, or the 47-member strong Human Rights Council starting from 2006 (OHCHR, n.d. C, n.d. D). These states are all strong anti-sanctioning actors, continuously arguing against country-specific mandates. On the other hand we have Japan, South Korea, USA and the influential EU member states United Kingdom, Germany and France. These are all consistent supporters of the mandate against the DPRK in different ways, and are thus pro-sanctioning.

<b>Table 3. Main members in the HRC/CHR</b>	
<b>Year</b>	<b>Member states in the HRC/CHR</b>
<b>2002</b>	China, Russia, Cuba, Pakistan, Venezuela, UK, France, Germany, Japan, South Korea, USA
<b>2003-2004</b>	China, Russia, Cuba, Pakistan, UK, France, Germany, Japan, South Korea, USA
<b>2005</b>	China, Russia, Cuba, Pakistan, Venezuela, UK, France, Germany, Japan, South Korea, USA
<b>2006-2009</b>	China, Russia, Cuba, Pakistan, UK, France, Germany, Japan, South Korea
<b>2009-2011</b>	China, Russia, Cuba, Pakistan, UK, France, USA, Japan, South Korea
<b>2011-2012</b>	China, Russia, Cuba, USA
<b>2013</b>	Venezuela, Pakistan, Germany, Japan, South Korea, USA
<b>2014</b>	China, Russia, Cuba, Pakistan, Venezuela, UK, France, Germany, Japan, South Korea, USA



The year 2013 is the only year when neither Cuba, China nor Russia were members of the council, and this is also the year when the COI was proposed and set up. The year 2011 which was the latest that the resolution had been put to a vote, these three countries were the only ones voting against the resolution. However, in 2012 when they were still members the resolution was nevertheless adopted without a vote, despite them being able to oppose it. Looking at metanorms, it is possible to claim that this is not a coincidence. Previous years when there had been a fairly equal balance between pro- and against-sanctioning states in the HRC/CHR, the situation of enforcement against DPRK was neither increased nor decreased, suggesting an equilibrium. The increased support of the norm over time also indicated for the anti-sanctioners that they would receive little to no support in their opposition, and thus higher social costs. In 2013 these states had no influence on the outcome, and the civil society argued that the composition of the council this year posed an opportunity for increased action. This could have been a decisive factor causing the enforcement to happen at that certain point in time (Informant 1, 2015). Thus, EU and Japan could expect more positive reactions to sanctioning, and chose to increase their sanctioning efforts. They could thus receive benefits in the form of positive reactions from other states in the council, viewing them as “good types” as Horne puts it (2007:148). They sanction harmful behaviour in order to elicit positive reactions from other actors.

These observations of references to the duty of the international community, as well as the composition of the council and the increased support of the resolutions against the DPRK, all support the hypothesis in some way. While these observations are frequent and seemingly non-spurious, it seems possible that other explanations also could account for them, meaning that these have a low uniqueness. However, I assessed the certainty to be rather high and thus the hypothesis passes a hoop test, affirming the relevance of the hypothesis.

In sum, the self-interest component is relatively consistent during the whole time period. The component seems to have affected the motivations of the EU and Japan to sanction to some extent, indicating that they act by a logic of consequence, aiming at getting what they want. This seems true for Japan more so than the EU since the material self-interest of EU seems to contradict its actions of enforcement. However, being financially tied up to something still indicates an actor’s intent, which leads me to the next issue of identity-affirmation and group interest.

## 4.2 Self-affirmation and group interest

In this section I will turn to self-affirmation and group interest. The theoretical framework suggests that norms underpin the identity, behaviour and interests of actors, and hence the enforcement of the norm will also “enforce” or affirm the actors’ own identity, behaviour and interest, as well as identity, behaviour and interest of a larger community or group of actors. I will examine how community membership, reputation and discourse motivate the actors to enforce of norms,

and how this norm constitutes their identity and makes it possible for them to enforce the norm.

#### 4.2.1 Community and identity

If I can observe that the EU and Japan are members of groupings encouraging sanctioning of human rights violators, this can support the hypothesized relationship that identity-affirming membership guides the interest of actors to enforce norms. If they are members of groupings that do not encourage sanctioning of human rights violators, sanctioning should not occur. This is summed up as “group membership causes an actor to want to enforce norms against another”.

This relationship expects that the socio-historical context and community membership of a state will affect it to act in relation to the community standards. These standards provide meaning to behaviour and socialize actors through identity constraint and affirmation. Essentially, it is an issue of identifying whether there are communities whose shared values the two actors are motivated by. Within the EU the socio-historical context has an emphasis on human rights and liberal democracy since this is essential when a state wants to join the EU, which means that I expect to find observations supporting this hypothesis. In Japan such context is not as present as with the EU, but it being a democracy I would still expect the country to align itself with communities supporting human rights. Looking at the known outcome, that both actors have been driving forces behind the enforcement against North Korea, I would definitely expect them both to be part of a grouping in the HRC where human rights protection is central.

The EU thus in itself a quite distinct community and they often vote distinctly from other MS in the HRC (Hug & Lukács, 2014). However, the EU consists of member states in itself, each and one of them also belonging to different subsystemic communities. For example, some of the EU-MS belong to the Western European and Others Group (WEOG) in the UN, while some belong to the Eastern European group. These regional groups are central in many ways in the UN, among them membership allocations on the HRC and serving as negotiation and cooperation forums. However, it can be argued that the EU has an identity distinct from their interests and behaviour, since they act collectively and has common foundational principles. The below quote is from the Treaty of Lisbon and sets out the founding values of the EU.

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

*(Treaty of Lisbon, Article 1a)*

Below is another quote regarding the EU's relation to the rest of the world; its agenda and values to be promoted towards other states.

In its relations with the wider world, the Union shall uphold and promote its values and interests and contribute to the protection of its citizens. It shall contribute to peace, security, the sustainable development of the Earth, solidarity and mutual respect among peoples, free and fair trade, eradication of poverty and the protection of human rights, in particular the rights of the child, as well as to the strict observance and the development of international law, including respect for the principles of the United Nations Charter.

*(Treaty of Lisbon, Article 2:5)*

One can note that respect for and protection of human rights are part of these foundational principles of the EU, including rule of law. The EU Lisbon treaty was adopted in 2007, thus possibly only directly influencing the decisions made thereafter, such as the appointment of the COI. These principles were however also included in previous agreements ranging at least from 2004 (EU, n.d.), but still does not cover all the time to 2002 when the EU first mentioned its concern over the situation in the DPRK (EU, 2003).

The foundational principles for the EU membership have thus varied over time, but the variation has been a strengthening of the values rather than a decline. It is possible to outline the current values as motivations for the EU to act in order to promote its own principles. This could possibly be even more important for such a heterogenic actor such as the EU, since it would bring together the respective member states more when cohesion in the group is emphasised. It sets a context where the interests of the EU are clearly defined, providing meaning to human rights enforcing behaviour as an act of upholding the identity of the EU. It also sets the community standards within the EU, indicating how far the behaviour of the EU MS can diverge from the shared norms.

One could also account for these values and principles as a way to gain material benefits through trade and positive diplomatic relations, both between states within the EU and also with other states. But they were part of a "constitution" aimed at uniting the EU's member states even further, and are thus a strong indication of shared values among the MS's governments. These values *could* be a result of a spurious relationship, where the interest to enforce norms against other states in the DPRK results in a need to promote oneself as a human rights "defender", or else risk being called a hypocrite. This risk still withstands regardless since no EU MS fully respect human rights today. In this observation the EU appeal to the human rights norm. In other words they don't try to sell why respect for human rights is good, nor do they take it for granted and act within the norm without referencing it. When an actor appeals to a norm, as in this case, they are situated within a middle range constitutive effect. This indicates that the EU's identity is partly based on human rights promotion and protection, making it more likely that they will act in a human rights respecting way than a human rights violating way.

Japan is a member of the Asian Pacific regional group, but also JUSCANZ, a group comprising of all non-EU members of the WEOG plus South Korea and Japan. This group do not aim to coordinate common standpoints but is rather a platform for information exchange, but serve to promote the interests of its members (Permanent Mission of Switzerland to the UN Office and to the other international organisations in Geneva, 2014). Multilateral institutions in East Asia are manifold, but Black notes that much regional interaction are built upon microregional connections, such as business ties and similar. In this network environment, the main characteristics of the normative context are consensus building, non-intervention, non-use of force, peaceful settlement of disputes and regional solutions to regional problems. This softer institutionalism is based on socialisation where identities are reformed and interests recalculated (2014:23-24). Lim and Vreeland finds that such a “consensus” might in the case of the UNSC be a result of Japanese leverage through aid to other Asian countries, since few of these have voted against Japanese standpoints at a total of 274 UNSC resolutions. Especially Philippines, Nepal and South Korea voted with Japan 100 percent of the time, but this pattern could also be attributed to shared regional interests (Lim & Vreeland, 2013:65). Such a regional identity or regional interest is not observed in the Japanese statements of the HRC/CHR.

Rather, one can note that both Japan and EU attribute themselves to belong to a community of staunch supporters of country mandates in the HRC. That such a group exists has been established under the section regarding social benefits. This group is identifiable through their shared values and interest, as shown through their support of the SR mandate for the last decade. This thus include the states supporting country mandates, but also different UN bodies and mandates, including the High Commissioner for human rights and the SR and COI for DPRK. That there is a common ground for these actors is for example expressed in Japan’s statement in 2014 when they regretted the DPRK’s uncooperative stance since they showed a total disregard for the HRC’s activities (Japan, 2014a). Similarly, Japan have asked the COI how the international community can support its activities (2013a), and that the resolutions in 2012 adopted by consensus in both UNGA and HRC was the collective result of work done by the SR and the international community, which was “distressed” by the human rights situation in the DPRK. By the continuous spending of resources on nuclear weapons and missiles, Japan argued that the DPRK continued to provoke the international community (2013b). This indicates that Japan sees it as belonging to the “international community” as defined in the HRC, which is a community with the aim to protect and promote human rights.

Both the EU and Japan referred to the SR’s recommendations to appoint a COI, strongly supported by the High Commissioner for human rights, when suggesting so in their resolution in 2013 (Japan, 2013b, EU, 2013b). As noted, the calls for increased cooperation with the international community has been a consistent ingredient for all years, and already in 2005 the EU asked the newly appointed SR how one could persuade the DPRK government that the presence of UN agencies, humanitarian organizations and NGOs was proof that the international community “was truly concerned about the North Korean

population” (EU, 2005a). During the first cycle of the Universal Periodic Review the DPRK did not accept any recommendations made to them. It was time for their second cycle in 2014 in the UPR, and beforehand the EU encouraged the “DPRK’s new leadership to use its next universal periodic review in 2014 as an opportunity to enhance its dialogue with the international community” (EU, 2012).

This clear connection to UN officials and bodies, where the EU and Japan state their interests and wishes in relation to the SR reports and actions, whereas other states opposing the mandate do not, is also an indication for the wish for EU and Japan to show their alignment with the values of the HRC and the UN. For example every statement by the EU at the interactive dialogues with the SR or COI in the HRC has commenced with them thanking the mandate-holder for the report submitted, the SR’s/COI’s efforts and similar. Japan similarly “pays tribute” to the COI (Japan, 2014a), “appreciates the dedicated efforts” of the COI and SR (Japan, 2013 a, 2013 b, 2009), and “commends” the activities of the SR (Japan, 2011, 2010 a). In 2010 Japan believed that “the Special Rapporteur’s reports are objective, well-balanced and thus, highly credible” (Japan, 2010a). This started only when Japan decided to co-table the resolution with the EU, indicating that the wish to adhere to the community standards is stronger when a state is invested in it more as a proposer of a resolution.

The civil society also strongly supported the COI mandate and pushed for increased action towards the DPRK, and was also thanked in several statements (Informant 1, 2015, EU, 2014b, 2013b). In combination to Japan and the EU’s staunch appeal to the DPRK to cooperate with the international community, it is possible to map out a clear motivation for the two actors to act in accordance with the community standards. These community standards or underlying norm can be defined by looking at how the UN human rights bodies are presented. The HRC is the “inter-governmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing situations of human rights violations and make recommendations on them” (OHCHR, n.d. A). The OHCHR in turn “represents the world’s commitment to universal ideals of human dignity”, and “have a unique mandate from the international community to promote and protect all human rights”, according to themselves (OHCHR, n.d. E). These basic descriptions at the OHCHR website echoes that of the statements by the EU and Japan, who also emphasize shared global cooperation and improvement of human rights as put forward in the resolutions, and also illustrated by the question posed by the EU to the COI at the 25<sup>th</sup> HRC session in 2014: “What [...] would be the most effective means to address the ongoing violations of human rights in the DPRK, and how may the International Community best respond?” (EU, 2014a). In other words, how to improve the human rights situation and how to make the DPRK government and the international community to interact more?

By non-compliance with these community standards, the actors risk to be constrained themselves by being subjected to enforcement. Through compliance with the community standards, the identity of the actors as members of the community is instead affirmed. This is attributed to the context of the HRC and

the UN, which give a positive meaning to human rights protecting behaviour since it is enshrined in the UN charter and the HRC's main objective.

Members of this community are in some sense all the UN member states, since they all have a possibility to affect the underpinning standards of the community. The debate regarding the enforcement towards DPRK has also been continuous, meaning that a unified view of the international community is non-existent. However, a majority of the international community, i.e. UN member states and bodies, have had a shared view of the benefits of sanctioning the DPRK since it has passed through voting for many years. Japan and EU want to be seen as compliant community members in this context, and in such a context, it is reasonable for them to sanction a state being continuously and defensively uncooperative with the UN and committing grave violations of human rights such as the DPRK, and thus affirm the identity of themselves. As discussed in relation to metanorms, such an interest to sanction those being non-compliant with the overall norm will likely be stronger when the HRC membership composition contains more members belonging to this grouping and norm, thus making 2013 a year when this notion could have held especially large leverage to translate into action.

The frequent mentioning of the "international community" and UN mandate-holders do indicate a clear emphasis on the importance of these institutions, as well as a notion that all states must respect these shared institutions. A lack of such respect indicates a lack of respect to all states in the international community, thus also meaning a lack of predictability in bilateral relations to the DPRK, which could be especially influential for Japan. By acting in accordance with the HRC's shared values, the EU and Japan affirms their identity as part of the community and protectors of human rights when they enforce the shared values towards another state. They appeal to the shared values of human rights, aiming to give these values a more taken-for-granted quality.

In sum, the connection that membership will cause states to act in identity- and self-affirming ways seems to find affirmation in the observations in terms of a middle-range constitutive effect. This means that the group membership of the HRC makes it more *likely* that the EU and Japan will act in accordance with the group's shared values. This behaviour can be accounted for by other identities or explanations as well, where the actors are more motivated by benefits and social and material gains. However the EU has stronger ties to values relating to human rights protection and international cooperation, also observable in the fact that the EU was the lone initiator of the sanctioning against the DPRK in 2003, all up to 2008 when Japan decided to co-table the resolution, as well as the EU always being the one to introduce the resolutions and the first to speak of the two sanctioners.

#### 4.2.2 Communication and reputation

In this section I will aim at finding observations supporting the relationship regarding reputation. If reputation guides the interest of actors to enforce norms,

Japan and the EU should be able to be observed to act *and* communicate in ways to enhance their reputation (in relation to the guiding norm in the context). If they do not act and communicate to enhance their reputation in relation to the dominant norm, there should subsequently be no enforcement. This is summed up as “the wish to enhance reputation causes an actor to enforce norms against another”.

This is based on an expectation that by means of actions and statements an actor tries to enhance its relations with others in the community. This happens by the actor trying to be associated with the community’s shared values, i.e. they try to relate to the community and its shared values. Do they follow or break the community standards? Since I believe that the community influencing their decision is the HRC, I expect that both actors support the community values and act and communicate in association with these values of human rights.

Klotz notes that self-affirmation based on the prevailing norms is not only observable in behaviour, i.e. sanctioning, but also in the process of communication, i.e. statements. This can be analysed by identifying how norms take form as justifications, i.e. intentionality and acceptability of the norm rather than compliance and deviance (1995:30). To communicate in ways to affect their own specific reputation is a way for states to act in a self-affirming way.

As already noted, the norm underpinning the HRC is human rights, and Japan and the EU do have an observed intent to portray themselves as compliant to and protectors of the norm. Desired traits in a human rights-based international community should be enhancing human rights globally. The interest for the actor to convey such traits lies in self-affirmation and minimizing negative repercussions of community criticisms; by portraying themselves as human rights protectors they might minimize the possible constraint by themselves being sanctioned by other states. After all, no state complies with human rights fully in any sense, and by adhering to values promoted by a shared community the EU and Japan can minimize the risk of themselves being tarnished with the constraining effects of a bad reputation and sanctioning.

But how can this motivation be observed more concretely in the statements and by their actions in the HRC/CHR? This goes back to the issue of how the norm is related to the actors’ justifications and actions, and their intentions and acceptance related to the norm.

Firstly, the action to enforce the human rights norm in the DPRK does show acceptance of the norm as both constitutive and regulative of states’ behaviour, since the EU and Japan act in accordance to the norm. These actions have been continuing from 2003 up to 2014 and have escalated in force somewhat throughout, when the final report of the COI and the consequent resolution adopted by the HRC was aimed at ensuring accountability for the responsible actors in the DPRK (EU, 2014a). Ensuring accountability is of course a far stronger action than simply investigating possible crimes.

In the statements there are also clear indications of an acceptance of the prevailing norm and justification of the action to enforce it (the markings and enhancements in the following quotes are all my own). The choice to in 2003 to draft the first resolution on the DPRK by the EU was in order to “draw

international attention to the *human rights* and *humanitarian* situation in that country”, and that it could help the DPRK “to *improve* its human rights situation and to *cooperate* more closely with the international community in general, and the High Commissioner in particular” (EU, 2003). In 2004, when the SR mandate was set up, the EU stated that it was in order to “investigate how the Government was *complying* with its *obligations* under international human rights instruments” (EU, 2004).

In 2008 when Japan decided to join the EU and co-table the resolution they suggested it was because the human rights situation in the DPRK “remains serious enough to be followed by the international community” (Japan, 2008). This statement is hardly much stronger than earlier statements from the EU, but the aim to enforce human rights in the DPRK had gained another strong supporter. In 2013 at the adoption of the resolution on the appointment of the COI the EU stated that for “*too long*, the population has been subjected to wide and systematic human rights violations and abuses. For *too long* the Government of the DPRK has persistently refused to *cooperate* with the Human Rights Council and its Special Rapporteur” (EU, 2013b). In the same statement the EU stated that the EU and Japan had not taken the step to appoint the COI lightly. They echoed their first statement in 2003, noting that the HRC and its predecessor for many years had been urging the DPRK to improve the human rights situation of its people and to cooperate with UN mechanisms. Regrettably, the EU stated, these calls had gone unheeded (EU, 2013b). Japan similarly stated in the individual dialogue with the SR at the same session a hope that the resolution would gain broad support and send “a strong message to the DPRK and lead to the *improvement* of the DPRK human rights situation through a more effective investigation” (Japan, 2013b).

These quotes show a clear intention to accept and support the human rights norm underpinning the community, as well as a wish that all states should cooperate with and be involved in the international community. Investigation and a hope for improvement of the human rights situation are two ingredients found both in the Japanese statement in 2013 and in the EU statements in 2003 and 2004, and cooperation with the international community is similarly a recurring theme. This communication process, to reiterate similar requests over time related to the norm, shows how the EU and Japan wishes to be evaluated through and associated with the community’s shared values. By associating themselves with these values they show that they are socialized into the values, and also legitimize the values by their actions. In this way the EU and Japan successfully enhances their relationship with the community by defining that they, as actors, matter. This lies in their interest since it minimizes their own vulnerability for the constraining effects of the identity as human rights deviants.

These observations suggest a middle-range constitution, with frequent appeals to the human rights norm rather than attempts to sell the human rights norm. Of course, conveying oneself as a human rights promoter in a context where human rights promotion is a fundamental norm, could also be a result of a wish to gain material or social benefits, but in combination with the previous observations it seems to indicate that the identity underlying the behaviour of the EU and Japan,



making it possible for them to enforce human rights, is human rights protection and promotion.

The third and fourth hypothesized relationships were the two relating to self-affirming motivations, and both of these are affirmed as having middle-range constitutive effects on the norm enforcement. For the EU we find more support for the relationship than for Japan, indicating that the EU is more motivated by self-affirmation in terms of the logic of appropriateness. They thus act in relation to what they are “supposed” to do, aligning themselves with duty and obligation rather than self-interest and gain. Japan seems more motivated by reasons of self-interest, following the logic of consequences.

#### 4.2.3 Discourse and institutions

The shared human rights norm underlies dominant ideas in the HRC. Through social interaction a shared, intersubjective community conception of normality and deviance is developed (Klotz, 1995:32). I would want to trace the permeability of the discourse of human rights in the UN over the time period of interest, in order to establish if the underlying norm of enforcing human rights is also in the interest of the larger majority in the community. If it is so, enforcement against deviant members in the community can be expected to occur more frequently. This is summed up as “shared norms in the community cause actors to enforce norms against another”.

This relationship concerns group interest rather than self-affirmation, and expects that if the discourse of human rights protection has permeated into the community it will also lie in their interest to enforce human rights against deviant states. Since the resolutions against North Korea has been voted through year after year in the HRC, I would expect to find that at least a majority of the states share this interpretation of the empirical world. Looking back at table 2 and 3 the norm of human rights has affected the decision-making process in the HRC and gained increased support over time. It is possible to note that it seems to be a strengthened shared conception in the HRC of normality, being human rights compliance, and deviance, being human rights violations.

Similar wordings are often used in the statements. In 2002 the EU expressed concern about the “extensive, continued and serious violations of human rights” in the DPRK (EU, 2003). In 2003, the EU expressed “deep concern about reports of systematic, widespread and rave violations of human rights in the Democratic People’s Republic of Korea”. In 2004, it was “deeply concerned about continuing reports of systematic, widespread and grave violations” in the DPRK. The same, or very similar versions of this formulation, can be found in the EU voting statements from 2005, 2008, 2010, 2011, 2012, 2013 and 2014, Japanese voting statements from 2010, 2012, 2013, and 2014, and Japanese statements at the interactive dialogues in 2009 and 2011. Notably, some years are exceptions, but other years the formulation is used by both actors at the voting and the interactive dialogues. In other words, there is a clear shared notion of the situation in the DPRK between the EU and Japan. These formulations can also be found in the

resolution adopted on the DPRK, and thus guiding in the mandate of both the COI and the SR on DPRK. Clear is however how Japan only used these formulations since 2009, one year after they decided to co-table the resolution, while the EU used these formulations in 2002, one year before they tabled the first resolution on the DPRK. The EU was early with discussing the DPRK in these terms, and likewise early with discussing accountability and the possibility to refer the DPRK to the ICC (EU, 2011a, 2010). As such they seem to even be the initiators of this shared notion on the DPRK specifically, and aids in creating consistent empirical interpretations of the world in the HRC.

To investigate human rights, to urge cooperation with the international community and to encourage improvements of human rights, are the norms I have already established as fundamental in this process. These are included in all resolutions and seem to have continuously gained momentum and support by the international community as shown by the voting results for each year, save for the institutional change occurred in 2006-2007 which might have affected the support in other ways. A trend can however be distinguished: more support and less opposition for the UN human rights enforcement against the DPRK. That is, up until it started to involve new norms; norms about accountability and impunity, making sure the responsible people were punished more than in terms of their reputation. Such a norm did still find fairly large support, but was obviously more questioned than previous years when the resolutions had been adopted by consensus, and clearly differed from the previous shared assumption about human rights promotion. This trend still indicates that the discourse of human rights promotion garnered more and more support over time, increasing its permeability into the institution.

This observation is based on primary evidence in the form of voting results and official statements, but also secondary evidence in the form of an interview with a diplomat in Geneva. While the latter is an interpretation of the happenings in 2014, it does align with what the theory would expect us to observe. A new norm is always going to be more contended than an older one, but there seems to be quite a distinct trend of the norm of human rights permeating more and more in the institutional context, thus affecting the group's interest to enforce the norm more against states that deviate from it. To stop enforce the norm towards the DPRK in such a context when it continuously gains more support would be almost inconceivable, since the social momentum behind it creates a large incentive for the EU and Japan to continue. Only if they changed with identifying as part of the community and did not wish to adhere to the community's values would it be conceivable for them to stop. This does not indicate that the norm of human rights protection has gained a taken-for-granted quality however, since it is still contended and more so when accountability was involved in the picture. Yet again these observations suggest a middle-range constitutive effect on behaviour. Thus group interest seems to be a factor in the context motivating the actors' behaviour as well.

### 4.3 Complementary analysis

No hypothesized relationship has here been eliminated, but all have a varying degree of leverage. By studying each separately it has been possible to find their individual influence on the outcome, but they most likely interact to cause the outcome of norm enforcement. The one relationship differing mostly from the others is the one concerning material benefits. The remaining four hypotheses all concerns social and group relations in different ways.

The connection relating to community sets out that the main community, which the EU and Japan act in relation to, is the one that provides the context of the norm enforcement, namely the Human Rights Council. This community is based upon human rights protection and promotion, meaning that by aspiring to protect and promote human rights an actor can affirm its identity as a member of the community and act “appropriately”. The EU has in itself a community membership where a membership requirement is human rights compliance for each respective MS. This indicates that the interest and identity of the EU is strongly connected to an agenda of human rights compliance. Japan is less so, but clearly aligns with the EU position as a member of the community since they have chosen to act jointly with them. This strong connection to the foundational principles of human rights might suggest why the EU is one of the main financial donors to the OHCHR, despite this providing a certain material cost for them. However, for Japan the motivation seems to stem in a very large part from their material interest in repatriating their citizens, an issue which seems very big and alive for the country (Informant 1, 2015).

The relationship concerning how the actors relate to the community and its shared values by aiming to communicate a certain reputation is directly related to the third relationship and the community’s shared values identified in it. Through the support of the resolutions against the DPRK and the proposal to increase action against the country, the EU and Japan show that they as actors matter in the HRC, and thus increase their power leverage towards other states. When they get associated with the human rights framework in the HRC they emphasize desirable traits in the community, and affirm their identity as members of the community and avoid the possible constraining effects.

This relates to the second hypothesized relationship, which sets out possible social benefits as motivating the norm enforcement behaviour. A good reputation is such a social benefit, since it minimizes constraining effects of the community membership. Instead it provides the actors with an image of good types in the community. In the first hypothesis I also established that despite material costs the EU enforce human rights, and that Japan’s material interest is also consistent with the norm of protecting human rights. Thus, even these observations are aligning themselves with the explanation relating to the norm’s influence.

The fifth relationship shows that these shared norms have gained increased support among the larger group, and indicate that mainly the EU has set this trend. The norm was up until 2013 only containing human rights protection and promotion, but in 2014 a new concept was introduced regarding accountability.

This was however met with more contending perspectives, and thus seems to not be completely robust yet. However, Klotz notes how one way for this shared community conception to influence the determination of national interests and political goals, namely multilateral institutional membership. Thus this also relates back to the second and third relationships concerning the membership composition in the council, which enables this shared norm to influence domestic political goals for the EU and Japan.

To sum it up, notions of duty and obligation to enforce human rights seems to govern this political behaviour, more so than self-interest and gain. Together these five hypothesized relationships seem to provide a sufficient cause for the outcome, meaning that these observations suggest that few other explanations would account for the outcome. While the first two relationships provide an agential perspective, arguing that states act in accordance of their preferences, the last three put an emphasis on how structures define these preferences and behaviours. But the structures were initially set up by actors, meaning that they complement each other. Looking at the constitutive components of the norm, which strongly underlies this outcome, strengthens this argument further.

## 4.4 Constitution of the norm

The main cause bringing about the effect of EU and Japan enforcing human rights against North Korea is the norm of human rights in itself. This means that the norm guiding the behaviour, identity and interests of the states is that of human rights, and this norm underpins self-affirmation and group interest, as well as to a certain extent self-interest.

This norm of human rights guides social interaction and relations in the community of the HRC. It provides the HRC with a shared understanding of standards of behaviour, and makes enforcement possible. The human rights norm thus plays both a constitutive and regulative role, by providing members of the community with an identity, which makes enforcement possible as a means to affirm their identity as members and fulfilling their “duty”. At the same time this norm also regulates actors behaviour since non-compliance will be met with enforcement, and encourages enforcement towards others. But how is this possible, and why does the influence of a norm vary?

This goes back to the issue of the norm’s robustness. As noted, since norms come in varying strengths rather than just exist or not, the constitutive and regulative roles of norms will be stronger if the norm is more robust (Legro, 1997:31, 33). This is assessed by looking at the specificity, durability and concordance of the norm.

The human rights norm’s specificity is assessed as high. The norm’s prohibitions are declared in the UDHR (Universal Declaration for Human Rights) and its related conventions, which also entail a number of obligations for the states. In the statements relating to the DPRK, the EU and Japan continuously refer to different types of violations of these rights enshrined in the norm, as for

example violations against the freedom of expression (EU, 2013a, Japan, 2011), enforced disappearances/abductions (EU, 2013a, Japan, 2009), non-refoulement (EU, 2012, 2014a), torture (EU, 2013a, Japan, 2010), arbitrary detention (EU, 2014a), right to life (EU, 2013a), slave labour (EU, 2010), and the right to food (EU, 2011a, Japan, 2011). More examples can be drawn from the statements, thus indicating that the actors have a clear understanding of the restrictions the norm poses on behaviour.

The durability of the human rights norm also seems to be relatively high, but not as unambiguously as the specificity. The UDHR was adopted in 1948, and the Commission of Human Rights was established in 1946. However, until 1973 international human rights treaties had not entered into force, and the strength of international human rights norms and institutions was much weaker. Explicit bilateral human rights policies had not been adopted by any country and fewer human rights NGOs existed. Human rights violations in states such as South Africa and Chile started to be noticed during this time, and contributed during the following years to a strengthening of the networks and the emergence of human rights foreign policies. From 1973 to 1985, transnational human rights NGOs and advocacy networks started to expand, and international social structures of human rights norms and institutions were being built by states and networks. After 1985 an international “norms cascade” began in the world according to Risse and Sikkink, as the influence of human rights norms spread rapidly (1999:21-22).

However, durability also concerns how challenges to the norm’s prohibitions are tackled, and whether norm enforcement occurs. This is obviously *not* the case. As Human Rights Watch illustrates at their website for the HRC, the HRC has a clear selectivity in their norm enforcement against states, which is only noted by states when they wish the council to address fewer situations. Consequently, mass surveillance, crackdowns on civil society in China and Egypt, arbitrary detention at Guantanamo Bay, the human rights situation in Russia and Uzbekistan are just a few examples of situations that are not addressed by the HRC. Double standards prevail according to HRW, noting that China, Cuba and Russia rejected all country resolutions put to a vote apart from each resolution addressing the Israel-Palestine topic. On the other side is the US which consistently supports HRC’s engagement on many country situations but who continuously rejects actions against Israel (Votes Count, n.d. B). Thus, norm enforcement reinforces and reproduces the human rights norm, but occurs only at some situations. No state took the situation in the DPRK in defence (Informant 1, 2015), so perhaps the graveness of this specific situation was indeed decisive for the increased action.

Concordance lastly revolves around how widely accepted the rules of the norm are in diplomatic discussions and treaties. In other words, this is an issue of whether there is an intersubjective agreement on the norm, but reaffirmations do not need to indicate robustness. With the norm of human rights there is as mentioned several treaties and documents laying clear the rules, indicating a higher concordance. However, as noted there is also a widespread selectivity and double standard among the states. However not even the DPRK rejects human rights in their statements to the HRC. At the 25<sup>th</sup> session of the HRC, the DPRK completely rejected all actions taken against them, but that they should continue

to “strongly defend our socialist system which was chosen by our people and is the cradle of life and happiness and to make further efforts to faithfully fulfil our obligations in the international area of human rights” (DPRK, 2014). Cuba, a stark opponent against country mandates, argued that “selective mandates” had nothing to do with “genuine concern for the human rights situation in the country concerned”, and that the HRC should not deny the people of the DPRK their right to peace, self-determination and development (Cuba, 2014). Thus, even those states that might not be the strongest protectors of human rights do not reject the norm completely. However, they do put special interpretations and conditions on their acceptance of the norm, suggesting that the concordance of the norm is not as high as it could be.

I have thus found a high specificity, a medium durability and medium concordance, which suggests that the norm of human rights should have some impact on the behaviour of states in the community of the HRC, but most likely vary in strength depending on the actor, time and issue. This relates to where in the norm life cycle the human rights norm is situated. When a norm has reached the last stage it is taken for granted and not debated on a wide scale. The human rights norm seems to be far from this stage, since socialization, demonstration and institutionalization are prevailing in the HRC, and there is an aim (for some) to make norm breakers start following the norm. This indicates a middle-range strength in effects of the norm’s constitution, since it makes some behaviour more like and other behaviour less likely. However other identities are also possible to affect the actors’ behaviour in this context.

Consequently, this implies that the norm is the underlying variable influencing and constituting the actor’s motivations to some extent in a constitutive process, since the norm defines the actors’ identities and interests. These motivations (self-affirmation, self-interest and group interest) generate an instrumental process of enforcing norm-violating behaviour. Thus, states seem to enforce norms against other states because it lies in their interest to do so, and this interest is dependent on the relative strength of the norm. The human rights norm is relatively strong but only in its second stage of the norm cascade, and thus affects actors’ behaviour in terms of affirmation of identity and constraint of behaviour. In the second stage norm enforcement is more likely to occur than in earlier or later stages since the enforcement is part of socialization, a central mechanism in the norm cascade.

## 5 Conclusions

At the outset of this thesis I asked: “Why do states enforce norms against other states, and how is this possible?”. My purpose was to develop a pluralistic theoretical framework to understand and explain international norm development and enforcement, and thus provide new insight into what governs states’ interests to enforce norms.

I have shown, through process-tracing, indications that if the norm is more robust, more norm enforcement will occur by actors who identify as compliant with the norm. The human rights norm encourages states to fulfil their “duty” by addressing human rights violations and crimes against humanity, as expressed by the COI chair Michael Kirby. If the human rights norm would not have had a relatively high robustness, the EU and Japan would have less motivation to enforce human rights in the DPRK, because this would have led to fewer social benefits and possibilities for identity-affirmation. Since the human rights norm is situated in a norm cascade, which has been on-going for several decades, it is still not completely socialized into all states’ identities and behaviour. By enforcing the norm, the EU and Japan strengthens it and affirms their identity as part of the community promoting human rights.

The EU and Japan has over time been generally consistently motivated by the same incentives, although a strengthening over time is indicated. This due to the EU’s introduction of the issue of demanding accountability in later years, and Japan in 2008 deciding to co-table the resolutions on the DPRK with the EU. Only then did Japan start to talk in more demanding terms towards the DPRK, previously mainly discussing the abductions. After 2008, Japan has continued to discuss the abductions, but also noting other human rights abuses. The EU is strongly motivated by promoting the norm, and has set a standard by demanding accountability and not only turning to “naming and shaming”. Thus, despite the consistent view of states as self-interested, a shared norm such as human rights can influence states to act in accordance with the norm and thus affirm their own identity as part of the community.

The limitations of this pluralistic approach is for one found in the empirical material. Genuine “proof” of state actors’ motivations are always going to be hard to obtain, and the statements used in this thesis has been interpreted from the theoretical framework rather than providing with clear-cut evidence. Some inferences are thus based on shakier grounds than I would have preferred. The conclusions however provide an affirmation of the theoretical framework and suggest its explanatory power.

## 5.1 Further research

In her book, Martha Finnemore utilizes sociological institutionalist insights to demonstrate the influence of norms on state behaviour, by examining ways in which international organizations socialize states to accept new political goals and new values that have lasting impacts (1996:3). Such an approach could also be fruitful to study the case from, but would require different data than was available for this study, for example in the form of interviews with individuals present or other ways to get an insight into the discussions and negotiations that have been held behind closed doors.

Further research should also include a closer studying of all states in the HRC and their statements relating to the issue of norm enforcement over time. Comparisons could also be made across different institutions to see whether other mechanisms influence the actors' motivations to enforce norms. Further development of especially the rationalist-materialistic theory could also contribute to further study the dynamic between instrumental interest and identity-affirmation.



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