

**Working Together Towards Fairer,  
More Equitable, Reasonable and Inclusive  
Global Human Rights Governance**

**Edited by**

**China Society for Human Rights Studies**



**China Intercontinental Press**



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## Publishing Notes

The 2022 Beijing Forum on Human Rights, co-organized by the China Society for Human Rights Studies (CSHRS) and the China Foundation for Human Rights Development (CFHRD), was held on July 26, 2022. The forum brought together about 200 participants, including senior officials, experts, scholars and foreign envoys to China from nearly 70 countries and international organizations such as the United Nations, who had in-depth exchanges of views on the theme of “Working Together Towards Fairer, More Equitable, Reasonable, and Inclusive Global Human Rights Governance”. The forum set out five parallel sessions addressing topics including “Sustainable Development and Human Rights Protection”, “Democracy and Human Rights Protection”, “Public Health Security and Human Rights Protection”, “Multilateralism and Global Human Rights Governance” and “Open and Inclusive Development and Human Rights Protection”.

The participants note that since the 18th National Congress of the Communist Party of China (CPC), the CPC Central Committee, with Comrade Xi Jinping at its core, has continued to regard respect and protection for human rights as a priority of national governance. The 1.4 billion-plus Chinese people, therefore, have received a stronger, more assured and more sustainable sense of gain, fulfillment and security. China’s poverty alleviation efforts are undoubtedly the largest human rights project and the the best human rights practice in the world, greatly contributing to international human rights. The CPC sees protecting human rights as an important task of national governance and leads China to forge a path that suits its national conditions. China’s experience in dealing with ecological challenges, fostering an inclusive society, and eliminating extreme poverty is of great significance to the international community.

This collection consists of 52 articles from the forum, including speeches, presentations and excellent papers, with the aim of sharing the fruits of the forum with the general public and continuously promoting the construction of the outlook on human rights and the human rights theoretical system in developing countries. The opinions expressed therein represent only the views of the authors and not of the organizers.

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# Introduction

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# Working Together Towards the Sound Development of International Human Rights

Padma Choling

Vice Chairman of the Standing Committee of the 13th National People's Congress and President of China Society for Human Rights Studies

Ladies and gentlemen, dear friends,

Good afternoon.

It is my great pleasure to meet all of you online and offline. First of all, on behalf of the China Society for Human Rights Studies, I would like to express my warm congratulations on the opening of the forum and extend my sincere welcome to guests from home and abroad.

Human rights for all are a common pursuit of the human society. At present, changes unseen in a century are intertwined with the rampant COVID-19 pandemic to make global economic recovery very difficult, sustainable development has suffered serious setbacks, and the pursuit of full human rights for all is facing severe challenges. At the same time, people of all countries have a stronger desire for peace, development, cooperation and common progress. Against such a background, the theme of this forum, “Fairness, Equity, Justice and Inclusiveness: Working Together to Advance Human Rights”, is quite to the point and of high practical value.

At present, China has embarked on the new journey of building a modern socialist country in an all-round way and pursuing its second centenary goal. It has been making steady progress towards common prosperity. As Chinese President Xi Jinping once pointed out, the process of realizing the Chinese Dream of a great rejuvenation of the Chinese nation is essentially the process of realizing social fairness and justice and continuously promoting the development of human rights. After a long period of hard work, China has embarked on a human rights development path that conforms to the trend of the times and suits its national conditions.

Since the 18th CPC National Congress, the CPC Central Committee, with Comrade Xi Jinping at its core, has taken respecting and protecting human rights as an important task in the governance of China. In practice, China adheres to a people-centered approach to human rights development, regarding the rights to subsistence and development as the primary basic human rights, and the right to a happy life as the top human right. It pursues whole-process people's democracy and strives to strengthen legal support for the protection of human rights. Thus, the human rights of the Chinese people are protected like never before. China has solved the problem of absolute poverty and built a moderately prosperous society in all respects. The more than 1.4 billion Chinese people now have greater, more secured, and more sustainable senses of gain, happiness, and security. China's COVID-19 prevention and control measures have been law-based, scientific, well-targeted, and effective. From 30-hour-old newborns to the elderly over 100 years of age, every life is worth 100% of efforts in the case of a COVID-19 infection. This is a vivid demonstration of China's people-centered and life-first approach to human rights protection. China strives for more adequate and higher-quality employment for its people; has built the world's largest education system, social security system, and health care system; improves people's living environments with vigorous efforts; and continuously enhances people's well-being, thus promoting the all-round development of people. Advocating the community with a shared future for mankind, China has been active in human rights affairs of the United Nations. It has ratified or acceded to 29 international human rights instruments, helped developing countries improve human rights protection, and contributed Chinese ideas and solutions to global human rights governance.

Ladies and gentlemen, dear friends,

Human rights development is a common cause of mankind. It requires contributions from all countries. At present, the world has entered a new period of turbulence and changes, the implementation of the 2030 Agenda for Sustainable Development (the 2030 Agenda) of the United Nations is facing obstacles, the gap between the North and the South continues to widen, the Human Development Index has recently declined for the first time in 30 years, and more than 800 million people still live in extreme poverty. It is now more difficult to ensure people's livelihood such as in the fields of food security, education, employment and healthcare.

Meanwhile, some countries tend to politicize and instrumentalize human rights issues, practice double standard, and intentionally create divisions and confrontations.

They turned a blind eye to the fact that human rights issues had become increasingly prominent within their own territory, arbitrarily interfered in other countries' internal affairs, and imposed extreme sanctions in the name of human rights. This has even led to frequent wars and turmoil, as well as long-term social unrest in some countries and got people displaced. This, against the trend of the times, is of no help to the human rights situation in relevant countries and can seriously hamper global human rights development.

Here, in response, I would like to make a few proposals for your reference.

First, **we should adhere to the idea that mankind has a shared future so as to better enhance human well-being.** Only when people all over the world live better lives can prosperity be sustained, security safeguarded and human rights solidly grounded. Last September, for the well-being of mankind, Chinese President Xi Jinping proposed the Global Development Initiative at a conference of the United Nations. Aimed at building a global development community, the initiative intends to accelerate the implementation of the 2030 Agenda for Sustainable Development and realize stronger, greener and healthier development in the world. The international community should promote cooperation for development, jointly create an international environment conducive to development, strive to achieve development that is of higher quality, more efficient, more equitable, more sustainable and more secure, so as to ensure people's livelihood, improve living conditions, and promote and protect human rights in the process of development.

Second, **we should adhere to inclusiveness and mutual learning to diversify the forms of human rights civilization.** A society is more colorful when it is inclusive, and a culture is attractive when it features greater diversity. Different countries can offer greater diversity in terms of the ideas and practices of human rights development, and this is the source of prosperity for international human rights development, rather than the source of confrontations. All countries have the right to choose a human rights development path that suits their own national conditions. Different countries, civilizations and ethnic groups should communicate on an equal footing, learn from one another, and borrow others' strengths to shore up weaknesses, so as to seek common progress. Whether a country's human rights development path is feasible or not depends on whether it suits the country's specific conditions, whether it is in line with the general development trend of the times, and whether it is supported by people in the county concerned. Whether a country's human rights



situation is good or not mainly depends on whether the country can give its people greater senses of gain, happiness and security, and whether it can contribute to human rights development on the whole. We should jointly diversify the forms of the human rights civilization while adhering to diversity, independence and sustainable development, and striving to create a bright future for human rights protection.

**Third, we should adhere to equal dialogue to improve global human rights governance.** The global human rights governance system must be built by all countries together, and the fruits of human rights development must be shared by the people of all countries. There is no “Utopia” in the field of human rights, and the world does not need any country to give orders to others. Moreover, human rights should never be used by any country to exert pressure on other countries or interfere in the internal affairs of any other country. We must hold high the banner of multilateralism, abide by the purposes and principles of the UN Charter, defend international law and rules for international relations, and adhere to the principles of universality, impartiality, objectivity, non-selectivity and non-politicization in resolving disputes regarding human rights through dialogue on an equal footing. It is necessary to vigorously advocate the common values of mankind and build a fairer, more equitable, reasonable and inclusive global human rights governance system on the basis of extensive consultation and consensus building.

**Fourth, we should continue to seek common ground while reserving differences so as to forge consensus regarding human rights development.** To realize the great dream of full human rights for all, it is necessary to pool forces from all parties. Governments, international organizations, experts, and scholars committed to human rights development should communicate more to enhance mutual trust and seek common ground while reserving differences. Since its inauguration in 2008, Beijing Forum on Human Rights has been held for 10 times so far. Over the past more than 10 years, the forum has been developing continuously and has become an important international platform for the exchange of ideas, experience and insights on human rights protection. I hope that all participants of this year’s forum can take this opportunity to have in-depth discussions and exchanges, put forward more insights, contribute more wisdom, and reach more consensus as for how we can work together to promote human rights development. After all, mankind has a shared future, and it is our duty and responsibility to put our knowledge and skills into use to make the world a better place.

Ladies and gentlemen, dear friends,

China has made progress in human rights development under the attention of the world, and constructive opinions and suggestions have been coming from various parties. Joint efforts have brought about human rights progress in both China and the world. Here, I would like to express my heartfelt thanks to friends from all over the world who have long cared about and supported the development of human rights in China.

In a few months, the Communist Party of China will hold its 20th CPC National Congress, and a blueprint will be drawn for China's development in the next stage which is bound to be a new stage for human rights development in China. I am confident that China will make new and greater contributions to global human rights development then. China stands ready to join hands with peers from all over the world to promote the development of human rights in the world and the building of a community with a shared future for mankind with unremitting efforts.

Last but not least, I wish the 2022 Beijing Forum on Human Rights a great success.

Thank you.

# Jointly Creating a Better Future for the Development of Global Human Rights

Huang Mengfu

Chairman of the Third Council of China Foundation for Human Rights  
Development

Distinguished guests, ladies and gentlemen,

Good afternoon.

Welcome to the 2022 Beijing Forum on Human Rights co-organized by the China Society for Human Rights Studies (CSHRS) and the China Foundation for Human Rights Development (CFHRD). First of all, on behalf of the CFHRD, I would like to extend congratulations on the successful opening of the forum. Many of you have overcome the inconvenience caused by COVID-19 to be here. It is my pleasure to offer a cheerful welcome to you all. I would also like to express my heartfelt thanks to all friends who care about and support the advancement of human rights in China.

To ensure the full enjoyment of all human rights by all is a dream shared by humankind. It is a common pursuit of all human beings and a common goal of all countries to continuously advance human rights. Maintaining international peace and security, developing friendly relations among nations based on respect for the principle of equal rights of peoples, promoting international cooperation, and encouraging respect for human rights and for fundamental freedoms for all have been the core purposes of the UN since its establishment. In the past 70 years, the UN has played an important role in promoting the resolution of regional conflicts and global economic, social, cultural and humanitarian issues, and in advancing human rights around the world. As the largest developing country in the world and a responsible member of the international community, under the strong leadership of the CPC Central Committee with Comrade Xi Jinping at its core, China has always put people first and kept the country's national conditions in mind when

implementing the principle of universality of human rights. China has made a continuous effort to promote economic and social development and strengthen the protection of human rights and the rule of law. It has successfully embarked on a human rights development path that suits its own national conditions. On the basis of equality and mutual respect, China is ready to actively conduct human rights dialogue and cooperation with all other parties to expand common understanding, reduce differences, promote mutual learning, and seek progress together, so as to jointly advance the international human rights cause for the greater benefit of people across the world.

Friends, ladies and gentlemen,

History is full of twists and turns. Although the UN-centered global human rights governance system has gradually matured and made continuous progress in advancing human rights around the world, it should be pointed out that the international human rights governance system and the foundation of good governance are facing severe challenges posed by the unilateralism and power policy pursued by some countries. First, this has undermined the leadership of the UN in global human rights governance. Some countries claim to be “God’s chosen people” and insist that their human rights standards and practices are the best. They make irresponsible remarks about the human rights situation in other countries and undermine the authority of the UN in global human rights governance. The previous US administration blatantly withdrew from the UN Human Rights Council, and its then ambassador to the UN slandered the UN Human Rights Council describing it as a “hypocritical and selfish” institution and a “cesspool of political bias”. Second, some countries have interfered with the direction of the reform of international human rights mechanisms. Since its establishment, the UN Human Rights Council has been committed to promoting human rights in a non-politicized, non-selective, non-confrontational and non-humiliating manner and to rejecting double standard, which has been widely welcomed by the international community. However, some countries have politicized, instrumentalized, and weaponized human rights in the selfish interest of their own and wantonly spread false information about the human rights situation in countries they consider as opponents but turned a blind eye to the human rights abuses of themselves and their allies. The Outcomes of the 50th Session of the UN Human Rights Council recently released by the US State Department calls on the UN Human Rights Council to shine a spotlight on countries of concern,

revealing its intention to suppress its opponents in the name of human rights. Third, some developed countries are depriving developing countries of opportunities to speak up on the international stage. Developing countries account for more than 80% of the global population. These countries urgently need support from the international community to advance human rights. They need to give priority to the protection of fundamental human rights, including the right to subsistence and the right to development, and coordinate the promotion of civil, political, economic, social and cultural rights. They oppose the use of the UN human rights mechanism as a weapon against other countries in political confrontation. However, their demands are often ignored by developed countries. Some developed countries use their dominant position in the international human rights promotion and protection system to manipulate public opinion against developing countries on a global scale and undermine the right of developing countries to participate in global human rights governance.

Friends, ladies and gentlemen,

The theme of this forum—“Working Together Towards Fairer, More Equitable, Reasonable and Inclusive Global Human Rights Governance”—is in line with the common wish of all human beings to strengthen and improve global human rights governance. As long as we insist on serving the common interests of humankind, act bravely, and work hard, we will surely be able to overcome challenges and make the global human rights governance mechanism fairer, more equitable, reasonable, and inclusive. To this end, I would like to propose some suggestions to help improve the global human rights governance mechanism.

First, global human rights governance must be conducted through dialogue and consultation. Global human rights governance is tied to the future of all human beings. It cannot be decided by a few countries. Multilateralism is a foundation for the stability of the international order, and plays an important in maintaining world peace and promoting joint development. The international community should practice genuine multilateralism in global human rights governance, accommodate the core interests and major concerns of all countries, and listen to the opinions of all parties, especially the voices of developing countries. There is no good or bad path for human rights promotion and protection. Every country has the right to choose a development path that suits its own national conditions. Members of the international community should respect each other, understand each other and achieve common progress

through exchanges and mutual learning.

Second, global human rights governance requires international cooperation. Global human rights governance is a common cause for humanity, which requires equal participation and joint efforts of all countries, as well as a stable and effective international order and fair and reasonable international rules. President Xi Jinping has repeatedly emphasized, “There is only one system in the world, and that is the international system with the United Nations at its core. There is only one order, and that is the international order based on international law. There is only one set of rules for the world, that is the basic norms governing international relations anchored in the purposes and principles of the UN Charter.” The world needs a strong United Nations. All Member States should play an active role and resolutely defend the central position of the UN in the global human rights governance system. Some countries apply international law in a selective and utilitarian way. They disrespect the existing international order and attempt to set up a new one outside the UN system, replacing the international rules generally accepted by all countries with less accepted ones that only benefit them and their alliance.

Third, global human rights governance requires contributions from all countries. The future of all human beings is linked. The strength of wisdom of people from all over the world provides unique contributions to the improvement of the international human rights governance system. The world today is struggling against an unprecedented health crisis and undergoing changes unseen in a century. Hegemonism, racism, protectionism, and narrow nationalism are on the rise. Poverty and inequality are increasing. Double standard is rampant, and global human rights development has been severely hindered. To address these challenges, all countries must work together to seek effective ways to improve global human rights governance, strengthen human rights protection, facilitate constructive dialogue, and carry out pragmatic cooperation, so as to make concerted efforts to promote human rights, preserve human dignity, and ensure that all human beings can enjoy prosperous lives.

Fourth, global human rights governance requires greater international solidarity. Humanity is a whole and the Earth is our home. No country can face global challenges alone. The only way out is to work together and live in harmony. We can always do better when it comes to protecting and promoting human rights. Although different countries have different histories, cultures and systems and are in

different stages of development, we all pursue peace, development, fairness, justice, democracy and freedom, which are common values of humanity. The international community should look beyond the differences in social systems and ideologies, promote the common values of humanity, and prevent human rights from being reduced to political tools. Governments of all countries have the responsibility to be the advocates, defenders and promoters of the common values of humanity, to respect the right of every country to choose its own path of human rights realization, and to embody the common values of humanity in the realization of human rights of their own people.

Friends, ladies and gentlemen,

There is an old saying in China: “When the way of virtue and justice prevails, the whole world is one community.” China will continue to call on all countries to build a world in which countries treasure their own distinct heritages, appreciate other cultures, and promote shared prosperity. We will actively participate in global human rights governance, work together with other countries to build a community with a shared future for mankind and create better conditions for the realization of all human rights.

Last but not least, let me convey my best wishes for every success with the forum.

Thank you.

## Strengthening Cultural Mutual Learning and Jointly Advancing Human Rights

Jiang Jianguo

Vice Chairman of the Committee on Ethnic and Religious Affairs and Member of the Standing Committee of the 14th National Committee of the Chinese People's Political Consultative Conference (CPPCC), Executive Vice President of the Fifth Council of China Society for Human Rights Studies

Your excellencies,

Ladies and gentlemen,

Dear friends,

Thanks to the support and collaboration of all stakeholders, the discussion of all agenda items of the 2022 Beijing Forum on Human Rights has been completed. The forum, which has brought people together, online and offline, is coming to an end. Here, on behalf of the organizers, the China Society for Human Rights Studies (CSHRS) and the China Foundation for Human Rights Development (CFHRD), I would like to express gratitude to all the participants as well as those who have contributed to the success of this forum.

The first Beijing Forum on Human Rights was held in 2008. This is the 10th time the forum is held. Looking back on the 15-year history of the forum, we could say this year's forum is politically important, well represented, and theoretically sophisticated.

First, the forum is politically important, highlighting the shared values of humanity. Chinese President Xi Jinping pointed out: "It is the common pursuit of humanity to protect human lives, values, and dignity, and to ensure human rights for all." In 2008, the 60th anniversary of the adoption of the Universal Declaration of Human Rights, the inaugural Beijing Forum on Human Rights was held, exploring the theme of Development, Security, and Human Rights. Since then, the forum has become an important platform for participants to promote the values of human rights



and discuss issues concerning humanity's future. The world today is struggling against an unprecedented health crisis and undergoing profound changes unseen in a century. In times of turbulence, transformation and growing uncertainty, people are asking two questions: What's going on around the world? What should we do?

It is generally believed that the challenges facing the world have severely set back the process of development worldwide, weakened the momentum of international cooperation, widened the North-South gap, and undermined the progress in the implementation of the 2030 Agenda for Sustainable Development. Against this backdrop, it becomes more important than ever for all countries to work together to build peace, drive development, promote cooperation and realize human rights. The theme of this forum—"Working Together Towards Fairer, More Equitable, Reasonable, and Inclusive Global Human Rights Governance"—embodies this common aspiration of people around the world. This forum is held at the right time and has profound impact and implications.

Second, the forum is widely representative, showing great global solidarity. Each of the past editions of the forum attracted hundreds of participants from five continents. Our circle of friends has been expanding, covering almost every country and region. This year, we have nearly 200 guests from 66 countries and international organizations. Many of them are our old friends. Believing the humanity is bonded by the same future and everyone needs to shoulder their responsibility, participants had deep thinking about how to respond to the challenges to the protection of human rights brought by the pandemic and heightened political tensions, expressed concerns over the politicization of human rights issues by some countries, and offered constructive suggestions for the promotion of human rights across the world.

As the saying goes, "The going may be tough when one walks alone, but it gets easier when people walk together." Only by embracing the world can we embrace tomorrow; only by working together can we achieve steady progress. Only when people all over the world live better lives can prosperity be sustained, security safeguarded and human rights solidly grounded. The world is a big family. Endowed with reason and conscience, we should act towards one another in a spirit of brotherhood. We should work together to advance human rights and continuously improve the well-being of all human beings.

Third, the forum is theoretically sophisticated, engaging participants in fruitful and in-depth discussions. Affected by the pandemic, this year's forum has been

carried out in the online-and-offline blended mode. Although we were on a tight schedule, all agenda items have been thoroughly discussed. In their speeches at the opening ceremony, Mr. Padma Choling and Mr. Huang Mengfu systematically introduced China's principles, propositions and approaches concerning the promotion of the common values of humanity in the new era, as well as China's commitment to advancing human rights, actively participating in international human rights governance, and building a community with a shared future for mankind. Our guests exchanged views and insights on the theme of the forum and topics of parallel sessions, shared good practices, and discussed ways to maximize cooperation opportunities and shape a better future.

It is generally agreed that to protect and advance human rights, we must promote sustainable development, practice true democracy, build a global community of health for all, and safeguard multilateralism, and that to ensure human rights for all, we must remain open and inclusive. It needs to be noted that there is no end to improving human rights. When it comes to how to protect and promote human rights, all countries have the right to pursue a path that suits their own conditions. We must look beyond ideological differences, promote diversity, independence, openness, and inclusiveness, and work together to advance human rights worldwide.

Ladies and gentlemen,

President Xi Jinping pointed out, "Promoting human rights is a shared cause of humanity." "China seeks to strengthen exchanges and mutual learning between civilizations, promote international cooperation in human rights, and work with other countries to find a better way to advance human rights." China has embarked on a new journey towards the second centenary goal, striving to build a modern socialist country in an all-round way. In a few months, the Communist Party of China will convene its 20th CPC National Congress to draw a blueprint for the development of the country in the next stage. This will also open a new chapter for the cause of human rights in China. We are willing to work together with friends from all over the world to better protect and promote human rights and to ensure a happy life for all.

Thank you again for your support and understanding during the forum. We look forward to seeing you again next time.

Ladies and gentlemen, now I declare the 2022 Beijing Forum on Human Rights closed. Thank you.

# Thoughts on China's Involvement in Global Human Rights

Bhofal Chambers  
Speaker of the House of Representatives of Liberia

I am thrilled with the opportunity to share my experience in the forum about the involvement of the People's Republic of China in global human rights activities that has had a tremendous impact in transforming our global community.

It can be enthusiastically and proudly stated that the Chinese government and people have made and continue to make worthy contributions towards the promotion and maintenance of global human rights which appear in various forms, shapes, and approaches.

With this in mind, I wish to focus on China's contributions to global human rights from these perspectives: China's peace-building programs, China's participation in and support to women and children's empowerment programs, China's infrastructural development initiative, China's participation in peacekeeping, etc.

## China's Peace-Building Programs

As in other post-conflict settings or nations of the world where China has made its presence felt through positive undertakings to help improve the lives of people, the People's Republic of China has implemented a lot of peace-building programs in Liberia to ensure the transformation of citizens. The peace-building programs of China took the shape of funding both public and civil society's programs, such as donations made to youth training and vocational institutions, such as the Monrovia Vocational Training Center (MVTC), the Liberia Opportunities Industrial Center (LOIC) and other major entities.

## China's Participation in and Support to Women and Children's Empowerment Programs

The Chinese government, through its Embassy in Liberia has been very instrumental in the empowerment activities of women and children in Liberia. China has been one of Liberia's strongest development partners when it comes to the socio-economic development needs of citizens and residents of Liberia, especially women and children.

China's supports in this area come in the form of mitigating the challenges of health and sanitation, equipment and materials for skills training programs and food distribution to struggling mothers, especially single parents.

### China's Infrastructural Development Initiative

Having access to conducive and safe environment is another key factor in fostering human rights. The People's Republic of China had been and is a strong development partner for Liberia in this area. Numerous mentions can be made of her active involvement in the construction of most public buildings in many parts of the country.

To name a few, the two modern annexes of the Capitol Building, the Ellen Johnson Ministerial Complex, the completion of the current Ministry of Health, the refurbished Samuel Kanyon Doe Sports Complex, many police stations, prison compounds constructed as quick impact projects, etc.

The Chinese government, in recognition of that teamwork is an indispensable means of serving humanity, has always opened her arms to working with the civil society organizations in Liberia in finding workable means to mitigate their challenges for progress in their respective sectors of operations.

It is noteworthy that their partnership has helped improve the shape of global human rights.

### China's Participation in Peacekeeping Operations

China, as one of the five permanent members of the United Nations Security Council, had been and is an active part of the United Nations peacekeeping operations in the world. During the protracted period of Liberian Civil War, China contributed troops to the United Nations Mission in Liberia commonly known as UNMIL.

With the aforementioned facts relevant to positive human transformation, which China continues to promote worldwide, it will not be an overstatement to publicly declare that China's role in global events demonstrates the true essence of the protection of human rights in its full context.

### Conclusion

With the high level of contributions made by the People's Republic of China in the areas mentioned supra, I have the strongest conviction that China has made magnificent and enormous contributions toward global human rights and that her impactful involvement is evident.

What is also needful to note is that many of her activities are purely implemented from the angle of genuineness and a true sense of humanity. Consequently, it lessens or, better still, removes stress from the nations, including Liberia, who are recipients of such good nature.

Certainly, China is a strong force in the promotion and maintenance of global human rights. Unquestionably, China deserves our commendation.

Wish everyone a safe, peaceful, stable, just and prosperous 2022.

## Respect Diversity of Civilizations, Strengthen International Cooperation and Promote Sustainable Development and Human Rights Protection

Akmal Saidov

Director of the National Center of the Republic of Uzbekistan for Human Rights

I am taking this opportunity to welcome you on behalf of the National Center of the Republic of Uzbekistan for Human Rights and express deep gratitude for the invitation to take part in the 10th Beijing Forum on Human Rights under the theme: “Working Together Towards Fairer, More Equitable, Reasonable and Inclusive Global Human Rights Governance”.

Beijing Forum has become a truly unique world forum on human rights, which is confirmed by the issues and broad regional representation.

On the agenda of the 10th Beijing Forum there is discussion of the four closely interrelated global issues of concern for the international community:

1. Sustainable Development and Human Rights Protection;
2. Democracy and Human Rights Protection;
3. Public Health Security and Human Rights Protection;
4. Multilateralism and Global Human Rights Governance.

It should be noted that there is no single pattern in the world to address these issues, and it is quite remarkable an attempt to discuss general trends in the course of the forum.

In the modern world, strengthening international cooperation is essential for the full achievement of the UN Sustainable Development Goals.

The government of Uzbekistan is implementing national indicators for the UN Sustainable Development Goals. In 2015, the government of Uzbekistan made commitments to implement the 2030 Agenda for Sustainable Development. In October 2018, 16 national goals and 127 targets were adopted at the government level.

At the same time, an interdepartmental coordination council adopted a corresponding roadmap for the implementation of the national SDGs.

The government is working to integrate Sustainable Development Goals and objectives into national development strategies and programs, including integrated, sectoral and regional ones. Within the framework of the five-year Action Strategy being implemented in Uzbekistan, issues of promotion, observance and protection of human rights have become one of the priorities of State policy and interaction with international partners.

The large-scale transformations are currently underway, and the fact that we have raised the dialogue with the people to the level of State policy, contribute to even greater openness and freedom in the country. Our citizens are more actively taking the initiative and, together with State bodies, solving problems not only of a personal but also of a public nature.

The country implements a clear, transparent and well-thought-out program of action, which meets in full the requirements and challenges of the rapidly changing modern world. All reforms in economy, political and State-legal spheres have exclusive focus on offering better conditions of human life, increasing people's incomes, creating a clean environment and improving people's well-being.

In the meanwhile, I would like to tell a few words about public health security being provided by the government.

The country has successfully implemented effective measures for social protection of the population, and consistent and systematic measures carried out to promote gender equality, enhancing the role of female factor in sustainable development of society and protection of women and children. According to some reputable international institutions, Uzbekistan takes one of the leading places among 125 countries in terms of creating favorable conditions for women and maternity protection.

The population of Uzbekistan has achieved almost universal literacy. Owing to its consistent socially oriented market reforms, implementation of large-scale State social programs such as "Healthy Generation", "Mother and Child", "Year of the Family", "Year of Health", "Year of Social Protection", "Year of Youth", "Year of Harmonically Developed Generation", "Year of Small Business and Private Entrepreneurship", "Year of a Healthy Child", "Year of the Care for the Senior Generation", etc. Uzbekistan has created all necessary conditions for the protection of

social and economic rights.

Promotion and protection of human rights is an obligation of each country, in which it performs through various legal and administrative policies and systems that ensure rule of law, equitable distribution of resources and respect for human dignity and principles of non-discrimination.

It should be mentioned that the past two months in Uzbek society has been full of significant events for long-term development and strengthening of New Uzbekistan's constitutional foundations. The most important issues involved in the constitutional amendments are human rights issues, activities of high-level State bodies (government, parliament, judiciary and local authority), ecological issues, social welfare, civil society institutions (mass media, public control), gender issues, international relations, cultural heritage, etc.

There is no doubt that one of the key elements of any constitutional reform in the world is to ensure the promotion, respect and protection of human rights and fundamental freedoms.

The constitutional reform of Uzbekistan is aimed at implementing the priority principle "in the name of the honor and dignity of man".

What are the priority foundations in the field of human rights protection?

First, Uzbekistan has ratified and, thereby, committed to comply with seven of the nine main international human rights treaties in force.

Second, as a participating State of the Organization for Security and Cooperation in Europe (OSCE), Uzbekistan has committed itself to fulfilling the OSCE's core commitments in the field of the human dimension, including commitments in the areas of the rule of law and democratic institutions, independence of the judiciary, protection of human rights and other areas.

Third, cooperation with international organizations and European Union (EU) structures is also a priority, in particular, the Generalised Scheme of Preferences Plus (GSP+) mechanism.

All this served as the basis for the preparation and improvement of the draft Constitutional Law.

It should be noted that the draft Constitutional Law includes a number of new positive changes that are not in the current Constitution.

In general, despite the fact that the draft Law provides for amendments to 64 articles and 6 new articles, of which changes to 28 articles and all 6 new articles



relate to human rights issues and the human dimension.

For the first time, the principle of international law—respect for human rights and freedoms—is enshrined at the constitutional level (Article 17).

Section II of the current Constitution contains a list of human rights and fundamental freedoms, to which several new provisions have been added.

In today's conditions of globalization, there is an intensive search all over the world for own models of peace and security for sustainable economic development and human rights protection.

There is no universal pattern of development that is equally suitable for all States at the same historical period. The negative experience of some countries shows clearly that attempts to impose “unified standards” of democratic development, without taking into account the specific historical, social and other aspects, as well as national and religious traditions, are counterproductive.

We support the leading role of the United Nations in maintaining and promoting international peace, cooperation and security, promoting common development and promoting the protection of human rights and the rule of international law.

Global stability, sustainable development and prosperity can be ensured only if they are based on respect for human rights, democracy and the rule of law.

## For Fairer and More Equitable Global Human Rights Governance: Efforts Based on UN Human Rights System

Danilo Türk  
Former President of Slovenia

It is a great privilege to speak at this important conference and to address the sensitive issues of global human rights governance.

My remarks will be focused on the United Nations. There is a good reason for this choice: The United Nations system of promotion and protection of human rights is at the heart of global human rights.

The UN system of human rights was developed gradually, proceeding from the embryonic provisions on human rights in the Charter of the UN of 1945. The main step was taken three years later—by the adoption of the Universal Declaration of Human Rights (UDHR) in 1948, as a common standard of achievement for all people and all nations.

An ambitious statement, typical for the immediate post World War II period.

This is how the idea of universality of human rights came into being and it has stayed with us ever since.

It is sometimes suggested that human rights cannot, in fact, be a universal platform of shared values, given the differences among the many cultures and the diversity of paths of human development. Moreover, some critics maintain that human rights are a product of the Western civilization and imposed on others who were not, at the time of adoption, yet in a position to make a genuine contribution to the content of the UDHR.

However, it should be understood that the original aim of the Universal Declaration of Human Rights was not domination, but the wish to create a strong firewall against re-emergence of oppression, which had been among the primary causes of the World War II. It was entirely logical for the war-weary generation

to start building a system that would help preventing a relapse into a situation of oppression and war, which had given rise to so much suffering.

Moreover, in the subsequent process of construction of the global human rights system, many voices were heard, and many new ideas were included. There were prominent additions—all having universal importance—among them the right of all peoples to self-determination, prohibition and prevention of all forms of racial discrimination and then, in 1986, the human right to development. And the debate continues. This way the universality of human rights is being deepened and strengthened.

It is not an exaggeration to say that today the international politics must take into account the requirements of universal human rights. Human rights defined in the United Nations instruments are an expression of values of the entire mankind and must be upheld by practical action. The question is, how?

A short answer is by making human rights a reality, in other words, by implementation. The implementation of human rights depends on the context, on the socio, economic, historical and political environment in which they have to be implemented. The priorities vary from one society to another, from one country to another, from one region to another. In areas suffering from pervasive poverty, it is important to give priority to overcoming poverty. In areas of armed conflict, establishment of peace and respect for human life, liberty and security of human person is paramount. And in many other situations, respect for the rights of workers, freedom of expression, freedom of assembly and freedom of association are the priority.

And then, there is factor of historic time. There are times when people suffer from massive violations of human rights and times when human rights become a symbol of change and transformation of societies. One such moment change was the time around the ending of the Cold War, some thirty years ago. Human rights became a symbol of progressive change.

This change has had an impact at the international level, including at the United Nations. The UN convened a World Conference on Human Rights in Vienna in June 1993 with the attempt to provide a global consensus on human rights. That conference produced an updated understanding of the universality of human rights. That understanding included the right to development, an important priority for the developing world—the largest part of the international community.

The subsequent years also brought about new institutions, most notably the office of the UN High Commissioner for Human Rights. The institutional development was strengthened a decade—later with the establishment of the UN Human Rights Council which started its work in 2006. The Human Rights Council established new practices of work, including the most important among them, the Universal Periodic Review that allows detailed and systematic consideration of developments in the field of human rights in each and every Member State of the United Nations.

Over the years, the UN has gained precious experience about human rights. Human rights face periods of progress and periods of regression. The international efforts for a fair, equitable, reasonable and global human rights governance never end. Realization of human rights requires constant efforts. Progress is never guaranteed for a long period of time. And violations of human rights continue to occur.

So where are we today and what should be proposed for the future? Let me offer a few thoughts.

Human rights belong to those fundamental values that the entire humankind has to strive to uphold—like peace, rule of law and development. In the reality of life these values are intertwined. Realization of human rights represents an important support for peace, for the rule of law and for development. At the same time, peace, rule of law and development make all human rights stronger.

All human rights—civil and political rights as well as economic, social and cultural rights and the right to development—are interdependent and indivisible. Selecting a certain group of human rights at the expense of other is harmful. Giving priority to certain rights at a particular period of time is often necessary. However, permanent and ideological selectivity is harmful. In the long run, all human rights have to be upheld.

This requires wise policy making within States and self-limitation at the international level. Some States are tempted to impose their views on other States and their understanding of priorities in the field of human rights on the international community as a whole. Some go even further and use human rights critique as a political tool. Political selectivity and double standard have harmed human rights in the past. This problem continues to be a cause of concern today as well. The United Nations human rights bodies have to minimize the dangers of politicization.

This is not an easy task for the United Nations, an intergovernmental

organization which is, by definition, a political organization. This is why the expertise on human rights is particularly important. Members of expert bodies and UN special rapporteurs who study specific types of human rights problems or specific situations of violations of human rights have to demonstrate their objectivity and wisdom. They have to demonstrate their capacity to speak the truth to power and their ability to formulate meaningful and achievable proposals for improvement and change.

At the same time, the United Nations human rights system must understand the main global challenges and their effects on human rights. Right now, the world is going through an existential crisis that created enormous problems for the realization of human rights. The COVID-19 pandemic and the resulting global socio-economic crisis have led to a radical increase of poverty, destitution and hunger. The effects of global warming and armed conflicts resulted in flows of refugees whose existence is threatened in the most brutal ways. The space of human rights is being diminished. There is an urgent need to reverse this trend.

The question is how?

The need for global cooperation has never been as urgent as it is today. The cause of human rights will be best served when global cooperation is improved—and when the currently prevailing geopolitical and ideological tensions are reduced. Cooperation should be given precedence over competition and confrontation. This is not only a political and developmental requirement. This is also a requirement of human rights.

The major powers of our era bear particular responsibilities to reverse the current negative trends. The two recent initiatives of President Xi—one related to global development and the other on global security are timely and welcome. They carry an important potential for the needed reversal of the current negative trends. While they do not address the issues of human rights directly, their ultimate effect on human rights should be positive.

A reasonable, fairer and more equitable global human rights governance will be built gradually. This is not yet the moment for institutional reforms in the UN system of human rights. However, this is the time to lay down conditions for global cooperation, for a fairer and more equitable world—and for constant efforts for the improvement of human rights.

I believe that our meeting today will make a significant contribution in that regard, and I wish you all success.





Part 1 :

Sustainable Development and  
Human Rights Protection

# A Marxist Conception of Human Rights

Richard Morales Villarreal  
Panama

How can we understand human rights within a capitalist world market? How can we conceptualize human rights within class societies? How can we mutually guarantee human rights within indirect social relations mediated by the exchange of commodities? How can human rights be compatibilized in a fully developed form with combating climate change and ecological crisis?

There are no simple answers to these questions. We must be willing to go beyond the fetichized appearances of daily life, the dogmatic bourgeois affirmation that rights can be merely formally decreed within and across States, taking the decision to delve into the determinants of rights themselves, to identify the material conditions that make these rights possible today, and eventually unnecessary tomorrow.

I will utilize the dialectical method to ideally reproduce the material determinants of human rights within the capitalist mode of production, as the necessary forms of capitalist relations of production operating at a world scale, which needs to formally recognize these rights in order to continue expanding, but at the same time, how the recognition of these rights becomes one of the basis for overcoming capitalism and transitioning to a socialist world order, under which full human flourishing under sustainable ecological conditions is achievable.

## I. Generalized Commodity Exchange and Capitalist Class Relations

What are rights within a capitalist mode of production? We have first to understand that within capitalist social relations, we are essentially property owners of commodities. Every person must buy and sell commodities to survive, whether property owners of means of production, or commodity owners of merely their own labour power, which they must sell to capitalist or perish. This means that capitalist



relations of production, within which we are produced and reproduced as commodity owners of either capital or labour, are the relations which explain the different rights that we can acquire. We cannot comprehend human rights in any other way than as the rights that property owners acquire within these relations.

These capitalist relations of production, are thus, first, relations between commodity owners, who must have a degree of formal equality amongst themselves so they can exchange commodities at their values as equivalents; but second, they are relations between owners of different commodities, means of productions and labour power, which means the owners of labour power must sell their labour to the owners of the means of productions, and the capitalist exploit the means of productions to produce surplus value, which is the value extracted from the surplus labour beyond what is needed and paid for the subsistence of the worker. In an ever-expanding process of accumulation, this surplus value, in the form of money which represents this value, is reinvested into the production of more surplus value, through the purchase of more means of production and labour power. Thus, rights are founded on social relations of productions which are, at the same time, the formally equal relations between commodity owners, but also the materially unequal relations of exploitation between social classes.

## II. Human Rights as Needs of the Market

Owning property, which is the fundamental bourgeois right, we require certain rights that allow us to function properly as fully fledged buyers and sellers of commodities, and particularly, as buyers and seller of labour power. Certain freedoms can be properly understood as the necessary determinants of these class relations, and are usually analyzed in an abstract manner, as if they were grand ideals attainable under any material circumstances, separate from the social relations from which they emerge within capitalism. They are rights that allow these relations to continue expanding, and the capitalist mode of production to reproduce itself at a more evolved and developed stage.

The rights, usually recognized as civil or individual rights, are essentially needs determined by capitalist social relations, which are market relations in as much as they pertain to the buying and selling of commodities necessary for capitalist reproduction. Thus, for example, Article 1 of the Universal Declaration of Human Rights speaks that humans are born free and equal, which essentially means free

and equal buyers and sellers of commodities. The Article 2, which pertains to discrimination, is translated into not negating anyone for any sort of social or cultural reasons the right to be a buyer or seller, which only serves to constrain market exchange. The prohibition of slavery in Article 4, mainly formalizes that it is wage labour which allows capitalist development, and that precapitalist social relations become a constraint to their own functioning. Freedom of movement determinates that buyers and sellers in a market need to be able to freely move within markets to find buyers for their commodities, or to purchase that which they need. All forms of spatial barriers constrain this movement, which is why the tendency of capitalism is towards a fully integrated world market. Even freedom of thought in Article 18, is but an abstract formulation of the need for commodity owners to be able to express their thoughts on market transactions with relative freedom if these are to flow dynamically and creatively, which is a prerequisite of complex market systems, generating the information necessary for the trial-and-error process of competition.

Thus, these fundamental human rights, rather than be seen in an abstract manner, must be understood within the material relations that determine how they can be formally exercised. In other words, the material content of capitalism determines the forms these rights take. The simple exercise of imagining these rights being exercised or codified in precapitalist societies, whether primitive commune, or serf or slave society, quickly show how unviable they are, and why they couldn't even be formulated until the present times.

In the same light, human rights are global rights, because capitalism is a global mode of production, a global division of labour underpinning a world market with global capitalist and working classes. Under the fragmented relations of the precapitalist world, with heterogenous modes of productions, anything beyond territorially and culturally bounded rights was unfathomable. This is also shown by how early mercantile societies could at most recognize some of these rights to those engaged in commerce, but not to the rest of the population, given the complex stratifications of classes and groups.

### III. State Regulation of Working Conditions Through Class Struggle

But as already stated, owners of formally equal commodities differ in the content of their commodities, and in what defines capitalism as such, that is most people are reduced to being free owners of only their capacity to work. They are

free in a double sense, that they are free of possessing any means of producing their own subsistence, and free from any social relations based on personal enslavement or domination. Thus, to survive, they must, and can formally, sell their labour power to those who do own the means of productions. What does this mean in the context of human rights?

The capitalist mode of production requires the production and reproduction of labour power, the commodity possessed by the working class. The use value of this commodity is the ability to create value, of which a portion is the surplus value needed for capitalist accumulation. Thus, workers can produce more value than is necessary for the production of their value creation ability, or in other terms, the value that labour power has in the market. But, as with any commodity, prices deviate from value due to variations in supply and demand.

Under capitalism, the working class, or the amount of labour power that is on supply in the market, is less than the labour power demanded by capitalist. Only the labour power that can profitably be employed is bought, thus, there is a tendency towards an industrial reserve army, a mass of unemployed workers seeking, but unable, to sell their labour power and preserve their own existence. This means that capitalist can pay for labour at a price that is below their value, and thus at a price that does not allow workers to properly acquire their means of subsistence. This leads to a degradation of workers' standards of living, and in capitalist terms, in the quality of the commodity they are selling. This is unsustainable in the long term, as it degrades and destroys the supply of producers of surplus value, and the capacity of the mode of production to reproduce itself.

This is where class struggle comes in. Workers organize and form unions and struggle to elevate working conditions in their workplaces, which could be translated into selling their labour power at its value. It is through struggle that workers can compensate their structural inequality with capitalists. Workplace struggle is insufficient however, as it remains atomized in relation to the whole of workers within a nation, and thus the organization of political struggle directed at the State which marks the more developed class-conscious action of the working class. Workers elevate demands that require State guarantees and regulations that allow all workers to sell their labour power at its value. The weakness of workers in relation to capitalists due to the imbalance between supply and demand of labour, is overcome through political action, with workers conquering shorter workdays, minimum

wages, occupation health standards, paid vacations, health insurance, paternity and maternity leave, among other rights.

Worker rights, recognized in Article 23 of the Universal Declaration of Human Rights, emerge because of the unequal material content of the commodities owned by workers and capitalists. The State regulation is determined as a need for capitalism to continue to reproduce itself, given that out of their own interests, individual capitalists would degrade workers conditions, forcing workers to compete amongst themselves for ever lower wages well below the value needed to reproduce their labour power. In other words, worker struggle and State regulation of worker rights becomes a necessity for capitalist development.

Social rights in general, including the right to an adequate standard of living, which includes access to food, clothing, housing, medical care and social services, which is recognized in Article 25, and the right to an education, recognized in Article 26, are also rights that the State is forced to guarantee in order for capitalist reproduction to take place at ever higher stages of development. An educated work force able to perform more complex labour, as well as one that has access to the services and conditions to maintain reasonably healthy lives, leads to the capacity and quality of the labour being higher within that society. Even though these terms may seem crude, given that we are speaking of human life, within capitalist social relations these are the terms within which commodities can be valued. Labour power is but a commodity in capitalism, and it is the State that can intervene, beyond the short term interest of individual capitalists, and assure that the certain average conditions are guaranteed to all workers, in terms of health, education and social services, that allow them to reproduce at the level required for further capitalist accumulation, including the development of the forces of production.

Thus, even the economic and social human rights must be understood within the capitalist social relations of production, and the material needs require that these rights be guaranteed, with the State assuming an important and central role. As previously stated, given that capitalist short term interests are to pay workers below their value, and to not invest in workers' human development, State regulation of the economy and provision of fundamental services become determined by the needs of capital reproduction in conjunction, which determine the reproduction of society as a whole.

#### IV. Environmental Rights Within Capitalist Reproduction

Environmental rights, which were not a part of the original human rights charter, though could be deduced from the same articles that pertain to healthy living conditions, now have been incorporated following the growing consciousness and scientific consensus around global warming and the ecological crisis. In much the same way as the degradation of workers is a material constraint on capitalist reproduction, the degradation of the environment and depletion of the natural resources that production requires, are also material constraints on that reproduction. The degradations of worker and environmental condition are both material consequences of capitalist production, and as such differ from individual and civil rights, which mostly pertain to the formal requirements of exchange relations between commodity owners. This explains that with the expansion of capitalist development at a world scale, which means the expansion of production and consumption, these material consequences appear visible as problems, as they can no longer be completely displaced geographically.

Environmental degradation and resource depletion imply an important limit to capitalist reproduction, as does worker degradation, and the requirement that the State intervene, regulate and establish environmental standards on production and resource use, takes the form of environmental rights. However, both worker and environmental regulation and rights recognition soon face its limits, as reality cannot be ruled by decree, and the material conditions of capitalist reproduction override attempts to regulate its relations and consequences, as the State becomes limited to only mitigating the consequences of capitalist relations of production and exchange, without being able to completely control them.

#### V. The Silent Compulsion of Capital

The right to private property, or the right to the private appropriation of the products of human labour and conditions of production, or to put it in other terms, is the exploitation of human labour and the environment in a way that satisfies profit maximization and overcomes all formal attempts to control and regulate capital. This right to the private appropriation of surplus value exerts itself given the capitalist relations of production, which relates appropriators to producers in such a way that capitalists are forced to compete against one another, with the result being determined by which capitalists are the most efficient exploiters of labour power,

which means raising productivity by reducing necessary labour and increasing surplus value extraction. It's a competition from which no capitalist or worker can escape to see who is most efficient in exploiting labour power and extracting surplus value. Thus, it is the law of value that governs social life, not the laws that States enact and the rights that are recognized. These rights are only realized in as much as they are compatible with the law of value.

It is capital, the silent compulsion of capitalist social relations of productions, of the law of value, that governs and dominates behind the backs of both capitalists and workers, producers and consumers, establishing the limits within which society reproduces itself. The law of value imposes itself on capitalists, forcing them to exploit both workers and the environment at an ever more intensive and extensive rate.

This means that it is not States who determines what is produced, how much is produced and at what cost it is produced. It is capitalist competition in the world market under the compulsion of the law of value, that establishes the socially necessary labour time to produce a commodity, compelling all producers to abide by this time, lest they risk expulsion from the market. This means that the full materialization of human rights is impossible under capitalism, as all efforts to elevate human conditions in a environmentally sustainable way are constrained by the social relations of productions. Capitalism does not produce to meet human needs, nor can it plan production to operate within certain environmental standards, because it is production for profit maximization, which means surplus value extraction. Human and environmental needs become market externalities of profit maximization.

## VI. The Development of the Productive Forces

But it is here that the path set forth by countries such as China can show us a way forward. Capitalism is defined by not only its relations of production, but the development of the forces of production. The development of the forces of production means to expand and amplify the capacity of human beings to control nature in a conscious manner. It entails an expansion of human powers over nature, deepening our understanding of the scientific laws of the universe, of how reality functions, and allowing us to organize production at a higher level of understanding to produce determinate conscious results.

This expansion of the productive forces of humanity is advanced through

capitalist competition, where the development of the productive forces, to reduce labour time, as labour saving technology, allows capitalist to extract more surplus value from the same amount of labour time, in a way that allows them to defeat their rivals in market competition. The changes in the conditions of production reduces the labour time utilized in the production of commodities. This process leads to a tendency where capitalist competition requires ever more advanced means of production to compete, which requires ever high amounts of money capital to afford, leading to a concentration of higher amounts of capital and centralization of the said capital in ever fewer capitalists.

The tendency is towards a process of accumulation where capital is concentrated and centralized, which means labour is socialized, as workers are cooperating at ever larger scales as parts of the same production processes. At the same time, as the development of the productive forces leads to human powers being objectified as dead labour, as part of the means of production, this cooperation within growing production units at the national and global stage also means a universalization of knowledge, in ways that are socially generalizable and reproducible. The socialization of labour and universalization of knowledge are the tendencies led by capitalist accumulation.

This tendency is beset by the contradiction between increasingly socialized labour and private relations of appropriation, which impedes the planning of production according to conscious and rational ends, such as humane and sustainable development and the guarantee of human rights, as those private relations which mean profit maximization continues to impose itself.

However, the contradiction can be counteracted in a transitional form through State control of key sectors of the economy. As long as the State can control these key sectors of production, the commanding heights of industry, it can mobilize that socialized labour and universalized knowledge toward strategic objectives, shaping the contours of society and regulating the flows of capital, partially determining what, how and when production operates. It is a way to attempt to manage or manipulate the law of value. The society is not liberated from the law of value and its coercion, because it continues to operate within a capitalist world market, but given knowledge of the operation of this law, it can attempt to manage and control how the economy responds to its movements, instead of simply relying on the automatic responses of private producers and consumers through market competition.

This also allows the State to consciously direct the social surplus produced, now appropriated by the State, towards the further development of the productive forces of society, which means pushing forward the tendency that allows for the overcoming of capitalism. This is decisive for human rights because they cannot be fully materialized in a capitalist society, for the law of values pressures towards the subordination of all rights to the private right of surplus appropriation, which is the essence of capitalist private property. It is a conflicting process where certain material conditions are necessary for human rights to materialize, thus requiring a certain degree of capitalist development for human rights to be attainable, but at the same time, the advanced capitalist conditions become an obstacle to human rights materialization, as these are not sustainable or generalizable within capitalist class structures.

## VII. Class Struggle and Human Rights

The contradiction, in essence, is that capitalist development of forces of production is a requirement for human rights to be necessary and possible, which means a higher state of capitalism. But at the same time, the higher stage of capitalism is beset by the increased pressure of the tendency for profit rate to fall with a higher organic composition of capital, which is an expression of the law of value. Increasing the relative weight of constant capital to variable capital, with the employment of more dead labour and less living labour, would proportionally reduce the surplus value producing element: workers. This tendency, within increased competition at the world stage, means human rights become materially untenable.

This creates the conscious recognition that human rights materialization cannot only be understood from a distributional perspective, as a distribution of surplus toward State guarantee of rights, where once human rights are formally recognized, it is only a matter of the State having the will to distribute and assign the necessary resources towards their fulfillment. Capitalist relations of production do not make this possible.

By taking control of the commanding heights of production, under the control and guidance of revolutionary parties, as an initial step, the State can rationally direct the economy towards the development of the productive forces, in such a way as to make viable human rights recognition and materialization, during the long and conflictual process in which transcending the capitalist mode of production becomes



materially possible. Human rights must therefore be understood within the struggle for the revolutionary overcoming of capitalism, which takes place at the world stage, but the initial decisive battles are fought nationally, by the working classes and their parties, with the purpose of building a new state apparatus controlled by the working class.

As long as the capitalist mode of production dominates at the world stage, the law of value will make guaranteeing human rights a struggle within every nation, as it becomes a cost and limitation to surplus value exploitation and extraction, and this is where revolutionary worker States can and must play a key role in sustaining and defending them. Human rights, then, become an issue of class struggle within capitalism, and whose complete materialization will only become possible once we are in a post capitalist communist world, where the forces of production have developed to the extent that allow us to transcend capitalist relations of production, and can break free of the constraint that impede directly controlling the metabolic relation of human beings with nature, in order to produce for the satisfaction of human needs in an environmentally sustainable manner.

(The author is Renowned Scholar of the Republic of Panama.)

# Sustainable Development and Human Rights Protection

Linda Lubamba Luemba  
Democratic Republic of the Congo

Sustainable development and human rights are terms that are widely used in our daily lives and in our speeches, to which we often if not always add the word “protection”. We do not need to spend time defining them here. However, we place them in the context of our continent, Africa, and of my country, the Democratic Republic of the Congo (DRC).

## I. How Does the Protection of Human Rights Contribute to Sustainable Development?

Human rights create the essential conditions for sustainable development. The 2030 Agenda for Sustainable Development adopted by the UN in September 2015 considers that human rights are a necessary condition for achieving sustainable development, an element of good governance. In fact, making the full range of human rights real and accessible is the very heart and purpose of social development and thus of sustainable development.

Civil, cultural, economic, political and social rights, as well as the right to development, are mutually reinforcing and progress together. People are not truly free if they lack food, education or adequate housing. The reverse is also true.

## II. Current State of Human Rights in the DRC

### 1. The conflict environment, an obstacle to sustainable development

The Democratic Republic of Congo, my country, is confronted with armed conflicts, inter-community tensions and natural disasters that affect populations. Armed groups such as the M23, CODECO, Zaire and others in the east of the DRC, mostly financed and armed by certain neighboring countries, are destabilizing the

country in order to exploit the country's wealth such as coltan and gold with impunity in full view of the international community. This situation has had the following consequences:

- a) **Displacement of populations in times of conflict:** The DRC has 5.2 million displaced persons. There are many people killed during armed conflicts and also a lot of sexual violence based on gender.
- b) **Environmentally:** The flora and fauna in the east of the country are destroyed because of the war. The Okapi, which is a unique animal in the world, is disappearing in the DRC.
- c) **Socially:** Congolese women and children are traumatized by sexual violence, which has become a weapon of war. Children no longer have access to school because of various displacements, and the level of poverty of the population in the conflict zones (East and Center of the country) has increased.
- d) **Economically:** There is illegal exploitation of natural resources (minerals, wood and rare animal species) by armed groups.

2. The government's efforts to improve the human rights situation and create the conditions for sustainable development

These efforts include:

- a) **Strengthening the democratic process through free and transparent elections:**

The DRC is in its third free and transparent election. In 2019, former President Joseph Kabila peacefully handed over power to current President Felix Tshisekedi Tshilombo, who was from the main opposition party, without bloodshed and in peace.

- b) **National reconciliation through the mechanism of transitional justice:**

The Head of State instructed the government, during the 43rd meeting of the Council of Ministers of August 7, 2020, to put in place transitional justice mechanisms at the national level in order to address the heavy legacy of violence in the country and to provide opportunities for a peaceful and conducive environment for national reconciliation.

Transitional justice has four pillars: truth-seeking, justice, reparations, and ensuring non-repetition.

To this end, since the beginning of 2022, the Ministry of Human Rights has launched national consultations on transitional justice in four cities,

including Matadi, Kalemie, Tshikapa and Goma, in order to gather the opinions of the population on the model of the Truth and Reconciliation Commission that the Congolese State should put in place.

To relieve the victims of serious crimes perpetrated in the country, an ad hoc commission is working to implement a public service called the “National Fund for Reparations of Serious Crimes and Sexual Violence in Time of Conflict”, abbreviated as FONAREV.

Lastly, a law on reparations and transitional justice is in the works, and a bill against tribalism, racism and xenophobia was initiated by national elected officials in order to combat tribal tendencies<sup>[1]</sup> and hate speech, and is currently being examined by the parliament.

- c) The search for peace through dialogue with armed groups and diplomatic efforts at the regional and sub-regional level with neighboring countries:

These efforts include:

—The establishment, in June 2021, of the Disarmament, Demobilization, Community Rehabilitation and Stabilization Program (PDDRC-S), whose purpose is to promote peace and contribute effectively to the restoration of State authority and security;

—The establishment, since May 6, 2021, of a state of siege in the provinces of Ituri and North Kivu, seen as a military response to the growing insecurity in the east of the DRC in order to deal with repeated attacks by armed groups;

—The organization of a round table on inter-community reconciliation in April 2022 under the chairmanship of the Prime Minister, Jean-Michel Sama Lukonde, to resolve the conflict between the communities of Grand Katanga and Grand Kasai;

—The first and second regional conclaves of heads of State on peace in the Democratic Republic of Congo, held in Nairobi, Kenya in 2021 and 2022 to resolve the issue of armed groups in the east of the country;

—Negotiations in Luanda, Angola, between the DRC and Rwanda to resolve the occupation of part of the east of the country by the Rwandan-backed M23 Movement.

- d) Support from development partners:

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[1] The conflict between the people of Kasai and Katanga provinces.

Special mention to all the development partners such as the United Nations Development Programme (UNDP), the Office of the High Commissioner for Human Rights (OHCHR), and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), which are constantly accompanying the DRC in its pacification and development.

### 3. Support from the international community for a return to peace in the east of the country, a condition for sustainable development in the DRC and Africa

The DRC is a large country, with nine neighbors, an area of two million square kilometers and more than 100 million inhabitants. The insecurity in this country has negative impacts not only on internal development, but also on neighboring countries. Hence the support of the international community in order to bring peace to this country and ensure peace in Africa and the development of this continent. Secondly, the protection of the Congolese forests contributes to the protection of the planet in terms of climate.

The achievement of the objectives of the Agenda 2030 in the DRC and much of Africa is therefore conditioned by peace and respect for human rights.

(The author is Advisor to the Minister in Charge of the Fight against Gender-based Violence, Democratic Republic of the Congo.)

# Sustainable Development and the Protection of Human Rights

Laurent Ngon-Baba  
Central African Republic

Since the second resumption of diplomatic relations between China and the Central African Republic in 1998, relations between the two countries have steadily developed and bilateral economic and trade cooperation has continued to advance. Many technical and mutually beneficial cooperation projects have been implemented with great success, which has been praised by the Chinese and Central African governments and people.

Our sincere thanks go especially to the officials of the Chinese Institute for Human Rights Studies and the China Foundation for Development and Human Rights for inviting us to this forum, which was organized and hosted in an excellent professional manner.

The situation of my country, the Central African Republic, which is going through several decades of crises, leads me to present the theme: Sustainable Development and Human Rights Protection.

Indeed, covering an area of 623.000 square kilometers, the CAR is located in the heart of Africa with a population of 5.2 million.

The economy of the Central African Republic is essentially based on the extraction of mining resources, most often artisanal (gold and diamonds). Other deposits remain unusable (copper and aluminum). Oil wells and uranium are still being explored. In addition, the economic activities of the population are based on agriculture, such as export products (cotton and coffee) and food products (cassava, banana, corn, peanut and sesame). Livestock farming occupies a large part of the territory and contributes enormously to economic growth. Logging generates important revenues for the government, given the volume of the forests.

Considering that development is a human right that belongs to every citizen,

whether individually or collectively, my country has subscribed to the Declaration on the Right to Development proclaimed in 1986 which stipulates: “The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development in which all human rights and fundamental freedoms can be fully realized.”

The Constitution of the Central African Republic in force emphasizes in its preamble the imperative need to preserve national unity, social cohesion and peace, which are the guarantees of economic and social progress, and also recalls that only the rule of law can guarantee the protection of human rights.

Unfortunately, in CAR, despite the country’s wealth and the affirmation of principles, the country remains one of the poorest countries and ranks second to last in the world according to the United Nations Human Development Report 2020.

The country is faced with many challenges, including insecurity, climate change, economic crises and today’s soaring prices of basic necessities, which are aggravating the poverty gap.

Insecurity has been the real destabilizing factor for several decades, through mutiny and various rebellions. Several attempts at solutions have been made.

This is why the Central African Republic holds the African record for international peacekeeping interventions on its soil.

From the Inter-African Mission to Monitor the Implementation of the Bangui Agreements (MISAB) to the United Nations Peacebuilding Office in the Central African Republic (BONUCA), the Mission for the Consolidation of Peace in Central African Republic (MICOPAX), the country has hosted a total of 13 peacekeeping missions under different leadership since 1998. The latest is the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic (MINUSCA) which was deployed in 2014.

In addition, CAR joined the Rio+20 Summit in June 2012, to reflect on another development agenda that led to the birth of the Sustainable Development Goal (SDGs).

The country has experienced an unprecedented economic decline following the crisis triggered in 2012, which resulted in: the destruction of the economic structure; the destruction of public buildings, including health centers, hospitals, schools, communication routes (roads); and serious violations of human rights (attack on the physical integrity of people, enlistment of child soldiers, sexual violence, especially

of girls, etc.).

After the return to constitutional order characterized by the election of Professor Faustin Archange Touadera in March 2016, his government in collaboration with its development partners has developed the National Recovery and Peacebuilding Plan (RCPCA 2017-2021) in Central Africa.

This plan has three pillars and constitutes the federating framework for all the interventions of the government with its technical and financial partners.

The first pillar, in charge of restoring peace and reconciliation, is one of the three priority pillars of the RCPCA. It perfectly aligned with the SDG 16 of the United Nations 2030 Agenda launched in September 2015, which targets peace, justice and effective institutions.

The second pillar concerns the renewal of the social contract between the State and the population.

Finally, the third pillar includes the promotion of economic recovery and the revival of productive sectors.

This program focuses on three dimensions, namely economic, social and environmental, and aims to achieve a better and more sustainable future for all, with a commitment to leave no one behind.

Since that time, the CAR has submitted its monitoring reports for the SDG 16 in 2019.

On February 6, 2019, the Central African government and 14 armed groups active in the Central African Republic signed the Political Agreement for Peace and Reconciliation (APPR) in Bangui. This agreement, which came at the end of two weeks of intense negotiations between the stakeholders in Khartoum (Sudan), is the result of a long facilitation process put in place by the Libreville Roadmap of July 17, 2017, and led by the African Union (AU), the Economic Community of Central African States (ECCAS), and the International Conference on the Great Lakes Region (ICGLR) under the supervision of the United Nations.

This time, the will of all parties was put to work to obtain a consensual agreement, each article of which was the subject of bitter discussions. In the annexes to the agreement, the signatory parties agreed on the steps to be taken to achieve a complete cessation of hostilities and reconciliation among Central Africans.

With the persistence of insecurity despite this agreement, the partners agreed to establish a roadmap in Luanda, Angola on September 16, 2021, in order to create the appropriate conditions for the cessation of the ceasefire, which was declared unilaterally



by His Excellency Professor Faustin Archange Touadera on October 15, 2021.

All these actions are carried out within the framework of the international commitments to which the CAR has subscribed, namely: the Charter of the United Nations; the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights.

It is also important to reiterate the political and institutional measures.

Within the framework of the APPR, the government has adopted a National Strategy for Sustainable Development in 2021, and institutions in charge of human rights protection have been created:

The Ministry of Justice in charge of human rights, is responsible for monitoring respect for human rights and reporting to the annual session of the United Nations.

In addition to the ordinary courts, the Special Criminal Court (SPC) is needed to judge crimes against humanity and genocide. Its mandate is to prosecute human rights violations and serious violations of international humanitarian law committed throughout the Central African Republic.

The Justice, Truth, Reparation and Reconciliation Commission (CVJRR) is responsible for rendering global and equitable justice, for taking into account the damages suffered by the victims, for repairing them, and finally, for reconciling all Central Africans.

The National Commission on Human Rights and Fundamental Freedoms (NCHRF) is responsible for ensuring that human rights and fundamental freedoms, as defined by the International Bill of Human Rights, the Constitution of the Central African Republic and other domestic and international legal instruments in force, are respected throughout the country.

The National Mediation Board, which I chair, has the following missions: (1) improving the relations between the citizens and the Administration in order to protect and promote the rights of the citizens; (2) receiving citizens' complaints and proposing solutions for the prevention, management and resolution of conflicts; (3) defending the rights and freedoms within the framework of the relations with the public administrations, the territorial communities and the organizations vested of a mission of public service.

The country benefits from the support of MINUSCA for the reinforcement of the capacities of our internal security forces (National Gendarmerie and Central African Police).

All these institutions are the main instruments for the defense of citizens' rights and freedoms.

To summarize, since gaining independence in 1960, the CAR has developed and implemented several development plans and programs. The overall objective of these plans and programs was to reduce poverty by promoting growth and development of the productive sectors (agriculture, forestry and service industries) in order to allow each Central African to enjoy his or her human rights.

However, the achievements of these efforts have been destroyed by the multiple crises mentioned above.

Also, notwithstanding the country's commitment to international human rights instruments and the measures taken to implement them, the security context does not favor the protection of human rights throughout the country. Faced with these challenges, CAR is looking ahead to the 2050s through a vast development program. To this end, a national prospective study RCA Vision 2050 was launched in August 2020.

In conclusion, efforts are being made to bring about a definitive return to peace through the implementation of the National Recovery and Peacebuilding Plan (RCPCA) and the peace accords in order to achieve the Sustainable Development Goals (SDGs) by 2030.

The government, in common agreement with technical and financial partners, has decided to extend the RCPCA until 2023.

We hope that the friendly country of the People's Republic of China will accompany the CAR in its march towards sustainable development.

The human rights approach to sustainable development in the current difficult context is a major challenge to be met not only by the Central African Republic, but with the support of the entire international community.

Long live the Central Africa-China cooperation!

(The author is Mediator of the National Mediation Board of the Central Africa Republic.)

# Human Rights, Climate Change and Sustainable City

Rosa Cervera  
Spain

On December 10, 1948, the United Nations General Assembly, meeting in Paris, proclaimed the Universal Declaration of Human Rights (UDHR). This document, prepared by representatives of various regions of the world, gathers the ideology to which our society should aspire. However, due to the fact that different civilizations make of the issue in accordance with their beliefs and tradition, the different degree of development of the countries, or the pressing priorities or needs, human rights have different interpretations. And this is sometimes a source of conflict between countries or between world blocs. For this reason, through carrying out coordinated work and permanent dialogue, we must strengthen that common denominator in which we all agree as human rights and, from there, expand the concept as much as possible until the goals of the UDHR are universally achieved.

Today, new threats hang over the human being and his home, which is the Earth. To the problems that were glimpsed so clearly in 1948, we must add those derived from climate change. In the scientific community there is full agreement that climate change is already a present reality and that it is time to act and strive to activate actions that can mitigate and stop it. The awareness that humanity is throwing away at a vertiginous speed the heritage for which the Earth needed millions of years to accumulate is something really new. It was not until the 1960s that the feeling appeared that the environment was being degraded by the demographic explosion and the economic development. In fact, the trigger for the actual ecological disaster was the increasing welfare state after the World War I, when the economic and human means for building a prosperous and free society produced a happy life model that once started has revealed itself as unstoppable.

The barbarous attack to the environment has been constant: The phosphates of laundry detergent and of fertilizers caused environmental pollution; the quicksilver of

fuels and the lead of the oil industry polluted the sea waters; both oxides of carbon, carbon dioxide and carbon monoxide, coming out from the exhaust pipes of vehicles, from the chimneys of heating and from the oil refineries have been distributed in the atmosphere, have dangerous unpredictable effects; the oil spilled into the sea damaged the marine plankton; the gases in the spray tubes and of the freezers damaged the ozone layer; nuclear radiation, residuals of the nuclear industry and the effects of nuclear explosions added new challenges for the environment. The global warming has only started.

However, all that was welcome as the advanced society, in exchange, reached a degree of comfort and welfare until then unknown. As soon as the film screens exported a prosperous and happy life model to all of the planet, everyone wanted to copy these achievements, starting thus a very large-scale attack against the Earth resources.

The first space travels, the first times human beings could go away from Earth made us conscious of the limited size of the planet and of its frailty in the universe, promoting the first motions to protect certain regions of great natural value or some endangered living species. It is now, in the first years of the 21st century when the attention to ecological environment extends to all scales, making us conscious that the city is one of the big focuses of the energetic consumption, of land use and one of the biggest sources of polluting emissions. And this is the reason why I am going to focus my speech on the responsibility of the city in climate change and on addressing the sustainable city as a matter of human rights.

During just a century the human population has multiplied by approximately five times. In the same period, the growth of the population that lives in cities has gone from 25% to 50% of the total of humanity. By 2030, it is estimated that the global average urban population will reach 60%, which would be equivalent, according to current expectations, to approximately 4,900 million inhabitants living in cities, a situation that we could never even remotely have dreamed of in the long history of mankind. To this we must add that cities are responsible for 60% of total energy consumption and 70% of polluting emissions. As a consequence of these greenhouse gas emissions, cities contribute negatively to the climate change process that will bring so many consequences to the human population. For this reason, to speak of sustainability in the city is to speak of human rights. A large part of the population will suffer from floods, droughts, lack of food, lack of land for cultivation,

lack of work due to processes of deindustrialization and isolation. All this will be due to the effect of global warming.

The extreme situation of many cities exposes the limit state of their reality. Yesterday's data is of no use to us today, and we do not have understandable, measurable, predictable parameters that allow us to anticipate and plan. The population, specifically the urban population grows excessively; economic cycles and imbalances displace workers from one place to another, from one country to another and from one continent to another; natural disasters affect repeatedly or unexpectedly and perhaps are unpredictable to urban environments, war conflicts force us to live differently, decrease of cities that generate desolate landscape ... All of this is altering the reality or causing unusual and atypical situations that require a new perspective.

If we compare the contemporaneous data with the historical growth rates of the cities, and not only with these, but with the much faster ones that we have experienced since the Industrial Revolution, we will become aware that we are in front of a process of gigantic spatial scale, and of a time scale which is so small that is a fully new phenomenon for humanity. Brutal changes happen in record time. From that the new concept of Instant City appears. Cities, big neighborhoods or urban spaces are not built by accumulation of chronological, historical, cultural or epic layers, but are formed instantly. They are cities and urban entities built "at once". The surprising growth of urban settlements runs in parallel with the surprising waste of our resources and of our energy that the above ones demand, generating thus an imbalance between the availability of production in nature and the capability of plunder of the environment of the human being.

The concept of ecological footprint has given us the image that the city extends itself further away than its physical limits, if we take into account the amount of energy and other resources that its extension requires. Although it must not be so, today the ecological footprint is so much bigger as the society is more developed and powerful, generating thus shocking differences in the consumption between developed countries and countries on their way to wealth. In the same way we can verify that as they use the scalable model of the historic city, which is useful for a moderate population, the mega cities skyrocket exponentially their use of land, energy and general resources. It is clear, due to the nonlinear structure of complex systems like cities, that a city  $n$  times as big as other uses much more than  $n$  times the

resources of the small one.

We need a deep change of position to consider the city of the 21st century. According to the speed of events and the consequences of past behavior, the inherited models have been proved inadequate. But we are now able to contemplate a new treatment of the situation that allows us to generate habitats in dynamical equilibrium with the natural environment. To do that we must first consolidate a new theoretical support or what amounts to the same, build a new philosophy that gives us a new scale of priorities upon which base the future of humanity. Without a full knowledge of today's conditions and the subsequent conviction of the need for a decided and needful acting, we are at risk that the found solution could be modal, shallow or inadequate.

Raised like this, it seems urgent to approach the city with new parameters and take into account as priorities issues such as: control of urban extension, efficient planning with recovery and reuse of the existing city, air quality, control of energy consumption, green building, green economy, urban mobility and public transport, water supply and quality, waste control and management, natural disaster risks, clean energy production, access to housing, citizen participation, etc. For these reasons we must proceed to revise the urban theories and practices on the light of the new events in order to limit the waste of natural resources and the massive pollution of the planet.

The question, then, is what to do? Contemporary world consists of two structures, one of them physical, the other virtual. This is a situation that presents a considerable novelty and a big potentiality with respect to other epochs. One of these layers belongs to matter, to physical reality, to the sense of touch; the other one belongs to the immaterial world through the digital and IT revolution. Both structures live together, and both are indispensable. For this reason, when we think of the city we have to think at the same time in both layers.

One of the biggest problems of today's city is the extent of its physical matter: The number of built square meters, the number of kilometers of the communication ways, the number of kilometers of electrical cables, ducts and collectors. The increase of the material use implies, surely, a degradation of the environment, as it is an occupation of land, a change of land use, and thus a destruction of ecosystems; in the second place, an increase of energy use, which is exponential in relationship with the extension; and last, but not least, increasing pollution as the extension

increases. Therefore, it seems coherent to plead for a clear reduction of physical matter amount. That is, to design a process of contracting the cities, instead of the extension of the same. An urban system appropriate for the 21st century should be much more sensitive to the construction of the inner city than the outward of the same. This would imply that recycling should be applied not only to products, but to the whole city. To reuse what already exists increasing its efficiency and fitting it to the new needs is one of the futures of cities. If we understand the city as a non-closed situation, without end in time, as one of the stages in the succession of chronological layers that build it, a new way will be opened in front of us to act decisively in the pre-existing city rather than today's approach of unlimited extension of those ex-novo cities.

Together with the sparing of matter, that is, of the built square meters, we propose the increase of the virtual space. Fewer kilometers of roads and a bigger bandwidth could be one of the alternatives for a society that has reached a clear technological maturity. Exploitation of the new means of digital communication is one of the alternative ways. In that manner we could speak of a city of virtual connections instead of cities full of vehicles, reversing the trend of the second half of the 20th century. The savings would be spectacular, as much in energy and emissions as in time. This point of view is much more in accord with today's global world where the time zones have lost their meaning, and where the working through the net is a usual mode. The virtual world has the potential to minimize the impact on the physical world. When it is systematically used, will speed up our habits and will diminish our commutes. Any future urban planning should insist on laying the net of digital connections, not leaving that to the private uncoordinated initiatives.

Technology can provide us, moreover, other contributions to the energy savings, by the continuous control of use through a steady monitoring. A network of sensors controlled via artificial intelligence would produce a high urban efficiency, with what we could speak of a sensor city. Thus, we would activate several resources that would favor the savings: on the one hand, the concrete knowledge of our doings, what would help us to be conscious of the consequences of the doings, on the other, the automatic helps to reduce energy use.

Another key issue is putting nature at the forefront of any urban intervention. To formulate the city of the 21st century we insist on recovering the equilibrium between nature and city. And this does not mean an old fashioned coming back to small towns

where this balance can exit by mere reason of size. The world of the third millennium is a world of masses of citizens and it is clear that its being is the big city. Therefore, we must incorporate nature into that city and keep respect for the world in which we live. The first and most decided way of reencounter with the environment goes over by the clear will of compacting the city, and of controlling its indiscriminate extension and invasion of the territory. That is, save land and give it back to nature with the objective of generating an efficient and compact city finally. The positive consequences of a dense city are manifold: minimization of motorway lanes and ways of communications; fostering pedestrian ways increasing life quality; increase of the density of activity, and therefore the communication and social activity; easiness of structuring the whole public transport, lessening of the segregation of social layers, etc. From that we get clear benefits via the minimization of its impact on the environment, reducing energy consumption and emissions, improving the urban milieu and taking thus the first step to the eco-sustainable city.

Once established this basic and fundamental hypothesis, of sparing land, we can act in a manifold way for our reencounter city nature. Among the obvious actions there is a beneficial incorporation of vegetation inside the city. To do that we will look for a reasonable balance between density and sponginess, that is, between an efficient use of land and the emptying that allows nature to be a permanent part of the urban landscape and to the citizen to enjoy it. In addition to this, we consider the city as a 3-D set, with underground, ground and layers over zero elevation to open up green and public spaces. Thus, in addition to the parks and boulevards that we find in the historical city at zero elevation, we propose to create opportunities of getting close to nature at any possible layer. Thus, we should make better use of various surfaces, and change those ends degraded and converted into residual sites due to lack of usefulness into urban landscape. Roof surfaces, walls, elevated planes and backyards will be new lands to conquest. This policy, added to the unquestionable use of clean and renewable energies will promote not only energy savings and the control of emissions, but the citizen's comfort in such enriched environment.

On the other hand, about the relationship between human and nature there can be another interesting point of view that would be learnt through the analysis of the mechanisms which has developed to obtain the maximum life outcomes with the minimum cost. That is, viewing nature as a system of very high technology which is able to translate or reinterpret its mechanisms of coexistence and energy sparing.



Thus, we could find order and systemic alternatives compatible with the complexity of the modern world and we could glimpse solutions to optimize resources without losing benefits. Supporting ourselves in patterns of proved efficiency, that accept change and variation following growth and environment changes, and always look for sparing energy and resources is a road that we need to explore to design an eco-sustainable city. In that way we will be able to find the desired equilibrium between the needs of human beings and the environmental preservation.

Undoubtedly, one of the greatest challenges facing humanity in the 21st century is to redefine the city and adapt it to the new conditions that have come about, as well as in the future, to the enormous changes in demographics, migration, energy, climate, economy, society, etc. The consequences of the rise in the planet's temperature are already more than evident, subjecting many urban residents to serious disasters. The irregular distribution of wealth, migrations, war, religious and racial conflicts, are others of the many problems that the contemporary world faces.

Poor planning, low-quality and substandard housing, insufficient urban infrastructure, poor waste management, lack of energy autonomy, excessive density of population, location in unsuitable geographical areas, and other problems contribute to the greater risk of cities and have a direct impact on social inequality and human rights. Analyzing and understanding the complexity of the challenges we must face, their climatic, energetic or economic implications and the role that cities can play in this regard, seems more necessary today than ever. For this reason, actions for risk forecasting, management and mitigation are necessary. In short, you have to know the extreme and plan for the risk.

(The author is President of “Cátedra China” of Spain.)

## Sustainable Development and Human Rights Protection in Thailand

Nareeluc Pairchaiyapoom  
Thailand

It is an undeniable fact that the development in which human rights are not respected and protected cannot be sustainable. Specifically, the 2030 Agenda for Sustainable Development emphasizes that to deliver a more sustainable future, in which the rights of all are realized, it requires not only efforts from governments but also partnerships from key stakeholders, in particular, business sector.

For Thailand, the issue of business and human rights remains high on the national agenda. We are determined to further promote human rights in business operations, guided by the United Nations Guiding Principles on Business and Human Rights (UNGPs), the principles on Responsible Business Conduct (RBC) of the Organization for Economic Co-operation and Development (OECD), and the Sustainable Development Goals (SDGs) as our beacon towards sustainability. Thailand was the first country in Asia to have a stand-alone National Action Plan on Business and Human Rights (NAP). And since its approval by the Cabinet on 29 October, 2019, the Plan has received the robust support from all relevant stakeholders, including government authorities, State owned enterprises, civil society organizations, international organizations, and most importantly, the business sectors.

Thailand has made substantial progress on the implementation of the NAP and UNGPs. For instance, Tax reductions are now offered to companies hiring former inmates in order to prevent recidivism and facilitate their social reintegration. All listed companies are obliged to disclose their human rights practices, especially environmental, social and good governance impact in One Report and submit it to the Securities and Exchange Commission of Thailand in order to enhance corporate accountability. Eco-friendly products are now included

in the preferred list of vendors for public procurement to encourage business sectors to be more responsible to the environment and community. 15 commercial banks and the Bank of Thailand have signed the MOU on Sustainable Banking Guidelines—Responsible Lending to reaffirm that all banking operations must be undertaken in accordance with the principles of good governance and social and environmental responsibility.

Moreover, the Human Rights Awards were initiated three years ago to recognize small/medium/large companies that demonstrate their respect for, and protection of, human rights, as well as encourage them to be a role model for their friends. The awards will provide them not only with the token and certificate from the Prime Minister but also with the opportunity to share their best practices to their friends in order to encourage businesses to be more responsible as well as pave the way towards the achievement of sustainable development.

However, currently, we are still facing the challenges in building up capacity of the small and medium-sized enterprises (SMEs). Therefore, Thailand will continue to further encourage SMEs to integrate human rights considerations into their operations through the rights incentive scheme as well as capacity building and technical assistance.

With regard to improving access to remedy for victims of human rights abuses that involve businesses and other economic actors, Thailand is currently exploring possibility to establish National Contact Points (NCPs) as a dedicated entity to ensure access to remedy for those victims and hold business and other economic actors to account for their rights abuses.

Thailand further recognizes that it is crucial to establish an effective mechanism to monitor human rights aspects of outbound investment. And we need to ensure that businesses respect and promote human rights during the recovery from the COVID-19 pandemic, including in their efforts to mitigate its socio-economic impacts, so as to build back better.

To realize effective implementation of the UNGPs, we need to ensure that cross-cutting issues affecting the three pillars, “protect, respect and remedy”, are fully addressed. A regular evaluation and monitoring process should indeed be in place to create better outcomes for our people.

I am, therefore, delighted to see representatives of key stakeholders attending this forum to exchange views and best practices, as well as to identify challenges that

remain in the implementation of international human rights standards contributing to the accomplishment of inclusive and sustainable development.

To conclude, I would like to reaffirm Thailand's readiness to work closely with all partners to further progress on business and human rights to further achieve sustainable development.

(The author is Director of the International Human Rights Division of Human Rights and Liberties Protection Department of Ministry of Justice of Thailand.)

# Sustainable Development and Human Rights

Jean-Guy Carrier  
Switzerland

Human rights are rights we have simply because we exist as human beings—they are not granted by any State. These universal rights are inherent to us all, regardless of nationality, sex, national or ethnic origin, color, religion, language, or any other status. They range from the most fundamental, the right to life, to those that make life worth living, such as the rights to food, education, work, health, and liberty.

The Universal Declaration of Human Rights (UDHR), adopted by the UN General Assembly in 1948, was the first legal document to set out the fundamental human rights to be universally protected. The UDHR, which turned 70 in 2018, continues to be the foundation of all international human rights law.

Unfortunately, it remains largely a foundation rather than a true code of conduct.

Human rights are universal and inalienable. They should not be taken away, except in specific situations and according to due process. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law.

In the 20th century, human rights and civil rights became narrowly defined by politics, both national and geopolitical. Those rights not fitting this weaponization of human rights are given scant attention while any rights which can be used to smear and demean become priorities, and are raised on an altar of sacred values.

Such values lead many to attach importance to the one's human right to be born and then flagrantly disregard that person's human rights to food, shelter, education, health care and every other benefit of a happy life.

Fortunately, the definition of human rights that has been adopted under the Universal Declaration of Human Rights is much broader and based on the principle that human rights are indivisible and interdependent. Depriving women and girls of equal rights or limiting the access of millions of poor people around the world to

their meager supplies of food, education and health care is as evil as depriving them of civil and political rights.

At this time in our history, when the climate we all live in is becoming tempestuous, we must all come to accept that people living unhappy lives of want and deprivation are more interested in their basic human rights than in sustainable development. Again and again, we have seen regions ravaged by human activity of every kind, whether cutting down huge swaths of forest or pumping vast amounts of carbon dioxide into the atmosphere. The link between human activities on the micro scale, decimating forests for cooking fuel, or on the scale of developed economies is human rights, or rather, the blatant denial of the universality of the rights some of us enjoy while ignoring those who are deprived of such rights.

Populations are either denied human rights to clean air, clean water, education and the pursuit of happiness, while others abrogate to themselves the right to pollute and pillage the earth and our common resources.

The 2030 Agenda for Sustainable Development and human rights adopted by the members of the United Nations is another ambitious attempt to make all human rights important for all human beings, encompassing civil, legal, social, environmental and economic rights—to enable the human rights of everyone in every region of the world.

We have to admit the nobility of that ambition. We also need to know the reality it is meant to confront. The COVID-19 pandemic has exacerbated the scars that run deep in our world community. But it has also outlined them so clearly, that it is increasingly difficult to deny.

In 2021 alone, it is estimated in the Report of the UN Secretary-General Progress Towards the Sustainable Development Goals that over one hundred million people were pushed into extreme poverty. Millions of people are living in a state of chronic hunger, with all the ravages caused by the denial of the basic human right to food and nutrition.

Further, the pandemic provided a spectacle of hoarding vaccines by those most able to produce and afford them. Is it not a human right to have fair access to life-saving medicines? Where were the mass demonstrations against this particular abuse of human rights?

True, there has been a UN Sustainable Recovery Pledge which places human rights at the center of the current economic recovery. So far only about 50 countries

have joined the Pledge, making it for the moment a promise of good intentions rather than a revolution in development.

The Pledge could go the way of the Paris Agreement on Climate Change, a noble document with sound objectives—that remain largely unattainable. It is not money or resolve that is missing. What is needed to finally rally forces to address, mitigate or cope with the disastrous climate we have created is the simple acceptant that all of us who inhabit this planet have the right to enjoy clean air, clean water, green fields and forests. We are destroying ourselves as we destroy the ecology upon which we all depend.

We are denying the universal human right to live in a sustainable environment to millions of our fellow human beings. As long as we refuse to accept that the International Bill of Human Rights is also a covenant for sustainable development, we will continue to degrade and deprive our environment and deprive all of us of a sustainable future.

(The author is Former Secretary-General of International Chamber of Commerce [ICC]; Executive Chairman of Silk Road Chamber of International Commerce [SRCIC], Switzerland.)

# The Pursuit of Happiness and Sustainable Development

William Jones  
United States of America

The important question of “human rights” has been terribly abused in the last few decades, used, first and foremost by the United States as a weapon for accomplishing political change or even “regime change” in countries that are not in agreement with the strategic interests of the United States. There is presently a plethora of alleged “non-governmental organizations” which have been set up to investigate and collect evidence of alleged “human rights abuses” in countries that have been targeted for such “change”. The US has also appointed itself as the “arbiter” of human rights issues, with the Department of State issuing each year their human rights report on, which presents a laundry list of how countries are doing, but never includes the United States itself. More recently, the People’s Republic of China has taken upon itself the task of issuing a human rights report about the United States, often in significant detail to correct that significant omission.

The issue of “human rights” or the notion of the “rights of man” has evolved at a late date in the course of human history. In earlier periods, in societies that were rigidly divided into classes, or rigid hierarchical structures, the “rights” were those enjoyed (as well as they could be) by the ruling groups or classes, or in areas divided by ethnic structure, by the ethnic or tribal group which was the most powerful. In the days of serfdom and slavery, there were no options for those who happened to be born in the lower rungs of society. While the notion of the value of man as a creative intellectual being had been raised at times by philosophers and thinkers, as Plato or Confucius, it was only in exceptional cases that these notions became hegemonic for entire societies. Plato’s notion of a “philosopher king” that would institute this view of man as the basis of social life has happened all too infrequently in history.

By the 18th and 19th centuries, things began to change. With the American



and the French revolutions, and later, in a different form, by the Russian Revolution and the Chinese revolutions, the notion of the equality of man began to become an accepted social value, which was not always consistently implemented even by those who proposed these changes.

In addition, with the great voyages of the 16th and 17th centuries, the world had become so closely united that by the beginning of the 20th century, there was no place on the earth that was inaccessible to man. This led to the rapid spread of ideas, including the idea of the “rights of man”. At the same time, the development of the economy, and particularly the development of science and technology clearly showed that mankind had developed the means for eliminating most poverty and disease throughout the planet, and that, if he had the will to do so, he also had the necessary tools at his disposal.

With these developments, you had the growth of the notion that the life of the individual person had universal value, that every person who was born had the ability to provide a positive contribution to the society around him or her, and that person should therefore have the means of developing their intellectual capabilities in order to play a productive role in society. There were, in fact, no more “useless eaters”. The last major threat to this universal concept of man came from the fascist alliance of Germany, Italy, and Japan in the 1930s and 1940s. With the victory of the anti-fascist alliance, it was felt necessary to incorporate this universal concept into the institution so that it could not be forgotten or ignored. This led to the signing of the UN Charter in 1945 and the Universal Declaration of Human Rights in 1948.

The criteria that the United States uses to determine its notion of “human rights” normally focuses on the nature of the political system. If a country does not have a parliamentary system in which people are allowed to go out and vote at regular intervals for their leaders, this would be the primary criteria they will use to label a country for “human rights abuses”. But even here, there is a hidden agenda. In Latin America, during the 1980s, they raised criticisms against countries like Mexico, which did have an elective presidential system similar to the United States. But in such a system, if a strong president objected to some US policies, as was the case of President Lopez Portillo who was calling for a debt moratorium for the developing countries in 1982, the US found other means to undermine this “opposition” by demanding that these countries adopt a parliamentary system like France, rather than the United States, in which “the president” has a largely symbolic position. The real

aim of this game was maintaining political control.

But a genuine notion of “human rights” has something to do with the conditions of individuals. If a person can vote, but is in danger of starvation or of losing his livelihood through an economic depression, is this not also a deprivation of that person’s “human rights”? The Declaration of Independence of the United States uses the term the right to life, liberty and the pursuit of happiness as its criteria. The right to life involves being able to put food on the table, to support one’s family through gainful employment, to have access to medical services when ill and assure a similar future for your children by giving them an education and the ability for productive employment in the future. Keep in mind, however, that one million people died in the United States during the COVID-19 pandemic largely through neglect of their “right” to medical services, vaccines, and health care. Hospitals had been shut down for “cost-saving” methods, vaccines were slow in coming, and ordinary health measures like wearing masks and social distancing were for a long time ridiculed by our “elected” officials. Was this not a violation of their “human rights”?

And does the notion of “liberty” simply mean that a person has the right to go out at regular intervals and vote for a candidate that has been largely “vetted” through the political parties? Doesn’t it include the ability to choose one’s life task and to try to realize one’s legitimate goals in life? Doesn’t it involve the freedom of being able to go out on the street without fear that you will be shot or injured by a stray bullet or killed by a crazed individual who simply bought an easily acquired rapid-fire machine gun? Isn’t liberty also the freedom to get an education or health care without accruing a lifetime burden of debt? How about Franklin Roosevelt’s “freedom from want”, one of his much touted Four Freedoms? It seems to be no longer practiced in these United States where the gap between the very rich and the very poor is increasing and the “want” is becoming evermore widespread.

Then we come to the all-important “pursuit of happiness”. This is not often taken into consideration in the ranting about “human rights violations”. What does it mean? And in what does happiness consist of? How can you “pursue” it? There is much debate about where this important phrase came from. Some claim that Jefferson took it from British philosopher John Locke. Some attribute it to Gottfried Leibniz, who was widely read by scholars at that time. More credible is that it was the direct influence of Benjamin Franklin, who had written extensively on the subject of happiness, and was in fact a co-author with Jefferson of the Declaration. Earlier

in 1775, Franklin wrote: “There is no happiness then but in a virtuous and self-approving conduct. Unless our actions will bear the test of our sober judgments and reflections upon them, they are not the actions and consequently not the happiness of a rational being.” For Franklin, as well as for Confucius, one of his favorite authors, pursuing happiness was a result of living a virtuous life. As Confucius put it: “Happiness is not at the top of the mountain, but in how to climb.” Franklin would also later express similar thoughts. When asked about the “pursuit of happiness” clause in the Constitution, Franklin commented: “The US Constitution doesn’t guarantee happiness, only the pursuit of it. You have to catch up to it yourself.” Obviously, this phrase in the Declaration of Independence had profound meaning to Franklin in defining the “rights of man” and should also be considered in any reasonable notion of “human rights”.

In addition to the preservation of life and providing education and health care for the population to maintain their physical well-being, the individual must also be given the means to live a productive life, not simply having gainful employment, but also having the feeling that one’s life has some purpose over and above the few years that he or she has on this planet. And people can find that in many different ways and occupations, as scientists, doctors, engineers, teachers or astronauts. Moving forward in a field they have chosen as their life’s work in which they contribute to their fellows and even to coming generations gives them the sense of a well-lived life.

This necessitates first of all a society that is moving forward. Progress in science and technology is the basis for such forward motion. And it must be all-inclusive. No one should be left behind. And opportunities should be made available for those families with limited incomes to allow their children to also benefit from the opportunities.

Is the society of this type a real utopia? It seems to be if you restrict your view to the countries of Europe or the United States. The growing ferment on the streets of our cities and the contentious encounters going on in our legislative bodies tell you that this is not a society moving in that direction. On the contrary, the growing gap between the rich and the poor is becoming ever greater. And the dissension and discontent over the innumerable wars and conflicts that are being promoted at the highest levels at the expense of the livelihoods of our citizens is reaching a breaking point. It is more like something out of Dante’s *Inferno* rather than a utopia where

happiness can be pursued.

But you do find something like this going on in China. It's not a perfect society and you can find a lot of things that you might want to criticize. But it is definitely moving in a forward direction. The fact that it is the only country that has effectively eliminated absolute poverty and has raised millions of people up to a relatively moderate standard of living remains the single example of such an achievement anywhere. Contrary to Western opinion, this was not the result of Western largesse in allowing China to develop. China had to fight every step of the way to achieve what they have achieved, and they started at the bottom after the reform and opening-up as a low-wage manufacturing center for the Western market. Even gaining WTO membership was a tough fight with all kinds of obstacles raised along the way. But they succeeded in becoming the second major economic power in the world, and effectively the "engine" of the world economy and provided needed sustenance for the world during the difficult COVID-19 pandemic.

Yet some in the West insist that China is guilty of "human rights abuses" because they haven't adopted a Western parliamentary system. In Xinjiang, they are accused of "genocide". But in fact, under the leadership of Chinese government, the population there has grown by leaps and bounds and improved its general standard of living with each year that passes. And China's treatment of its minorities far surpasses what the US has done for its black population, not to speak of its treatment of Native Americans, those original inhabitants of the North American continent, who are now a disappearing race. The Chinese government is also strictly focused on creating opportunities for the young people in universities as well as continuing its efforts to improve the conditions in the countryside. In the United States, there has been little agreement in our houses of the legislature for doing anything to improve the conditions for our youth and no real discussion about how to eliminate poverty. The ideological divides have gotten bigger rather than smaller, so when one party proposes, the other party opposes. The situation is not much better in Europe, perhaps even worse, as there are more parties that can keep opinion divided. Legislatures in the West seem to be only united in conducting ceaseless war against a Russia in which they seem to have lost all understanding.

China has also proposed making the "right to development" an integral part of the human rights agenda, something that has caused some consternation among the Western countries. While China has launched the greatest development program in

the world with the Belt and Road Initiative (BRI), support for assisting developing countries from the West has diminished to a mere trickle in recent years. And while the Biden Administration now, under pressure from the BRI, promises hundreds of billions of dollars in development project, there is little evidence to show that this will materialize any time soon. The Western nations, fearful of losing their power to “set the rules of the road” for everybody, have therefore launched a vicious campaign to discredit China, and are continuing to bandy about the old “human rights” nostrums with regard to Xinjiang, Hong Kong and the like. The US Biden Administration has taken the lead in organizing their “fellow thinkers”, namely the usual Anglo-American crowd, Britain, Australia, and to some extent New Zealand, as well as some countries like Japan in a military alliance aimed at China and Russia. Confucius noted, “A man of honor associates with many, but does not form a clique; the petty-minded man does the opposite.” Obviously, the adherents of Biden’s “alliance of democracies” consist of “petty-minded men”. China is such a major player on the world stage and its appeal is very widespread throughout the globe, which has gained the support of a lot more people than Biden’s “alliance of democracies”. They fear that the ideas proposed by China, particular President Xi’s notion of forming a “community with a shared future for mankind” will spread. For some countries in the West, this is anathema.

This new aggressive configuration will probably not have a long lifespan. The latest meeting of the Group of Seven (G7), a key element in Biden’s containment policies, was more like a lame-duck, with all of these noted figures, Macron in France, Johnson in Great Britain, and Biden himself, facing great difficulties in maintaining their own status at home. Nevertheless, they are planning evil things, even if they don’t survive the implementation, much like Marie Antoinette who couldn’t escape the fate of being executed.

But these policies can simply not hold. The decision by the G7 to increase the sanctions against Russia is already leading to rampant inflation in the US and elsewhere with the danger of a new—and perhaps greater—Great Depression in the Western world. In the developing sector, this will lead to mass starvation and famine, in which life, liberty, and the pursuit of happiness are all washed away in a veritable holocaust. People are now on the streets—in Paris, in Berlin, and in Washington DC—demanding changes, and the majority of developing countries, encompassing the great mass of humanity, are looking toward the BRICS rather than the G7 for

solutions to this all-encompassing crisis. The solutions put forward by China with regard to the creation of a new, equitable, and just system of governance is gaining ground. The next step should be the demand for a new and just financial order in which the interest of the people, instead of the profits of the rich, is the center of focus.

(The author is Washington Bureau Chief for the Executive Intelligence Review [EIR]; Senior Research Fellow of Chongyang Institute for Financial Studies, Renmin University of China [RDCY].)

# The Relevance of Sustainable Development in the Pursuit of Human Rights

Ong Tee Keat  
Malaysia

In the contemporary world, sustainable development and human rights protection constitute the two indicators of a nation's governance.

By and large, the international community has acceded to the various benchmarks set out by the victors of the World War II under the auspices of the United Nations. All nations of diverse levels of development and cultural norms are made to subscribe to the common code of human rights laws that seek to protect rights inherent to all human beings, regardless of race, gender, nationality, ethnicity, language and religion without any discrimination. The list of rights grows on over the decades as the human aspirations and challenges escalate.

But ironically, the basic rights of human subsistence across the world does not appear to be better protected. This anomaly is no monopoly among the low- and medium-income countries, but also a common sight in the developed economies.

## I. New Understanding of Human Rights

High per capita GDP is proven not silver bullet in meeting all the basic needs of those people teetering below the poverty line. The visual squalor presented by the omnipresent street people beyond the metropolitan splendor further reminds us that there are still many people having their basic rights to shelter denied, albeit in countries touted as crusaders of human rights. All in all, these are the images mirroring the decadence of universal human rights to mere notions and rhetoric. On the other hand, the basic sustainable development across the world is now called into question.

New understanding of universal human rights in relevance to the respective societal needs and level of development is now a pressing need for the international

community. When the elements of sustainable development are given due priority in the assessment of human rights and consequently the quality of governance, it does not mean the prevailing code of human rights laws is to be usurped or kept in abeyance. In short, it's not a binary choice between human rights and imperatives of sustainable development, but rather the latter should rightfully be included as an inalienable part of the human rights values.

This is akin to the Maslow's hierarchy of needs. When an individual is striving for his basic biological and physiological needs, it does not mean his other needs at higher levels can be compromised. Instead, it's his own choice of priority at different phase of life that matters.

Similarly, a war-torn nation would most likely prioritize to rebuild its economy in addition to restoring law and order. In places where complexities involving communal disparities might derail the fragile peace, certainly urgency to resolve differences for the sake of lasting peace precedes all rhetoric and formalities of human rights that are to be met in the name of upholding human rights values by the Western criteria. After all, hypocrisy in projecting a semblance of dignifying human rights will in no way contribute to bringing about sustainable development in real terms to people and areas deficient in it.

## II. Sustainable Development under Test

The coronavirus outbreak has thrown the entire global governance into an unprecedented disarray. Fallouts stemming from the global pandemic are multifaceted, but all have pointedly exacerbated the prevailing sustainable development concerns. Hitherto, the world is still reeling from the hybrid onslaught of such existential exigencies as extreme poverty, food insecurity, frail public health and climate change impacting on agricultural output.

Against the prevailing gloomy backdrop, low- and medium-income countries are destined to bear the full brunt of such whammies, notably so when the specter of Cold War is resurrected again from the geopolitical toolbox of global powers. Ideological battle lines are drawn amid the belligerent throbbing drumbeats. Inclusiveness is nothing but reduced to a mere sugar-coated password abuzz in the diplomacy of lip service. It is virtually giving way to the mushrooming of ideological value-driven mini blocs cloaked in the outfit of multilateral cooperation. The Quadrilateral Security Dialogue (QUAD) and AUKUS are two of the vivid examples



to cite.

While humankind is in the throes of increasing existential threats, the world is being further polarized and compartmentalized along the geopolitical affiliation rifts. Crunch in realizing the United Nations 2030 Agenda for Sustainable Development (hereafter refer to as “UN 2030 SDGs”) is getting more pronounced than ever before.

Prior to the “hybrid onslaught”, the daunting task of controlling the global extreme poverty rate below 3% by 2030 was generally deemed a tall order. The scenario turned less optimistic, according to the report “Poverty and Shared Prosperity 2020” released by the World Bank, as the global endeavor of extreme poverty reduction witnessed a distinct backslide after 2017. This was largely attributed to the impacts of military conflicts, climate change and pandemic.

It was reported that more than 40% of the hardcore poor scattered within the war zones. The statistics of abject poverty in Middle East and Northern Africa was found to have doubled between 2015 and 2018 in the wake of military conflicts in Syria and Yemen which eventuated in humanitarian disasters where the US finger prints were nowhere to hide.

While the then US President Donald Trump pulled out from the landmark Paris Agreement on climate change, leaving the unipolar power out of the global climate solution, the world continued to reel from the catastrophic impacts of global warming on food production. This fallout looks set to push up continuously the poverty figures by 68 million till 2030. The sub-Saharan region and South Asian countries are known to be the key areas to bear the brunt.

Nonetheless, the United Nations Climate Change Conference (COP—Conference of the Parties) has time and again failed to provide vulnerable nations with funds needed to rebuild and respond to the unavoidable impacts of climate change. Many participating rich nations remain recalcitrant in fulfilling their monetary pledge, leaving the multi-lateral international cooperation in addressing climate change in the lurch.

While the apathy and inaction linger on among the developed economies, the backslide of poor population was further exacerbated by the COVID-19 pandemic in 2020. The World Bank forecast released in the same year predicted the number of poor in the post-pandemic period would increase by 150 million, 80% of which would come from middle income countries, such as India and Nigeria. In fact, in 2020 alone, the pandemic-induced poverty figure has already alarmingly hit the mark

of 88 million.

### III. Weaponizing Human Rights Through Unilateral Interpretation

The onslaught of coronavirus has put the entire global governance to test. While the public health system in many countries, wealthy and poor nations alike, was thrown in disarray, the emergency response of the respective administrations amid such crisis was, by itself, a good indicator of one's commitment to human rights.

From the perspective in the West, the endless debate on “rights not to mask”, even at the height of the pandemic spike, could be viewed as deeds to protect individuals' human rights. But when the medical frontliners in some of these countries were forced to make a choice of dispensing life-saving treatment between the young and elderly COVID patients with their inadequate medical resources, is it not that those who were denied treatment and left to perish—in most cases, the aged—were virtually having their human rights, rights to live, denied by the State?

In the same vein, if the pandemic mortality is any guide of appraising a country's governance and level of human rights observance, then many developed economies from the West may well fit the bill of poor human rights record.

However, in reality, despite trumpeting of human rights by the developed world, it has taken a different course altogether. Alongside democracy, it has been increasingly weaponized in the global geopolitical rivalry. Unilateral interpretation of both democracy and human rights in the West's perspective is now turned into the sole criterion of appraising the status of such values in selected nations. Adversaries are deliberately put under microscopic scrutiny. Perceived flaws or inconsistencies against the established norms of the West provide them with convenient tools to “name and shame” their targets before more drastic moves like unilateral sanctions, punitive tariffs or even international isolation are meted out against the latter. All this is done in the name of upholding human rights.

Having had the global discourse power through the control of international media, shaping of world views on human rights is thus entirely at the mercy of the West.

### IV. “Crusaders' Credibility” in Tatters

Nonetheless, their self-proclaimed custodian role of global human rights was quick to be torn into tatters in the face of multiple whammies of existential

exigencies. No clear leadership of global governance is at sight. Self-assured hubris and rhetoric of the dominant West offer no solutions to the mounting challenges confronting humankind.

While the reigning hegemon and its trans-Atlantic allies were busy jostling for personal protective equipment for their use, leaving the developing and under-developed world unattended, Chinese prompt response to the emergency call was maliciously dubbed a geopolitical manoeuvre. In their perspective, it appears that the established global sway of the West has automatically earned them a *carte-blanc* to dominate international coordination, even when their own houses were still in a mess. And they were the chosen lot to entitle the fundamental “right to subsistence” monopolistically.

This was further corroborated when the roll-out of coronavirus vaccine witnessed another episode of extreme selfishness. While many least developed countries were still striving hard to secure vaccines for their immunization, the developed economies were found to have hoarded vaccines in quantities of few times their respective population size.

## V. Perpetration of Human Disasters

Prior to this, what appeared was no less than chilling lies in the massive humanitarian disasters that have unfolded one after another in Iraq, Syria and Afghanistan in the past two decades. Democracy and human rights violation have time and again been cited as the justification for the military invasion of these countries by the United States and its allies. No punitive sanction has ever been meted out against the aggressor as is the case of Russia-Ukraine conflict. The self-proclaimed “crusader” for human rights has instead been granted further rights of military presence after the intended “regime change”.

A clear case in point is Afghanistan which was targeted to get rid of the Islamist Taliban regime in the “war on terror” after the September 11 Attacks. The continued US military presence in Afghanistan after the regime change only saw the installation of a corrupt and dysfunctional Kabul regime serving the interests of Washington.

The fall of Kabul like a pack of cards in August 2021 is a classic testimony of the US-backed governance. The bungling exit of American troops from Kabul, mirroring that from Saigon in 1975, further corroborated that the puppet regime is

nothing but a disposable pawn in the geopolitical chess game. But this did not absolve both the puppeteer and puppet of their failure in granting the nation good governance and desired reconstruction during their 20-year rule.

Widespread poverty and dire need for food and fuel amid the 2021 winter cold presented the world with a dystopian scenario. It was too premature to heap all blame on the return of Taliban. But to extricate such glaring vulnerabilities from poor governance of the outgoing regime is simply unconvincing.

Currently almost the entire population of Afghanistan is teetering on the brink of poverty. The rate of poverty looks set to soar to 97% by June 2022 from the alarming 72% recorded last September, according to the United Nations statistics. A fresh round of humanitarian disaster after Syria has now been unfolding under the close watch of the international community.

While the United Nations and its partners were appealing for more than five billion dollars for the year in mid-January 2022—the largest-ever amount of aid fund appeal for a single nation—assurances have to be made that funds would in no way be accessible to the Taliban authorities as the US and its allies were determined to isolate the Taliban regime totally from the international financial system. This was done in the name of countering human rights abuses by the Islamist regime, but the Afghan people at large are virtually made to bear the brunt of the punitive measures rolled out by the US.

## VI. The “Double Standard” of “Anti-Terror”

In retrospect, the “war on terror” was waged in the name of “anti-terror” by the US. It was a blatant military invasion of Afghanistan, a sovereign State. Its mode of governance and political system made no excuses to justify the aggression. Nonetheless, the outpour of frenzied criticisms against Russia on its special military operation in Ukraine today was nowhere to be seen then when the reigning hegemon was the aggressor. Perhaps, the only difference lies in the label of “human rights” which has been used rampantly to justify one’s controversial deeds.

Over the years, practices of “double standard” were not confined to Afghanistan alone. In the current perspective of geopolitical rivalry, there is hardly any single benchmark in making value judgement on global issues of similar nature, as the end justifies the means.

Even on the common global concern of “anti-terror”, no other example of

distinctive double standard has ever been more conspicuous than the “Xinjiang issue”. The Chinese de-radicalization initiative through vocational training in Xinjiang Uyghur Autonomous Region, though anti-terror in nature, was made the key target of demonization by the US-led spin doctors. On the contrary, the Turkistan Islamic Movement (TIM), formerly known as the East Turkestan Islamic Movement (ETIM) became the US’ new-found friend after Washington unilaterally removed it from the list of terrorist organizations in 2020.

Be that as it may, the TIM, a Uyghur Islamic extremist organization founded in Xinjiang with the separatist agenda, still remains a terrorist organization by the 1267 Committee (today’s ISIL [Da’esh] and Al-Qaida Sanctions Committee) of the UN Security Council since 2002. The perplexing shift of goal post in the anti-terror fight by the US has inevitably called into question the US commitment in spearheading the global crusade against terrorism. Given the benefits of hindsight, many may see it as a mere convenient tool of the US geopolitical manoeuvre that can be used selectively to serve its own interests. It’s too big a proverbial elephant in the room.

Wielding with the strong discourse power it has, the West-controlled international media managed to divert the worldwide attention to the alleged “ethnic genocide” and “forced labour” purportedly inflicted upon the Uyghur in Xinjiang.

## VII. Who Is the Villain?

What might baffle the thinking individuals is why must the West risk losing its credibility by spreading such serious allegations merely based on the contested narratives of Adrian Nikolaus Zenz, a German anthropologist from a US anti-communist think tank. His ideological prejudice, if not hatred, against communism has been called into questions. More so, his purported findings are primarily rooted in the accounts given by the activists in exile of Xinjiang separatist movements backed by the West. But paradoxically, such serious allegations of “heinous crime” against the Uyghur Muslims did not seem to have perturbed the Islamic world at all.

Meanwhile, the rationale for Washington to strike out TIM unilaterally from the list of terrorist organizations may elude the understanding of many political pundits across the world. The timely revelation made by Lawrence Wilkerson, an American career army officer, in his speech at the Texas-based Ron Paul Institute’s 2018 Washington conference would perhaps help shed some light on such a usual move by Washington.

He said if the US Central Intelligence Agency wanted to destabilize China, the best way to do so would be to mount an operation using Uyghurs in the country's far-west region. They would foment unrest and join with those Uyghurs in pushing the Han Chinese in Beijing from internal places rather than external.

Though this may sound somewhat hypothetical and stands to be contested, what the West could not deny is that the debatable de-radicalization anti-terror program through vocational training is part of China's domestic governance to address its security concern on its own soil. This totally differs from the "war on terror" waged by Washington in distant Afghanistan.

Currently, the coming into effect of Washington's "Uyghur Forced Labor Prevention Act" witnessed another US punitive move against China on the pretext of protecting labour rights of Uyghurs. This is a classic case of Washington's long arm jurisdiction designed to effectively block American imports of all products wholly or partially sourced from Xinjiang, where China has been accused of committing rights abuses such as forced labour against Uyghur Muslims and other minorities—allegations that Beijing has repeatedly denied.

The ban, which is expected to unleash far-reaching effects on the global supply chain, notably that of cotton, has yet to convince the world how the move could ever better protect the labour rights of Uyghurs. Conversely, it is widely believed that the livelihood of many Uyghur families would thus be left in a bind, with their rights of employment infringed by the American legislation.

Parallel to this, the repeated allegation of "genocide" purportedly perpetrated by Beijing against Uyghurs rings hollow when the demographic statistics were released. Figures for the period from 2010 to 2018 simply shows that the Uyghur population in Xinjiang increased by 25.04%, which is higher than Xinjiang's overall population growth rate of 13.99%. Again, this would elude our conventional wisdom of logics if the allegation of "ethnic genocide" were to hold water.

### VIII. A Viable Option on the Horizon

All in all, human rights—a supposedly sacrosanct value of humanity—is now being reduced to a mere tool of geopolitical manoeuvre while the Sustainable Development Goals (SDGs), constituting the contemporary priorities of human rights are deliberately sidelined under the global sway of the reigning hegemon.

Like democracy, human rights are just another case of casualty sliding into

decadence. In the current global perspective, big powers, prior to brandishing huge stick of human rights and taking aim at geopolitical rivals in the name of upholding human rights, should first have the moral authority to do so. This would only come true if they are committed to meeting the SDGs in their own countries with the resources and GDP they are blessed with.

On the contrary, China offered a potential global public good, the Global Development Initiative (GDI), in response to the call for sustainable development.

President Xi Jinping first proposed the initiative in September 2021 and called for the building of a “community with a shared future for global development” at the 76th session of the General Assembly of the United Nations.

“Six Commitments”—generally deemed consistent with the United Nations 2030 Agenda for Sustainable Development—were made explicit at the Assembly. The outline of commitments to “development as a priority”, “people-centered approach”, “benefits for all”, “innovation-driven development”, “harmony between man and nature” and “results-oriented actions” presents the international community with a refreshing alternative mode of global governance. Its universality and inclusiveness made the proposed initiative further relevant in the face of multi-challenges ahead. At the very least, it looks set to drive the 2030 Agenda forward with hope and vigor amid the prevailing global tumult.

(The author is Former Deputy Speaker of House of Representatives of Parliament and Chairman of Centre for New Inclusive Asia, Malaysia.)

# On Inclusive Equality: From the Perspective of the Convention on the Rights of Persons with Disabilities

Zhang Aining  
China

In recent decades, the concept of equality embodied in international law has undergone important changes, from formal equality to substantive equality and inclusive equality. Human rights are rights that individuals have or should have simply by virtue of being human. But the abstract universality of human rights is merely an expression of the formal equality of humans. The connotation of substantive equality and inclusive equality of persons lies in the respect and recognition of the differences between individuals. In other words, the emphasis on the universality of human rights implies the recognition, respect and acceptance of the differences between individuals.<sup>[1]</sup> This idea of inclusive equality directly bore on the formulation of the Convention on the Rights of Persons with Disabilities (“CRPD” or “the Convention” for short hereinafter).

## I. The Convention and Inclusive Equality

Disability is part of being human. Persons with disabilities are also members of human society, and their existence shows how diverse and different human beings can be, just as our sex (male or female), age (young or old) and skin colors (white, yellow, black, etc.) do. Disability can be physical or mental, but it does not affect our humanity. According to the principle of common humanity, each person’s life is unique with the same intrinsic value, and everyone is equal in personality and dignity, and has the right to social care and the right and freedom to development. But for a long time after the establishment of the United Nations, the rights of persons with disabilities had been almost completely ignored. Although in theory persons

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[1] Ma Hui & Zhang Zhi. (2019). On the Right to Accessible Environment. *Construction Science and Technology*, 13, 47.



with disabilities were protected by international human rights law like others, they remained marginalized in the human rights discourse until the new millennium. Even the International Bill of Human Rights, which consist of the core documents of international human rights law, fails to explicitly refer to persons with disabilities or place them on an equal footing with others, or even to explicitly list disability among the reasons for discrimination it forbids: “distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”—here disability is implied in the category of “other status”.<sup>[1]</sup> The UN Committee on Economic, Social and Cultural Rights acknowledged in its General Comment that the drafters of the International Covenant on Economic, Social and Cultural Rights did not give the issue the importance it deserved.<sup>[2]</sup> Such implicit mentioning of discrimination against persons with disabilities in early international human rights law later went through fundamental changes. In 2001, the UN General Assembly adopted a resolution establishing the Ad Hoc Committee on the Convention to begin negotiations to draft a convention on the rights of persons with disabilities. In 2006, the UN General Assembly adopted by consensus the Convention and its Optional Protocol. The Convention is considered a milestone document for developing international standards for the protection of human rights of persons with disabilities. As of June 30, 2022, there were 185 States Parties to the Convention.

The Convention created a new model of equality: inclusive equality. Formal equality seeks to prevent direct discrimination through equal treatment, which helps to combat stereotypes and prejudice, but does not provide a solution to the “dilemma of difference”, because it doesn’t take into account and accommodate the differences between individuals. In contrast, substantive equality seeks to address structural and indirect discrimination, taking into account the relationship of power. It acknowledges

[1] See the United Nations Human Rights Council. (2015, February 2). *Report of the Special Rapporteur on the rights of persons with disabilities, Catalina Devandas-Aguilar*, para. 7. A/HRC/28/58. See Article 2 of the Universal Declaration of Human Rights; para. 1, Article 2, and Article 26 of the Covenant on Civil and Political Rights; and para. 2, Article 2 of the Covenant on Economic, Social and Cultural Rights.

[2] See the Committee on Economic, Social and Cultural Rights. (1994, December 9). *General Comment No. 5: Persons with Disabilities*, para. 6. Of the core human rights conventions previously adopted by the UN, the only exception is the Convention on the Rights of the Child. It explicitly provides for the protection of the rights of children with disabilities, and prohibits discrimination against children on the basis of disability in Article 2; in Article 23 it recognizes the right of children with disabilities to special care, education and training, to help them lead a full and appropriate life, maintain their dignity, achieve the maximum degree of individual autonomy and participate in society to the greatest extent possible.

that in order to achieve equality and deal with the “dilemma of difference”, we should both ignore and acknowledge the differences between individuals.<sup>[1]</sup> Inclusive equality is a further development of the principle of equality on the premise of accepting substantive equality. It extends and elaborates on the content of equality in: (a) a fair redistributive dimension to address socioeconomic disadvantages; (b) a recognition dimension to combat stigma, stereotyping, prejudice and violence, and to recognize the dignity of human beings and their intersectionality; (c) a participative dimension to reaffirm the social nature of people as members of social groups and to realize the full recognition of humanity through inclusion in society; and (d) an accommodating dimension to make space for difference as a matter of human dignity.<sup>[2]</sup>

Based on inclusive equality, the CRPD, unlike other UN special human rights conventions, aims to place persons with disabilities in the existing international human rights protection system through legislation.<sup>[3]</sup> Rather than creating new rights exclusively for persons with disabilities<sup>[4]</sup>, the Convention reaffirms those universal human rights and fundamental freedoms that all human beings are entitled to. The Convention focuses on revealing the reasons and manifestations of the violation and deprivation of these rights of persons with disabilities and explains the factors to be considered and the measures to be taken to ensure that persons with disabilities enjoy these rights on a de facto equal footing with others. The Convention also lays down the following principles: (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons; (b) non-discrimination; (c) full and effective participation and inclusion in society; (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity; (e) equality of opportunity; (f) accessibility; (g) equality between men and women; (h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.<sup>[5]</sup> The Convention embodies the principle of effective participation from text to formulation. Person with disabilities participated fully, and played a decisive

[1] See the Committee on the Rights of Persons with Disabilities. (2018, April 26). *General Comment No. 6 of CRPD (2018) on Equality and Non-Discrimination*, para. 10. CRPD/C/GC/6.

[2] Committee on the Rights of Persons with Disabilities. (2018, April 26). *General Comment No. 6 of CRPD (2018) on Equality and Non-Discrimination*, para. 11. CRPD/C/GC/6.

[3] Liu Xiaonan (Ed.). (2014). *Anti-Discrimination Review* (p. 5). Beijing: Law Press.

[4] UN News. (2008, May 3). *Landmark UN Treaty on Rights of Persons with Disabilities Enters into Force*. United Nations. Reviewed from: <https://news.un.org/en/story/2008/05/258222>.

[5] Article 3 of the Convention on the Rights of Persons with Disabilities.

role in the negotiation, formulation and drafting of the Convention. In the view of the Committee on the Rights of Persons with Disabilities, it was the strength, impact and potential of persons with disabilities that gave birth to such a groundbreaking human rights treaty and established the human rights model of disability.<sup>[1]</sup>

## II. “Accessibility” and Inclusive Equality

“Accessibility” is the epitome of the concept of inclusive equality enshrined in the Convention. “Accessibility” is a prerequisite for persons with disabilities to live independently and participate fully and equally in society.<sup>[2]</sup> The Convention establishes “accessibility” as one of its general principles and sets out, in a number of articles, the specific obligations of States with regard to accessibility<sup>[3]</sup>, but it does not explain what “accessibility” is. According to the 2003 report of the UN Secretary-General to the General Assembly entitled “Issues and Emerging Trends Related to Advancement of Persons with Disabilities”, “Access is not an act or a state but refers to freedom of choice in entering, approaching, communicating with or making use of a situation.”<sup>[4]</sup> Some scholars believe that “accessibility” has the meaning of “availability”; in other words, the essence of “accessibility” is to realize the availability of public goods, public services and social resources for persons with disabilities.<sup>[5]</sup>

People with disabilities embody the diversity and differences of humanity, while “accessibility” means that the international human rights protection system respects, recognizes and accepts the special needs arising from the differences of people with disabilities. It is the reflection of inclusive equality in the international legislation for protecting the human rights of persons with disabilities. In relation to other universal human rights and fundamental freedoms, accessibility is the prerequisite and basis for the enjoyment and exercise of them by persons with disabilities. Only

[1] See the Committee on the Rights of Persons with Disabilities. (2018, November 9). *General Comment No. 7 of CRPD (2018) on the Participation of Persons with Disabilities, Including Children with Disabilities, Through Their Representing Organizations, in the Implementation and Monitoring of the Convention*, para. 1. CRPD/C/GC/7.

[2] See para. 1, Article 9 of the Convention on the Rights of Persons with Disabilities.

[3] See para. 6, Article 3; para. 1, Article 4; and Article 9 of the Convention on the Rights of Persons with Disabilities.

[4] Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities. (2003, April 7). *Issues and Emerging Trends Related to the Advancement of Persons with Disabilities*, para. 5. A/AC.265/2003/1.

[5] Jia Yujiao. (2012). Towards Inclusivity: New Developments in the Concept of Accessibility for Persons with Disabilities. *Jilin University Journal Social Sciences Edition*, 5, 153.

when “accessibility” is guaranteed can persons with disabilities realize “individual autonomy including the freedom to make one’s own choices, and independence of persons”, “full and effective participation and inclusion in society”, and “equality of opportunity”, and finally become persons with independent personality, dignity and value. It is discrimination against persons with disabilities to deprive them of their rights to access to the material environment, transport, information and communication technology, as well as facilities and services open to the public without barriers. Because its purpose or practical effect is undermining or eliminating the recognition, enjoyment or exercise of all human rights and fundamental freedoms by persons with disabilities on an equal basis with others in the political, economic, social, cultural, civil or any other field.<sup>[1]</sup>

### III. “Universal Design” and Inclusive Equality

“Universal design” is to provide accessible services. It means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.<sup>[2]</sup> Universal design is one of the important measures designed by the Convention to realize the two general principles of “full and effective participation and inclusion in society” and “equality of opportunity” for realizing the human rights of persons with disabilities.<sup>[3]</sup> The “universal” design of products, environments, programmes and services enables persons with disabilities to use them like others without the need for adaptation or specialized design. This is a powerful means of achieving equality of opportunity, full and effective participation and inclusion in society. Universal design conveys the idea that the needs of everyone are of equal importance, that these needs should be the foundation of society planning, and that all resources should be used to ensure that everyone has an equal opportunity to benefit.

The Convention imposes an obligation on States Parties to research and develop universal designs, and demands them “to the greatest extent possible” to undertake or promote research and development of goods, services, equipment and facilities of universal design “to be usable by all people”, “which should require the minimum possible adaptation and the least cost to meet the specific needs of a person with disabilities, to promote their availability and use, and to promote universal design

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[1] Article 2 of the Convention on the Rights of Persons with Disabilities.

[2] Ibid.

[3] Para. 3 and para. 5, Article 3 of the Convention on the Rights of Persons with Disabilities.

in the development of standards and guidelines”<sup>[1]</sup>. This means that States Parties shall apply “universal design” to all new goods, products, facilities, technologies and services, to ensure full, equal and unrestricted access for all potential consumers and users in a manner that takes full account of their inherent dignity and diversity. In other words, the universal design benefits not only persons with disabilities, but also the elderly, the sick, pregnant women, people carrying heavy articles and other people with temporary special needs. It can be said that universal design potentially benefits everyone in society.

Universal design is the specific measure of the Convention to achieve inclusive equality and is intended to create an inclusive society in which the entire social system is usable for all. It should be pointed out that universal design, while meeting the accessibility needs of persons with disabilities, does not increase or only slightly increase the input of social resources, so it is relatively economical. For example, applying universal design to buildings at the preliminary design stage would help to significantly reduce the construction cost. If building accessibility is achieved from the outset, it may not increase the total cost of the building at all in many cases, or only slightly in some cases. On the contrary, the costs can be quite high if the building is made accessible afterwards. Similarly, for accessible information and communication service, including the information and communication technology, universal design should also be adopted from the outset, as future adjustments to the Internet and ICT will drive up the cost.<sup>[2]</sup>

#### IV. “Reasonable Accommodation” and Inclusive Equality

“Reasonable accommodation” means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure the persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms.<sup>[3]</sup>

Reasonable accommodation is integral for achieving inclusive equality, and its basic feature is personalized accessibility. If universal design is for the convenience of all, to be usable not only for persons with disabilities but also for other human beings, then reasonable accommodation is exclusively for individual persons with disabilities,

[1] See Article 2 and para. 1 (f), Article 4 of the Convention on the Rights of Persons with Disabilities.

[2] Committee on the Rights of Persons with Disabilities. (2014, May 22). *General Comment No. 2 (2014) Article 9: Accessibility*, para. 15. CRPD/C/GC/2.

[3] See Article 2 of the Convention on the Rights of Persons with Disabilities.

designed and provided to meet the specific needs of individuals with specific disabilities, so it is a higher level of accessibility than universal design. Persons with disabilities are characterized by the diversity of their physical impairments. The Convention classifies them into four categories: physical, mental, intellectual and sensory impairments, but in reality, the impairment situation varies greatly, even in the same category. The degree of disability is related to the disadvantages experienced by persons with disabilities, and these disadvantages are not the same for different individuals. Even for persons with the same type of disability, the degree of disability varies according to their health status, the degree of interaction between individual factors and environmental factors. For example, the enrollment rate of children with different types of disabilities varies greatly: children with physical impairments do far better than those with intellectual and sensory impairments; even with exactly the same types and degrees of disabilities, these children would still differ greatly in the access to education, depending on their family's economic conditions, and on whether they are from urban or rural areas, or from developed or developing countries. The provisions of the Convention on reasonable accommodation imply that States Parties have the responsibility to provide accommodation beyond the accessibility standards so that, in particular circumstances, certain persons with disabilities can de facto enjoy their rights.

Reasonable accommodation is a core concept of the Convention. It leads the protection of human rights of persons with disabilities from formal equality to substantive equality and inclusive equality. "Accommodation" is relatively easy to understand, and the Convention does not limit its scope or fields. The question is: What is "reasonable"? "Reasonable" means that the accommodation provided to persons with disabilities is necessary, appropriate, effective and proportionate, that is, the provision of an accommodation must be tailored to the specific needs of the person concerned and have the desired effect and does not accrue an excessive or undue burden. It is a fact that to achieve an acceptable standard of living, persons with disabilities need more resources than others, and thus the provision of accommodation for persons with disabilities does often impose a certain financial burden on the provider. The reluctance of employers to recruit persons with disabilities can often originate in a fear of having to make expensive workplace adjustments. While it is true that the realization of the rights of persons with disabilities is intrinsically linked to the economic resources of States, the UN

Human Rights Council has noted: “There is a general misconception that all persons with disabilities will need reasonable accommodation or that accommodations will be too costly or difficult to provide.” This is not the case. “Even where required, only accommodation which is reasonable, necessary, appropriate and which does not impose disproportionate or undue burden is mandated.”<sup>[1]</sup> The UN Human Rights Council also notes: “The determination of what constitutes ‘appropriate measures’ is essential for the effective implementation of the duty to provide reasonable accommodation ... The identification of appropriate measures must be made on the basis of an individual assessment of the specific job, the needs of the person with a disability and a realistic assessment of what the employer is capable of providing. This process should be interactive and participatory to be effective.”<sup>[2]</sup>

Reasonable accommodation reflects a higher level of human rights protection. Human rights are universal, which cannot be substantively realized unless the specific needs of every specific person to maintain their dignity is considered. Therefore, truly universal human rights must be able to be enjoyed by every individual person to meet their specific needs and to safeguard their dignity.<sup>[3]</sup>

## V. Special Assistive Devices and Support Services and Inclusive Equality

The Convention demands States Parties to make products, designs and services of “universal design” that are usable for all to the greatest extent possible, but it is also noted that the universal design “shall not exclude assistive devices for particular groups of persons with disabilities where this is needed”<sup>[4]</sup>. This is another manifestation of the spirit of inclusive equality in the Convention. Universal design equally meets the needs of all people, including people with disabilities. The provision of assistive devices addresses the special needs of persons with disabilities that are different from others and the special needs of persons with one disability that are different from those of persons with another disability, such as Braille for those with visual impairment, hearing equipment for those with auditory impairment,

[1] United Nations Human Rights Council. (2012, December 17). *Thematic Study on the Work and Employment of Persons with Disabilities*, para. 33. A/HRC/22/25.

[2] United Nations Human Rights Council. (2012, December 17). *Thematic Study on the Work and Employment of Persons with Disabilities*, para. 34. A/HRC/22/25.

[3] See Qu Xiangfei. (2016). Reasonable Accommodation in the Convention on the Rights of Persons with Disabilities—Benchmarks for Consideration and Safeguards. *Tribune of Political Science and Law*, 2, 11-12.

[4] Article 2 of the Convention on the Rights of Persons with Disabilities.

artificial limbs for those with physical disabilities, and wheelchairs for the paralyzed. If universal design is to eliminate external barriers for persons with disabilities to integrate into the community and participate in society, the research and development of various functional compensation and special assistive devices is to make up for their individual functional defects as much as possible, and support their individual participation and inclusion in society by addressing their specific needs.<sup>[1]</sup>

The provision of assistive devices and other support services for persons with disabilities is important in reducing their gap with others and in achieving equality of opportunity. An assistive device that seems plain and ordinary to the able-bodied may mean social inclusion and equal opportunity for those with disabilities. An Indonesian person with a disability once said, “For me, disability is like a prison, and a wheelchair is a window through which my face is bathed in the sunshine.” By the same token, large print, Braille books, sign language, readers, prosthetics and other assistive devices and support services, are as important as the wheelchair in making sure the de facto enjoyment among persons with disabilities of the rights to education, to work, to participate in social and cultural affairs, and to participate in the administration and discussion of State affairs.

It is the obligation of the State and society to provide different assistive devices and support services for different groups of people with disabilities. The world belongs to all, not just to those considered “perfect” and “normal”. Moreover, since even the able-bodied persons need various teaching, information, labour-saving and traffic safety tools in order to participate in and create wealth for society, it is more necessary to provide all kinds of assistive devices and support services for persons with disabilities. This is an obligation of States Parties stipulated in the Convention.<sup>[2]</sup>

## VI. Closing Remarks

Equality means abstract equality of humans, that is, the equality of human personality, dignity and value. It is a kind of formal equality in essence and contains two core contents: “equal starting point” and “equal treatment in the equal situation”<sup>[3]</sup>. Formal equality requires that all individuals be treated equally in the

[1] Li Zhiming & Xu Yue. (2010). Establishing a New View on the Disabled and Promoting Participation and Inclusion in Society among Persons with Disabilities. *Social Security Studies*, 1, 108.

[2] See para. 1 (h), Article 4 of the Convention on the Rights of Persons with Disabilities.

[3] See Xu Xianming (Ed.). (2002). *Human Rights Research* (Vol. 2, p. 166). Jinan, China: Shandong People's Press.



sense of abstract legal personality, without considering the actual inequality in talent, competence, physical condition, economic resources and social status. In fact, formal equality means more to the social elite than to the disadvantaged groups, including those with disabilities and those who are marginalized. Moreover, the more formal equality is protected, the more it favors the former and hurts the latter, and the greater the inequality between the two is.<sup>[1]</sup> It is therefore necessary to amend formal equality to some extent. Substantive equality is the necessary supplement to formal equality, for it can reduce the unfairness and unjustness that formal equality may bring through the intervention of State power. Former US President Lyndon B. Johnson once said, “You do not take a person who, for years, has been hobbled by chains and liberate him, bring him up to the starting line of a race and then say, ‘you are free to compete with all the others,’ and still justly believe that you have been completely fair. Thus, it is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates ... We seek ... not just equality as a right and a theory but equality as a fact and equality as a result.”<sup>[2]</sup> Inclusive equality is a further extension of substantive equality. The realization of human rights is a gradual process, and the responsibility of the State lies in expanding the scope and increasing the degree of de facto enjoyment of human rights by individuals. The process has been evidenced by the evolution of equality, a basic principle for human rights protection, from formal equality to substantive equality to inclusive equality.

(The author is Professor and Director of the Human Rights Studies Center, China Foreign Affairs University.)

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[1] Zhang Aining. (2021). *Equality and Non-Discrimination: A Study of International Standards for the Protection of Human Rights of Vulnerable Groups* (pp. 31-33). Beijing: World Affairs Press.

[2] Human Security Network. (2005). *Understanding Human Rights: Manual on Human Rights Education* (p. 124). Li Baodong (Trans.). Beijing: SDX Joint Publishing Company.





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Part 2 :

Democracy and Human Rights  
Protection

# Democracy and Human Rights Protection

Anthony Ojukwu  
Nigeria

I will approach the topic by examining first, the following issues, what is human rights protection, what is democracy and what are the elements of democracy. Having done that, I will then come down to the link between democracy and human rights. Before I conclude, I will also go further to examine the role of human rights education and the challenges of human rights protection in a democracy.

## I. What Is Human Rights Protection

Human rights are those rights that belong to everyone as a member of the human race, regardless of skin color, nationality, political convictions or religious persuasion, social standing, gender or age. Human rights are rights with a certain complexity because they are moral, legal, and political rights at the same time. In the legal dimension, human rights are part of a legal system and individuals living in this system are entitled to these rights. They are “legal entitlements of individuals against the State or State-like entities, guaranteed by national, regional and international laws for the purpose of protecting fundamental needs of the human person and his/her dignity in times of peace and war”. The legal dimension of human rights is a positive achievement of human history as the international community found a consensus in the Universal Declaration of Human Rights of 1948 and created and ratified a human rights system in subsequent years.

The State has the primary responsibility for the protection, respect and fulfilment of human rights. At the domestic level, human rights have become part of the legal system in all parts of the world. States have put measures in place for the protection of human dignity embodied in human rights through the Constitution, courts, human rights legal mechanisms, laws, human rights institutions, etc.

## II. What Is Democracy

Democracy has been defined as the government of the people, by the people, and for the people. As recognized in the Vienna Declaration and Programme of Action (1993), democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives.

Since democracy is centered on the people, their personality or dignity, it must therefore be for the fulfilment of human rights, respect of the laws made for the protection of those rights and protection of the human rights system generally.

Democracy, respect for human rights, fundamental freedoms and rule of law are interdependent and mutually reinforcing. As a form of government, it is a universal benchmark for human rights protection, which provides an environment for the protection and effective realization of human rights. Today, after a period of increased democratization around the world, many democracies appear to be backsliding. Some governments seem to be deliberately weakening independent checks on their powers, suppressing criticism, dismantling democratic oversight to ensure their long-term rule, with negative impact on people's human rights.

## III. The Elements of Democracy

For several years, the UN General Assembly and the former Commission on Human Rights endeavored to draw on international human rights instruments to promote a common understanding of the principles and values of democracy.

In 2002, the Commission declared in Resolution 2002/46 that essential elements of democracy include:

- (1) Respect for human rights and fundamental freedoms, including freedom of expression and opinion, and freedom of association;
- (2) Access to power and its exercise in accordance with the rule of law;
- (3) The holding of periodic free and fair elections by universal suffrage and by secret ballot as the expression of the will of the people;
- (4) A pluralistic system of political parties and organizations;
- (5) The separation of powers;
- (6) The independence of the judiciary;
- (7) Transparency and accountability in public administration;
- (8) Free, independent and pluralistic media.

#### IV. Human Rights Protection and Democracy

We must realize that since democracy is legitimized by its protection of human rights, the democratic principle has become part of human rights system, manifested by the institutional expression of the respect for the individual's autonomy to participate in the opinion-building and decision-making process of the legal system where she/he lives as a human being. Therefore, without respect and protection of human rights, there cannot be a legitimate democracy. On the other hand, without democracy, it is difficult to protect human rights.

The relation between democracy and human rights is of significance. We must emphasize that democracy is based on the human right to participate in the political decision process. Article 21 of the Universal Declaration of Human Rights of 1948 which espouses the “democracy principle” provides that:

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right to equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Democracy and human rights protection are therefore both interdependent and mutually reinforcing.

#### V. Human Rights Education Contributing to the Functioning of a Democratic Nation

Educating citizens on their human rights creates an informed society which in turn strengthens democracy. Human rights education is essential for the prevention of human rights abuses, the promotion of nondiscrimination, equality and sustainable development, and the enhancement of people's participation in democratic decision-making processes. Thus, human rights education contributes to the protection of human rights and the functioning of democracy.

The fundamental role of human rights education is to empower citizens to defend their own rights and those of others. It has been said that empowerment constitutes an important investment for the future, aimed at achieving a just society in which all human rights of all persons are valued and respected. The idea of

“empowerment” is said to mean the capability to determine one’s own present and future with self-confidence and awareness of one’s own rights and to participate actively in the political decision process. Human rights education is therefore a “lifelong learning process” which can never be concluded completely.

Human rights can only be fully realized if every human being knows about her/his rights, understands herself/himself as a rights-holder and is able to identify the corresponding duty bearers. Only this way, human beings can claim their rights and claim the rights of others in solidarity (empowerment). This awareness of human rights is the basis for the possibility to defend herself/himself and to prevent violations of her/his rights and the rights of others. Knowing and being aware of her/his own rights and the rights of others and corresponding duties make human rights alive including the human right to participation. No wonder the UDHR enjoins all organs of society to bring these rights to the knowledge and doorsteps of all through education and training.

## VI. Some Challenges of Human Rights Protection in Democracy

There are some challenges encountered in the process of protection of human rights in democratic societies:

The first challenge is that within the legal system, not all right holders can participate in democratic decisions, for example, persons living in this particular legal system without citizenship of this particular State cannot participate in the electoral process. They enjoy every other right and benefit but without right to take part in the government of the country, as per the UDHR.

The second challenge is the decision of the majority in a democratic system taken as a representative of everyone’s opinion. It is imaginable that a majority is in favor of something which violates the human rights of a minority. When majority votes in a democratic process, the rights of the minority are often neglected. The idea and concept of democracy includes human rights, as democracy is built on the fundamentality of human rights. Different forms to guarantee minority rights within a democratic system are known, for example, the Constitution, the Supreme Court, etc. There is need for the establishment of these forms in democracies where they do not exist for purposes of realization of human rights.

## VII. Conclusions

I conclude with emphasizing that democracy and human rights are mutually

interdependent and reinforcing. This means that every human being has the human right to democracy. Democratic opinion-building and decision-making must respect human rights in the processes of accessing them, and in the way they are implemented and concluded. In a democratic nation, there is free and fair election and the citizens have right to fight for their human rights. Human rights education is the essential tool for the realization of human rights as every human being needs to know about her/his rights. Human rights education is a “must have” and not a “nice to have” in today’s pluralistic society where human rights enable us to live in peaceful coexistence with respect for the human dignity of each other and with tolerance across the boundaries of traditions, cultures, religions, world views and opinions; where human rights empower the individual to participate in a democratic opinion-building and decision-making process; where human rights protect minorities from the human rights-violating decisions of a majority.

(The author is Executive Secretary of the National Human Rights Commission of Nigeria.)



# China and Democracy: Reflections Beyond Ideology

Diego Pautasso  
Brazil

## I. Introduction

This essay proposes a provocative reflection on “democracy”, a concept whose debate is silenced, if not full of ideological bias. In the mainstream media, and even among progressive intellectuals, there is room to conceive of democracy only under the Western-liberal universe. Presented in a dichotomous way (democracy vs. dictatorship), there is not even a chance to question the dysfunctions of Western democracy, much less to debate institutional arrangements based on other traditions. In this way, with emphasis on the electoral game, any understanding of the real mechanisms of the State-society interaction beyond rites and norms is annihilated.

In the context of the gale that brought down the Soviet bloc, a consensus about liberal democracy was sought. As rushed as it is illusory, this has clouded understanding about experiences of economic and institutional development beyond the traditions and trajectories of the West. The case of China, in this sense, is emblematic: it is a millennial civilization in rapid transformation that cannot be underestimated. This is what we intend to discuss in this brief writing.

## II. Democracy, Institutions and Ideology

The problem begins with a series of intertwined conceptual inaccuracies. Although the relations between power and wealth have complex mediations, one must distinguish between content (who governs) and State form (how it is governed). In other words, the control of the State by classes and their fractions differs from the political and institutional forms that governments take. On the one hand, many do not understand the great Marxist contribution about the “class nature” of States and their mechanisms of domination.<sup>[1]</sup> This leads a significant part of the human

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[1] Fernandes, L. (2000). *O Enigma do Socialismo Real*. Rio de Janeiro: Mauad.

sciences to treat the question of the State as a technicality, legality, and normativity. Almost always, the debate revolves around management, bureaucracy, planning and public policies. The space is narrow to discuss how social structures cut across the State and politics, and how such power mediations and conflicts impose limits on governance. Resource extraction and policy making by the State are closely related to social power structures. On the other hand, many simplify the infinite possible forms and mediations of these power arrangements, including varying degrees of relative autonomy of the State in relation to the correlation of forces in society. This leads even Marxists to underestimate institutional and legal advances that arose within the bourgeois revolutions, not without external (popular) impulses to such institutions.

The fact is that in the West the space for questioning the political-institutional arrangements of democracy under liberal forms of government is limited, as they are considered part of a single, insurmountable model. On the one hand, this narrative simplifies the diversity and twists and turns of the trajectories of such political regimes—universal suffrage itself, especially women’s suffrage, is a very recent achievement. On the other hand, as Losurdo pointed out in an impeccable work called *Liberalism: A Counter-History*<sup>[1]</sup>, the history of liberal praxis was often averse to the extension of political and social rights—different from what was enshrined in its self-image.

Parallel to this, when it comes to the “Soviet camp”, the singularities of the 32 socialist experiences of the bipolar era are absolutely nullified.<sup>[2]</sup> Even worse, they are almost always all reduced to the concept of totalitarianism, as opposed to the so-called “free world” centered on liberal democracies. Beyond the anti-communist propaganda, these premises had much adherence in scientists and politicians, including those who identified with the progressive camp. Let’s face it, it doesn’t require much scientific rigor to recognize the complex differences and even the political-institutional contrasts that exist among these many countries on different continents, from Angola to Cuba, passing through Vietnam and the USSR. As a matter of fact, as Nove emphasizes, even the reforms of real socialism were marked by various combinations between market and planning, experiments in managing the economy, etc.<sup>[3]</sup>

[1] Losurdo, D. (2006). *Contra-História do Liberalismo*. Aparecida-SP: Ideias & Letras.

[2] Visentini, P. (2017). *Os Paradoxos da Revolução Russa*. Rio de Janeiro: Alta Books.

[3] Nove, A. (1989). *A Economia do Socialismo Possível*. São Paulo: Ática.

The political leadership of the communist parties occurred with variations in political-institutional arrangements, and even in ownership and conduct of the economy. Incidentally, the dichotomous definition of centrally planned economy for the countries of real socialism and market economy for the Western countries explains absolutely nothing, either of the differences between Hungary and USSR or between Norway and Haiti. Likewise, to assume that they were monocratic systems, encompassing all social dimensions, with an atomized and submissive population, is equally simplifying. The leadership of the communist parties did not eliminate intense competition within them, nor did the political involvement in other spheres such as neighborhoods, trade unions and other organizations—often more intense and less distorted by economic power than in Western countries.

With the collapse of the socialist camp in 1991, liberal democracy and capitalism became an unquestionable dogma, to the point that Fukuyama announced the “end of history” as humanity’s last stage of evolution. It doesn’t take much to see that the idea of a free economic market is as illusory as the version of a free electoral market or freedom of the press. Such key concepts would only be possible if one ignored the concentration of power and resources, as well as the dysfunctions and contradictions beyond rules and formalities. In fact, there is nothing meritocratic about a system in which heads of State are elected without experience in public management or without a track record of political leadership. This is when elections are not driven and defined by marketing, fake news and algorithms of large social media corporations.

It is no accident that democracies in the West are going through a structural crisis. There are diverse and related factors, such as the rise of chauvinistic political forces, the loss of legitimacy of institutions, the inability to deal with inequalities, plutocratic dysfunction, and others. Such results reveal that this political dynamic has not lived up to social expectations and, therefore, as long as the United States and its allies devote themselves more to exporting models than to confronting their own contradictions, their destinies may not be so promising.

And it is precisely because of this that some considerations about the archetypical country of what democracy should be, the United States, are in order. On the one hand, it is a country of low political engagement, where only a little over 50% of the voting-age population has participated in elections and rate of unionization—defined as membership in category organizations in relation to the entire employed

labour force—is about 10%, among the lowest rates of developed countries.

In addition, there are legal barriers to the participation of other social and political forces, because the electoral system was set up in such a way that it boils down to two parties. Even worse, there are huge financial barriers: as an illustration, the total cost of the 2020 US election was about 14 billion dollars, while a Senate seat costs an average of almost 20 million dollars and a House seat about 1.5 million dollars. It is therefore a machine of the elite to elect their representatives and, not coincidentally, it is basically made up of WASP (white, Anglo-Saxon, Protestant and rich).

On the other hand, it is the same country whose prison population ranks first in the world, with about 640 people per 100,000 inhabitants.<sup>[1]</sup> It is the same country that spends 40% of the world's total on the military, with some 700 military bases and facilities scattered around the world, and that for over 95% of its independent history (since 1776) has been at war! All of this power has depended on the president-elect making a decision under these conditions, through the War Clause that allows the head of State in Washington to determine an intervention without the consent of Congress—indeed, since World War II, there have been countless military operations without congressional support, such as the Korean and Vietnam wars or the interventions in Afghanistan and Iraq. And many of these happened without—or extrapolating—the mandate of international organizations. Can one really speak of democracy without taking into account the sovereignty of other countries and international law?

Furthermore, the world's largest democracy has elected personalities with no political background or management experience, such as Reagan or Trump. The election itself becomes more of a media event than a debate about the country's project. Not surprisingly, the COVID-19 Pandemic is another emblematic case of government inefficiency. The world's largest power, with less than 5% of the world's population, had about one fourth of the cases and one fifth of the deaths of the whole world.<sup>[2]</sup> The same people that assume a high degree of family debt, including paying for private health care, are deprived of quality public services. There is something dysfunctional about a system that does not guarantee its ultimate goal, which is well-being.

[1] See Prison Studies Statistics at: <https://www.prisonstudies.org/country/united-states-america>.

[2] See Data on COVID in the US at: <https://www.worldometers.info/coronavirus/country/us/>.

It is unequivocal that institutions matter. However, it oscillates between exaggeration and hypocrisy to suppose that such (democratic) institutional arrangements can be exported at the margin of a country's development conditions.

### III. China and Its Institution Building

It is only natural that China, coming out of a revolution, underdeveloped and oriented towards socialism, has its own trajectory. The fact is that while Western countries face increasing difficulties, China has been showing surprising and unequivocal socio-economic success. It is impossible for such performance to be the result of a rigid, dysfunctional and illegitimate regime. If institutions matter, it is unquestionable that political reforms have been instrumental in explaining this Chinese trajectory.

In fact, the improvement of China's institutional arrangements has occurred precisely because the regime and the Communist Party of China have a great capacity to adapt to social changes and demands, a sophisticated mechanism for recruiting their elites and, in effect, implemented policies with expressive legitimacy and adherence.

In a document titled "China: Democracy That Works", published in December 2021, China outlines its understanding on the subject. It makes clear the universality of democracy to defend its historical value, because it is a concrete phenomenon in constant evolution rooted in space and time. As the paper highlights, the country has created well-coordinated and comprehensive institutional procedures to forge diverse, open and well-organized democratic channels.

It is worth mentioning the mechanisms of self-governance at the local level, especially at the village level, neighborhood committees, and staff congresses of companies and public institutions—intensified especially after the enactment of the 1998 Law of the People's Republic of China on the Organization of Villagers' Committee that gave more autonomy to the village committees. Thus, organization, participation and political control at the community level are organic, making basic-level elections a key element of Chinese democratic dynamics. Another element to be highlighted is the so-called consultative democracy, as it implies in decision-making processes with extensive consultations in all social and regional spheres, through various channels of proposals, conferences, discussions, seminars, hearings, evaluations, consultations, etc. In effect, intense debate allows government actions to

be implemented with a higher degree of effectiveness and consent.<sup>[1]</sup>

In other words, there is a consensus-oriented and elaborately consultative style of policymaking. The Chinese political process is infused with a number of governmental and non-central government actors that influence and sometimes determine government policy. Policy actors include: a robust ministerial institution; provincial and local officials; a growing body of official policy research groups, and think tanks that feed proposals directly into the policy process; multinational and even private business interests that put more pressure on policy decisions; a vigorous academic and university community; a diverse media that increasingly brings to light issues of official malfeasance; and finally, an increasingly well-informed voice of citizens demanding more transparency and accountability from government.<sup>[2]</sup>

Within this context, the local governance system in contemporary China has the following characteristics (Yu, 2019): i) The central government guides how local governance systems should operate, as well as how different entities participate and play their role, building a platform for cooperation. ii) The political system, when applied to local governance, has demonstrated a strong capacity for innovation, adjustment and institutional flexibility. These are roles of the central government: adjust and improve the systems and mechanisms that can impede economic and social development; adjust and rebuild the division of responsibilities in vertical hierarchy, delegate more power to lower local governments, and provide more inclusion and flexibility to market and social entities to realize growth and promote collaborative governance. iii) Amid decentralization and cooperation of various entities in local governance, a network is established for the provision of public services.

It is naïve or mean-spirited to think that the legitimacy and administrative efficiency that have produced the remarkable results in China are the result of arbitrary decisions. To believe that the Communist Party of China (CPC), by holding the political leadership of the country, can or wants to exercise power at the margin of social groups and their demands is as simplistic as it is illusory. All this only reveals the Western biases that have clouded the understanding of China.

It is no exaggeration to say that political-institutional reforms have been as

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[1] Huhe, N., & Tang, M. (2017). Institutionalizing from the Middle: The Impacts of Provincial Legislation on Rural Grassroots Democracy in China. *Studies in Comparative International Development*, 52, 372-393.

[2] Dumbaugh, K., & Martin, M. F. (2010). Understanding China's Political System. *Congressional Research Service*.

profound as economic modernization. Since the implementation of the reform and opening-up policy at the end of the 1970s, intergovernmental decentralization has deepened. The rise of provincial economic power created the great possibility for the formation of a system of checks and balances in terms of central-local power relations. That is, there is a) a hierarchical political system in which powers are divided between the provinces and the center so that each type of government has influence over decision making; b) an intergovernmental decentralization is institutionalized to such an extent that it is increasingly difficult, if not impossible, for the national government to unilaterally impose its discretion on the provinces and alter the distribution of authority between provincial governments; and c) a sharing of power so as to hold the provinces accountable for their policy.<sup>[1]</sup>

#### IV. Final Words

Incidentally, the Chinese and Russian governments have punctuated their understanding of the democracy beyond the exclusively Western view. In the Joint Statement of the Russian Federation and the People's Republic of China on the International Relations released in February 2022, important considerations were made on the democratic issue. The two countries underline the universal character of democracy, while at the same time “there is no single model” as it must attend to “its social and political system, its history, traditions and unique cultural characteristics”, as well as each country's level of development and actual situation. In other words, they underline its universality so that there is no Western rhetorical monopoly to validate the democratic character of a country, based on ideology and “alliances of convenience”.

Moreover, beyond the formal rite of elections, both countries stressed that democracy involves the participation of citizens by various means and in various ways in the administration of the State and public life in accordance with the law. It involves popular support and consideration of the needs and interests of citizens for the production of well-being. Just as importantly, Beijing and Moscow emphasize that democratic principles cannot be implemented on a global level through force, which is in clear opposition to peace, stability, and even democratic values themselves. Not infrequently, the defense of democracy and human rights lends itself

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[1] Zheng, Y. (2006). Explaining the Sources of de facto Federalism in Reform China: Intergovernmental Decentralization, Globalization, and Central-Local Relations. *Japanese Journal of Political Science*, 7(2), 101-126.

to “interference in the internal affairs of sovereign States”, without regard for “cultural and civilizational diversity and the rights of peoples of different countries to self-determination”.

In short, history and international politics have been undergoing major transformations. The relative decline of several Western countries and the dynamism of countries on the periphery and semi-periphery (among them China, the Four Asian Tigers, etc.) should provoke more questions in the elites of the central countries. In part, ethnocentrism is at the root of pride, which in turn kills self-criticism and the ability to learn. A quick glance through history is enough to remember that forms of social organization have been as diverse as they have been transitory, and that capitalism and democracy under liberal aegis is just a breath of this history. In the ancient China, which emerged in the same context as the Roman one, there must have been some legacies to explain its civilizational continuity. Similarly, China’s exponential development should also provoke more curiosity on this side, rather than just judgments and prescriptions—incidentally, in historical perspective, the hegemony of the United States is no more than a brief period in human history.

It is imperative to recognize that the world is in a process of transformation, while the West has been reduced to prescribing or imposing models on countries on the periphery, disregarding their objective conditions. Obviously, such strategies do not work because they disregard history and development, which are objective conditions for institutional strengthening. In this sense, the overconfidence of the United States and Europe may betray their understanding of their socio-political systems and the world. The certainty of superiority, especially of the political-institutional models, blinds one, or worse, it prevents one from seeing the contradictions and, even more, the strength of innovations in other quadrants.

(The author is Professor of the Military college of Porto Alegre, Brazil.)



## Palestinian Human Rights as a Victim of Lack of Standards

Hani Ai-Masri  
Palestine

I would like to take this opportunity to express appreciation for the Chinese position that constantly supports Palestinian rights, rejects Israeli unilateral steps and calls for a permanent solution based on international law and United Nations resolutions.

In this intervention, I will address the absence of standards in the policy of Western countries, especially the United States, despite the claim to the contrary.

A standard is how to judge something, and the criterion that drives American and Western policy, in general, is the benefit, which is in line with the pragmatic approach that this policy follows. John Dewey, one of the most prominent theorists of this pragmatic approach, who died in 1952, said, “If the idea of God is useful, then God exists, but if the idea of God is useless, then God does not exist.” According to the advocates of pragmatism, a State is not a human being, therefore it does not have feelings, conscience and morals, but rather is motivated by benefit. What is useful deserves lies, murder, colonialism, aggression and racial discrimination for its sake, and what is not useful is not needed even if it represents the highest morals and justice. According to Louis XIV, “I occupy the place first and then bring a lawman to justify what I have done.”

This is clearly evident when it comes to the rights of the Palestinian people who suffers from extremely harsh conditions under racism and settler colonialism. In 1948, more than half of the Palestinian people were displaced within their homeland and abroad, their rights and national identity were obliterated, and their private and public properties were confiscated, as this colonial project raised the slogan of the Zionist movement “a land without a people for a people without a land” to justify the establishment of the State of Israel at the expense of the rights of the Palestinian people.

The military occupation used apartheid, and the Palestinian people have suffered tremendously for more than a hundred years because of wars, massacres, arrests, collective expulsions and racial discrimination. Since the beginning of the Palestinian Nakba (means “catastrophe” in Arabic, refers to the mass displacement and dispossession of Palestinians caused by the war after the founding of Israel in 1948), there have been more than 100,000 Palestinian martyrs and many times more wounded, a million Palestinians have been arrested, many of whom have spent tens of years in detention and behind bars, and thousands of them spent different periods that lasted for many years, as victims of what is known as administrative detention without trial, but based on military orders issued by the military occupation authorities.

Great concessions were made by the Palestinian leadership, that agreed to the international resolutions for the Palestinian issue, at the cost of part of the Palestinian rights, including recognition of Israel and its right to exist in security and peace, and agreement to a solution based on the establishment of a Palestinian State on 22% of the territory of the historical Palestine. However, successive Israeli governments have thwarted all Arab and international efforts and initiatives, derailed the peace process and refused to implement the international resolutions with the support of the United States of America, which used its veto power dozens of times to prevent the implementation of the Security Council resolutions on the Palestinian issue. 700 resolutions were issued by the United Nations General Assembly and 90 resolutions were issued by the Security Council and the Human Rights Council.

Successive American administrations always give an ironic twist when they talk about human rights regarding human rights as a tool for the benefit of American diplomacy, but when they face the tests that require the selection between their own interests and the requirements of defending human rights, they always give preference to their interests, and fail all the tests where their interest prevail over human rights. The US has a single standard of interest rather than the double standard as it is accused, according to Dr. Walid Abdel Hai, a researcher in future studies, so it uses human rights to serve its foreign policy, boycotts countries with this excuse and then restores the relationship with them despite the continuation of the same policy, as in the case with Saudi Arabia. US President Joe Biden said that he would punish the country and make it a pariah state, but now he is courting Saudi Arabia when he needs oil and gas to compensate for the high oil prices and inflation in the US due to tight energy supply from Russia, which could cause threats to the Democratic Party,

the president's party, in the next congressional midterm elections in four months.

The US administrations have always supported tyrannical, corrupt and human rights-violating regimes, concluded large deals selling arms to them, and provided them with military, financial and economic aids. The best evidence is that the US provides 3.3 billion dollars annually to Israel, to the extent that Israel has received 52% of US foreign aid since 2002, even though it is considered the last country still continuing colonialism and committing all kinds of crimes (war crimes and humanitarian crimes against the Palestinian people).

This American behavior is natural and expected because the US has always considered that the defense of human rights stops when it collides with its own interests, especially when it comes to Palestinian human rights. It criticized the UN Human Rights Council for being biased against Israel, and ignored all kinds of crimes and violations committed by Israel, which targeted not only the Palestinians in the Occupied Territories, but also the Palestinian citizens inside Israel, where there are dozens of Israeli laws that distinguish between Jewish Israeli and Israeli Palestinian. The culmination of discrimination was the issuance of the "Basic Law: Israel as the Nation State of the Jewish People" in 2018, which considered Israel as the State of the Jewish people and thus transformed the non-Jewish citizen into a second-class citizen or even a third-class one. It transformed racial discrimination from a policy and ordinary law into basic law, that is, it set itself at the level of the Constitution.

On this basis, several international institutions issued reports in which they classified Israel as a State of apartheid and discrimination. It requires the countries of the whole world and the United Nations and its various agencies to deal with the issues on this basis.

Indisputably, the world needs a new international order which would end the domination of a single country, and its quest to impose its political, economic and value model, including its concept and definition of human rights on the whole world.

The pluralistic global system accommodates different models throughout the world and takes into account the features and characteristics that distinguish different peoples and countries.

(The author is Director General of the Palestinian Center for Policy Research and Strategic Studies [MASARAT].)

# Democracy and Human Rights

Juan de Dios Parra Sepúlveda  
Chile

The understanding about human rights has changed rapidly. Now no one questions their universal, interdependent and progressive character, that is, human rights have the same value and correspond to all human beings without exception, the concept of human rights improve develop with the progress of humanity, being more and more dynamical, and expanding its scope continually.

## I. The Universal Purpose of Human Rights

The ultimate purpose of human rights is the protection of life, in all its manifestations.

No one can deny that life can only be such when its attributes are valid, since it requires elementary conditions of existence that make it possible, and that their absence denies life.

These minimum conditions configure the attributes of a dignified life: healthy, balanced and sufficient food; high-quality and sustainable health care; free and quality education; decent work (accurately defined by the International Labour Organization); decent housing; safe and accessible transportation, free and sufficient connectivity; and security, especially public, food and social security.

It is evident that the fulfillment of these minimum conditions of life requires the allocation of resources. And here is the main question: The current distribution of wealth in the world does not allow the minimum allocation of resources to ensure the conditions for a dignified life. Human rights are violated by those who concentrate wealth in a few hands and who intensify the imposition of conditions of inequality between nations and between people.

The capitalist system that places the continuous creation and appreciation of capital at the center of the human development paradigm, above human life, is

essentially a system that violates human rights. The unfair terms of trade between raw materials and technology that make the rich richer and the poor poorer. Financial speculation artificially makes access to economic resources that people require to guarantee life more expensive. The artificial manipulation of credit interest rates, which make the poorest and most indebted people worse off, subjects them to exacting conditions impossible to overcome, and plunges them into misery. The natural resources, which are undervalued by capitalist corporations, are over-exploited. The contamination and pollution of land and water, the depredation of the seas and the poisoning of the waters by the extractivist mega-industries are taking place. The concealment of access to technology by large corporations and its over-appreciation, make it unattainable for the people. The hoarding of medical equipment and supplies, as well as drugs to deal with epidemics and pandemics and even medicines that could save millions of lives from dying from preventable diseases, leaves the people lack resources without the possibility to be cured. The destruction of entire nations through the illegitimate use of war, invasions, bombings, the testing on civilian victims of powerful weapons of destruction, throws millions of people into despair and misery. All this violates human rights.

## II. Democracy and Human Rights

The United Nations has maintained that human rights can only be carried out in a democracy. While we support this proposition and share this conviction, we prefer Abraham Lincoln's definition, which defines democracy as "government of the people, by the people, and for the people". This definition puts the people at the base of democracy and not the elites, nor the corporations, but the people. Therefore, everything that violates the existence of the people, threatens democracy.

## III. False Dichotomy Between Authoritarianism and Democracy

The foreign policy of the US has been striving to impose a new dichotomy between authoritarianism and democracy in the world, which is enthusiastically supported by the financial corporations of that country. Indeed, the White House has been making great efforts to install this new scenario of more global conflict. With the aim of dividing the world into two blocs between the good and the bad, between democracy and authoritarianism.

This claim has been criticized by those who maintain that it is an ideological

manipulation with the aim to favor the scenario of confrontation advocated by the White House.

The intention of the Biden regime with its new foreign policy is clear: to establish a global confrontation between democracy and dictatorship in the 21st century.

The Biden strategy has resorted to establishing an absolute truth what is the inescapable requirements or virtues that a political regime must have to qualify as democracy, and these are freedom, respect for human rights, secret and informed free elections for access to the government, the rotation in the exercise of power, the periodic accountability, the division of powers and non-concentration of power, the independence of public bodies, independent justice, free political organization, freedom of the press, and submission to the law of the structure of the State. All of these constitute the basic and elementary general framework that should exist and be verifiable for a regime to be qualified as democratic.

There is, however, a concealment of essential elements that define a democracy, the first of which is the issue of the rights of the people, which in this analysis is the issues of the hunger in the world, the uncontrollable expansion of preventable diseases in poor countries, the serious discrimination that prevents these countries and these populations from accessing the products of medical research to solve their pandemics, the marginalization with respect to technological development, the contamination of the seas, the export of toxic waste, the depredation of water, basic wealth, and minerals, the destruction of the environment, which translate into poverty and misery suffered by millions of human beings.

Therefore, there is a fundamental question that the US administration ignores in the application of its standard to classify a political regime of dictatorship or democracy, that is, the examination regarding the fulfillment of the basic rights of the population to food, health, housing, work, transportation, security, inclusion, etc., is not incorporated. This is the key to the realization of the rights that sustain life. The Biden strategy uses democracy as a dividing barrier without previously considering the question of the fundamental rights of every human being, especially the right to subsistence.

The right to life, which is the main and first of the rights, does not consist only of respect for the biological life of human beings. The main question is that the right to life has attributes, and those attributes are the ones that should constitute the

measure of respect for human rights and the measure of respect for the freedoms of peoples. That is, the human beings do not live in democracy, nor do they enjoy freedom who do not have access to food, health, the minimum education, or basic conditions of decent life such as drinking water, connectivity, healthy environment, and who are populations condemned to misery before being born and without any possibility of getting rid of it because of the economic systems that condemn them to this condition.

Access to a minimally dignified life must be considered as an unavoidable prior condition. Life considered as the first right of people and individuals, must be understood as the right to live with dignity, and dignity requires the fulfillment of the basic needs of every human being, starting with food and health. This is the unavoidable test that every political regime must pass. The regime must withstand the scrutiny of the international community, multilateral organizations, but above all, of its own populations.

Regimes that support models of economic accumulation that marginalize millions of human beings from the elementary conditions of a dignified life cannot be considered democratic and libertarian regimes, even though formally democratic institutions apparently function in them.

And what could be more threatening for the existence of the people than subjecting them to insurmountable conditions for life?

The pretense of reducing democracy to the simple existence of parliaments and elections is an unacceptable caricature. Democracy is much more than regular elections and formal institutions of power. The evaluation about the validity of democracy and therefore the existence of conditions for the realization of human rights, must start by assessing the fulfillment of the needs of the elementary conditions for the development of life. A good measurement has been developed by most of the nations of the earth sheltered in the framework of the 2030 Sustainable Development Goals of the United Nations, in which the aspirations of the nations and their commitments to create these minimum conditions are condensed.

On December 10, 2021, Biden convened the so-called “summit for democracy” to impose a new dichotomy on the world, between democracy and authoritarianism. Pretending to stand as the defender of democracy and the champion of the fight against authoritarianism in the world.

The United States lacks the minimum moral authority for such a call, especially

when it subjects its own people to live in extreme conditions. We cannot forget that it is the nation with the most deaths on the earth due to its lack of foresight and irresponsibility in dealing with the COVID-19 pandemic, nor that it keeps millions of Americans in conditions of extreme poverty. They lack the minimum moral authority to make such a proposal.

Even more so when, according to the most recent data, US pharmaceutical corporations multiplied their profits by six times during the pandemic, denied the poorest nations access to vaccines, and exported their inflation to the poorest world, transferring the costs of his imperial adventures to the poor of the world.

#### IV. The True Dichotomy

It is a fact that formal democracy never responds to the needs of the population, that is, more and more people feel that the exercise of democracy is neither useful nor efficient when they claim the satisfaction of basic needs of human beings. On the contrary, in many countries the exercise of democracy has become a kind of show business to which some political operators have access, generally financed by companies, and who are constantly being discovered involved in serious acts of corruption that squander public resources and that distance the population even more from respect for institutionality, for the balance of functions, for the separation of powers, and for informed periodic secret elections.

The current COVID-19 pandemic that is plaguing the entire world has further exposed this situation, exposing the perverse mode of accumulation. On one hand, the monopoly of medical resources by a small number of countries and enterprises means that the vast majority of the world's population cannot access the vaccines and medical treatment, and on the other hand, this pandemic means the gigantic profits for the large transnationals pharmaceutical companies that own the technological and scientific achievements capable of alleviating the pandemic for the population.

This is where the main problem that causes the crisis of democracy lies, therefore, forcing and globalizing the establishment of a world dividing line between good and bad, based on the dilemma of democracy or authoritarianism, is an impudent attempt to hide the real cause of the crisis of democracy, which is social injustice, unequal access to goods and services that lighten the burden of human life, and on the other hand, the accumulation and concentration of economic and financial capital and monopoly control of the technology and of the goods and services that



this technology generates.

Therefore, if you want to talk about democracy, you must start by determining the extent of implementation of economic, social and cultural rights, which are enshrined as rights of the world population, whose international legal considerations are fully in force. Nevertheless, they do not receive, neither from the governments nor from the international community, the attention that should be given to the fulfillment of these rights to strengthen democratic regimes.

## V. Invisibilization and Abandonment of the 2030 Agenda for Sustainable Development of the UN

It is highly significant that nowhere in the “Battle between Old and New America” is there any reference to the SDGs designed by the United Nations, known as the 2030 Agenda.

This agenda, which was approved in September 2015 by the United Nations General Assembly, has been the greatest universal effort made by the 193 sovereign States that signed it, to establish an action guide that guarantees life, development of peoples and world peace.

The United Nations scheduled 17 goals, and grouped them as a set of planning tools, so that countries could contribute effectively within their nations and in the international community, to improve human lives and protect the environment. In the agenda a civilized roadmap has been established, which placed at the center the goal of guaranteeing dignity and equality among human beings. Proposing to “transform the current development paradigm into one that leads us along the path of sustainable, inclusive development with a long-term vision”.

The first of the goals of this agenda aims precisely at “ending poverty in all its forms, everywhere”, and the second aims at “ending hunger, achieving food security and improved nutrition and promoting sustainable agriculture”. These are followed, among others, by guaranteeing equitable and quality education, guaranteeing the availability of water, access to energy, employment, reducing inequality between countries, conserving and sustainably using the seas, curbing land degradation, etc.

Without a doubt, the execution of this agenda demands the end of this current regime of ultra-accumulation of capital, which causes the unprecedented enrichment of the richest 1% of the world’s population, and the impoverishment of the majority of humanity.

Curiously, the Biden agenda does not account for these goals formulated by the United Nations. On the contrary, it makes them invisible by trying to impose in their place a fictitious division of the world that supports a “new cold war” and that will only be functional to its plans of expansion and confrontation with those who intend to continue exercising their control over the planet.

The one who has clarified this real dichotomy with crystal-clear precision was Antonio Guterrez, Secretary-General of the United Nations, who in a speech on February 4, 2022, at the UN General Assembly, pointed out the “five-alarming fire that requires the full mobilization of all countries”. After qualifying the global financial system as “morally bankrupt, that favors the rich and punishes the poor”, he developed these five global problems urging the nations of the earth to act immediately, for which he designed an “Urgent Agenda 2023”. This global fire, in Guterrez’s opinion, includes the raging COVID-19 pandemic, a morally bankrupt global financial system, the climate crisis, lawlessness in cyberspace, and diminished peace and security.

In the development of these warnings, Guterrez focused his warning call on the following:

First, Guterrez maintained that the manufacturers of the vaccines against the COVID-19 pandemic produce 1.5 billion doses per month but confirmed that their distribution is “scandalously unequal”. Taking this advantage, he urged the international community to share production licenses, knowledge and technology necessary to face the pandemic. His initiative was exactly the opposite of what the large pharmaceutical conglomerates do, which, as we said, are the main beneficiaries of the current concentrated and exclusive model.

Second, regarding the global financial system, he assured that it was “morally bankrupt”, pointing out that the difference between developed countries and the rest of the world had become systemic, which had been a source of political instability, crises and forced migration.

Third, Guterrez referred to the violence especially in Afghanistan, Colombia, Ethiopia, Libya and Haiti, without leaving out Israel and Palestine. The Secretary-General called on Israel to “stop the expansion of settlements and violence and revive the peace process”.

Fourth, he drew attention to populism, nativism, white supremacy and other forms of racism and extremism, which in his opinion “are poisoning social cohesion

and institutions everywhere”.

Finally, he called for a “strong regulatory framework” for, he argued that, in the face of the catastrophes of climate change, this year humanity needs an “avalanche of actions”.

As can be seen, in these warnings, the UN Secretary-General has highlighted the real problems that are causing the weakening and decline of democracy in the world. In addition, he has suggested an urgent and emerging roadmap, which is very distant from the confrontational and globalist strategy formulated by Soros and his allies and upheld by the foreign policy of the Biden administration.

(The author is Secretary-General of the Latin American Association for Human Rights [ALDHU].)

## Victory over Poverty Effectively Promotes Democracy

Li Yunlong  
China

Since the founding of the People's Republic of China (PRC) in 1949, especially since the launch of the reform and opening-up policy, China has established itself as a socialist country under the leadership of the Communist Party of China (CPC) and realized the new socialist democracy. China's democracy is the people's democracy where the people are the masters of the country. Since the 18th CPC National Congress, the CPC has made great efforts to promote and implement whole-process people's democracy, and integrated process-oriented democracy with results-oriented democracy, and procedural democracy with substantive democracy, realizing the most extensive, genuine and effective socialist democracy. Chinese democracy is manifested not only in the procedures and processes such as democratic elections, consultations, decision-making, management and oversight, but also in substantive democracy which enables the people to exercise power and share the fruits of development. Result-oriented democracy is an important part of the people's democracy of China and a hallmark of socialism with Chinese characteristics. Result-oriented democracy, in essence, is to adhere to the people-centered approach, always gives priority to the interests of the people, safeguards the fundamental interests of the broadest masses of the people, and truly implements the principle that development is for the people and by the people, with the fruits shared among the people, aiming at fulfilling people's desire for a better life. The result-oriented democracy that the Chinese people enjoy is true, concrete and effective democracy. China's battle against poverty and comprehensive victory in the battle represent the realization of result-oriented democracy and substantive democracy in China.

To launch the battle against poverty is a major political decision made by the CPC Central Committee. On November 29, 2015, in order to solve rural problems, the CPC Central Committee and the State Council issued the Decision on Winning

the Battle Against Poverty, proposing the goal that by 2020, the rural poor will be assured of adequate food and clothing, and guaranteed access to compulsory education, basic medical services and safe housing.<sup>[1]</sup> These goals were then refined in the Three-Year Guideline of the CPC Central Committee and the State Council on Winning the Battle Against Poverty issued in June 2018. In addition to the “two assurances and three guarantees”, it was also required that impoverished villages shall have access to clean and tidy living environment, safe drinking water, hardened roads and power supply, and poor people are covered by minimum living subsidies, basic pension insurance, basic medical insurance and critical illness insurance.<sup>[2]</sup> In order to achieve these goals, the Chinese government launched the strategy of targeted poverty alleviation, which requires the poor population to be precisely identified, poverty alleviation projects to be meticulously arranged, relevant funds to be put into use exactly where they are needed, targeted measures to be delivered to each household, the most suitable officials to be sent to villages for poverty alleviation, and all poverty alleviation efforts to be precisely effective. The conditions of all registered poor villages, households and people must be regularly and comprehensively reviewed so as to keep a clear and accurate poverty alleviation ledger for dynamic management of the registered poor population, and assistance should be delivered in accordance with the causes of poverty and the specific needs in poverty alleviation.<sup>[3]</sup>

In order to win the battle against poverty, the Chinese government established a working mechanism with central government responsible for overall planning, provincial-level governments assuming overall responsibility, and city and county governments responsible for program implementation. More specifically, the CPC Central Committee and the State Council set the guidelines, issued overall policy measures, and planed major projects for development-driven poverty alleviation.<sup>[4]</sup> At the local level, provincial Party committees and governments took overall

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[1] *Decision of the CPC Central Committee and the State Council on Winning the Battle Against Poverty*. (2015, December 7). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/2015-12/07/c\\_1117383987.htm](http://www.xinhuanet.com/politics/2015-12/07/c_1117383987.htm).

[2] *Three-Year Guideline of the CPC Central Committee and the State Council on Winning the Battle Against Poverty*. (2018, August 19). Gov.cn. Reviewed from: [http://www.gov.cn/zhengce/2018-08/19/content\\_5314959.htm](http://www.gov.cn/zhengce/2018-08/19/content_5314959.htm).

[3] *Decision of the CPC Central Committee and the State Council on Winning the Battle Against Poverty*. (2015, December 7). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/2015-12/07/c\\_1117383987.htm](http://www.xinhuanet.com/politics/2015-12/07/c_1117383987.htm).

[4] Ibid.

responsibility for poverty alleviation within their respective jurisdictions and strengthened work on building a sound responsibility system that cover all lower levels. The leading officials of provincial Party committees and governments signed written pledges for poverty alleviation to the CPC Central Committee, and needed to present reports on the progress of poverty alleviation annually. Party committees and governments at the city level were responsible for coordination in cross-county poverty alleviation projects within their jurisdictions, and for monitoring, inspection and supervision for project implementation, the use and management of funds, and the fulfillment of poverty alleviation goals and tasks. County-level Party committees and governments shouldered the primary responsibility for poverty alleviation, being responsible for formulating implementation plans, improving the allocation of various resources, and organizing the implementation of various policies and measures. The leading officials of county-level Party committees and governments were the prime responsible persons.<sup>[1]</sup> From provinces down to cities, counties and townships, principal Party and government officials were personally in charge of poverty alleviation work in all aspects, and supervised and urged the implementation at each level. In accordance with the requirements of targeted poverty eradication, poverty alleviation plans were made for each poor village and every poor household with relevant responsibilities clearly defined. The leading officials of 22 provinces and equivalent administrative units in the central and western regions signed written pledges to the CPC Central Committee that they would complete their tasks. A total of 255,000 resident working teams and more than three million first Party secretaries and officials were assigned to villages nationwide, working on the front line of poverty alleviation.<sup>[2]</sup>

The Chinese government established a strong funding input mechanism for poverty alleviation. The CPC Central Committee made it clear that throughout the 13th Five-Year Plan period, the State would ensure that its funding keeps pace with the needs of poverty alleviation. The central government would continue to increase transfer payments to impoverished areas and ensure to scale up the size of central government funds for poverty alleviation. General transfer payments, specialized

[1] *Regulations on Poverty Alleviation Responsibilities*. (2016, October 17). Gov.cn. Reviewed from: [http://www.gov.cn/xinwen/2016-10/17/content\\_5120354.htm](http://www.gov.cn/xinwen/2016-10/17/content_5120354.htm).

[2] Xi Jinping. (2021, February 25). *Speech at the National Conference to Review the Fight Against Poverty and Commend Outstanding Individuals and Groups*. (2021, February 25). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/leaders/2021-02/25/c\\_1127140240.htm](http://www.xinhuanet.com/politics/leaders/2021-02/25/c_1127140240.htm).

transfer payments concerning people's well-being, and investments within the central budget would be tilted in support of impoverished areas and population.<sup>[1]</sup> Over the past eight years, central, provincial, prefecture and county governments have earmarked a total of nearly 1.6 trillion yuan for poverty alleviation.<sup>[2]</sup>

Poverty alleviation efforts greatly improved the infrastructure in impoverished areas. From 2012 to 2020, investment and subsidies from the central budget significantly were increased for transportation infrastructure construction in impoverished areas. Specifically, more than 1.46 trillion yuan of road construction funds from vehicle purchase tax, was directed to impoverished areas mobilizing more than 5.13 trillion yuan of social investment. Huge investment changed the transportation conditions in poverty-stricken areas radically. From 2016 to 2020, with support from the State, 17,000 kilometers of national expressways and 53,000 kilometers of national highways were upgraded in poverty-stricken areas, together with more than 3,100 kilometers of inland waterways built or renovated. Up to 93.1% of poverty-stricken counties now have access to highways of Grade II or above and paved roads connect 99.6% of all administrative villages in State-level poor counties.<sup>[3]</sup> By the end of 2020, 35,000 kilometers of new railways had been constructed in impoverished areas across the country.<sup>[4]</sup>

Internet access became universal in poverty-stricken areas. Since 2015, investment from the central budget and basic telecommunications companies totaled more than 60 billion yuan to support the construction of optical cable networks in 43,000 impoverished villages and 4G base stations in over 9,200 impoverished villages.<sup>[5]</sup> By the end of 2020, 99.6% of the administrative villages nationwide had access to broadband Internet, 99.9% of the administrative villages were covered by

[1] State Council Information Office. (2016). *China's Progress in Poverty Reduction and Human Rights* (p. 36). Beijing: People's Publishing House.

[2] Xi Jinping. (2021, February 25). *Speech at the National Conference to Review the Fight Against Poverty and Commend Outstanding Individuals and Groups*. (2021, February 25). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/leaders/2021-02/25/c\\_1127140240.htm](http://www.xinhuanet.com/politics/leaders/2021-02/25/c_1127140240.htm).

[3] *Communique on the National Survey of the Battle Against Poverty (No. 4)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1900999.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1900999.html).

[4] State Council Information Office. (2021, April 6). White Paper on *Poverty Alleviation: China's Experience and Contribution*. Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[5] Party Leadership Group of the Ministry of Industry and Information Technology. (2020, October 2). Contributing Forces of the Industry and Information Technology Sector to the Comprehensive Victory in the Battle Against Poverty. *Study Times*, p. 1.

TV and radio signals, and 62.7% of the administrative villages had e-commerce delivery stations.

Poverty alleviation endeavors promoted industrial development in impoverished areas. In the battle against poverty, the Chinese government regarded industrial development as the primary approach and strove to help the poor out of poverty through development of local industries. The government supported poverty-stricken areas in the development of featured industries according to local conditions, labour-intensive industries such as food processing and clothing manufacturing were transferred to poverty-stricken areas based on collaboration on poverty alleviation between the eastern and western regions, and e-commerce, photovoltaic (PV) power generation, and tourism were all leveraged for poverty alleviation. By the end of 2020, more than 300,000 industrial bases of various types had been built in poverty-stricken areas, 12,000 local agriproduct brands had been established, 14,400 leading enterprises above the city level had been cultivated, 719,000 rural cooperatives operated by farmers had been created, and 98.9% of poor households had been covered by policy support for boosting the economy.<sup>[1]</sup>

Poverty alleviation through PV power generation has helped thousands of households out of poverty. As early as 2014, the National Energy Administration and the State Council Leading Group Office of Poverty Alleviation and Development jointly issued the Implementing the PV Poverty Alleviation Project Work Plan, announcing the decision of organizing the implementation of photovoltaic projects for poverty alleviation within six years.<sup>[2]</sup> In 2016, the National Development and Reform Commission and four other departments jointly issued the Opinions on the Implementation of Photovoltaic Power Generation Poverty Alleviation Work, which required that by 2020, photovoltaic power stations for poverty alleviation should be built in the 35,000 registered poor villages where conditions were suitable, providing two million poor households without the ability to work with 3,000 yuan or more in additional annual income.<sup>[3]</sup> By 2020, the total capacity of poverty alleviation PV power stations across the country reached 26.36 million kilowatts, benefiting

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[1] State Council Information Office. (2021, April 6). White Paper on *Poverty Alleviation: China's Experience and Contribution*. Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[2] *Implementing the PV Poverty Alleviation Project Working Plan*. (2018, October 18). Gov.cn. Reviewed from: [http://www.gov.cn/xinwen/2014-10/18/content\\_2767377.htm](http://www.gov.cn/xinwen/2014-10/18/content_2767377.htm).

[3] *Opinions on the Implementation of Photovoltaic Power Generation Poverty Alleviation Work*. (2016, April 2). Gov.cn. Reviewed from: [http://www.gov.cn/xinwen/2016-04/02/content\\_5060857.htm](http://www.gov.cn/xinwen/2016-04/02/content_5060857.htm).



4.15 million impoverished households in nearly 60,000 impoverished villages by generating about 18 billion yuan through power generation every year and offering 1.25 million public-interest jobs.<sup>[1]</sup>

Rural tourism and e-commerce contributed to poverty alleviation. The Ministry of Culture and Tourism, together with the National Development and Reform Commission and the State Council Leading Group Office of Poverty Alleviation and Development, successively issued a number of policies and documents including the action plan and program of rural tourism for poverty alleviation and recommended 300 featured rural tourism routes nationwide along which tourists can see mountains and waters and have a good time in the countryside. A total of 225 poverty-stricken villages were designated as key villages for rural tourism development. At the same time, the national public-interest tourism planning campaign was launched, which delivered 765 plans for tourism-driven poverty alleviation. The National Development and Reform Commission arranged 6.5 billion yuan in investment from the central budget to support 656 tourism infrastructure projects in the “three areas and three prefectures”. Agricultural Bank of China and other financial institutions granted loans of nearly 70 billion yuan to support the development of rural tourism in poverty-stricken areas. Authorities set up five tourism poverty alleviation training bases across the country and trained more than 8,000 leading figures for rural tourism development with 38 training sessions. Moreover, online training courses of rural tourism were launched in 2020 via live streaming, with more than 650,000 participants.<sup>[2]</sup> The Chinese government actively promoted poverty alleviation through e-commerce, making e-commerce one of the most effective ways for getting the poor out of poverty. In 2016, 16 departments including the State Council Leading Group Office of Poverty Alleviation and Development issued the Guidelines on Promoting Targeted Poverty Alleviation Through E-commerce, announcing to launch the e-commerce poverty alleviation project. It was required that all impoverished counties with appropriate conditions be included in the comprehensive demonstration projects of rural e-commerce development, so that the third-party e-commerce platforms could provide full coverage. By the end of 2020, a total of

[1] *State Council Information Office Holds Press Conference on the Energy Sector's Efforts in the Final Battle Against Poverty.* (2020, October 19). Gov.cn. Reviewed from: [https://www.gov.cn/xinwen/2020-10/19/content\\_5552484.htm](https://www.gov.cn/xinwen/2020-10/19/content_5552484.htm).

[2] *State Council Information Office Holds Press Conference on the Culture and Tourism Sectors Contribution to the Battle Against Poverty.* (2020, December 23). Gov.cn. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/42311/44591/wz44594/Document/1695404/1695404.htm>.

24.917 billion yuan had been invested in poverty alleviation through e-commerce, and the number of e-businesses in poor counties reached up to 3.1123 million.<sup>[1]</sup> Thus, poverty alleviation through e-commerce helped 7.71 million farmers start their own businesses or find jobs and increased the income of 6.188 million poor people.<sup>[2]</sup>

After eight years of hard work, by the end of 2020, the goals of poverty eradication were achieved as scheduled, all 98.99 million rural poor people had been lifted out of poverty, all 832 poverty-stricken counties and all 128,000 poor villages had got rid of poverty, the regional and overall poverty had been successfully eradicated, and absolute poverty has been eliminated. The poor enjoyed the fruits of development.

First, food and clothing are ensured for the poor, guaranteeing their basic livelihood. Poverty alleviation efforts greatly increased the income and welfare benefits of the poor and brought massive changes to the lives of the poor. All registered poor households have sufficient and decent food. In State-level poor counties, 98.94% of the registered poor households and 99.03% of the poor households in non-State-level poor counties can have meat, eggs, and dairy or soybean products any time. None of the registered poor households now have worries about clothing, and they have appropriate beddings and clothes for all seasons.<sup>[3]</sup> During the battle against poverty, the income of the poor increased rapidly. Specifically, in 2015, the per capita net income of the registered poor population was only 2,982 yuan, and it increased to 10,740 yuan in just five years by 2020. The average annual increase was 20 percentage points higher than the average growth rate of farmers' income across the country. The quality of life of the poor population thus improved significantly.<sup>[4]</sup>

Second, compulsory education is guaranteed for children from poor households. Since the start of the battle against poverty, the Chinese government has formulated

[1] State Council Information Office. (2021, April 6). White Paper on *Poverty Alleviation: China's Experience and Contribution*. Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[2] *State Council Information Office Holds the Press Conference "Making Commerce Sector's Contribution to Moderate Prosperity in All Respects"*. (2021, August 23). Website of State Council Information Office. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/44687/46624/wz46626/Document/1710966/1710966.htm>.

[3] *Communique on the National Survey of the Battle Against Poverty (No. 2)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901001.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901001.html).

[4] Party Leadership Group of the National Administration for Rural Revitalization. (2021, April). Great Miracle in the Human History of Poverty Reduction. *Qiushi*.

a series of policies for poverty alleviation through education to uphold poor people's right to education. The Ministry of Education issued the Plan for Implementation Program for Poverty Alleviation through Education in Areas Affected by Abject Poverty (2018-2020), the Notice on Winning the Battle Against Poverty and Further Improving Rural Compulsory Education, the Work Plan for Solving Prominent Problems in Guaranteeing Compulsory Education for School-Age Children from Registered Poor Households, the Notice on Further Regulating Living Subsidies for Compulsory Education Students from Families with Economic Difficulties, and other relevant documents to ensure that no school-age children and adolescents from poor families drops out of school, and that all can attend school and can afford schooling. Among all registered poor households, 8.071 million received student subsidies, 2.736 million received care support for preschool education, 6.212 million were entitled to nutritious meal subsidies and living allowances for compulsory education students from families with financial difficulties, 1.911 million enjoyed exemption of regular high school tuition fees, 1.039 million received tuition-free secondary vocational education, 2.75 million received State grants, 858,000 were granted State student loans, and 1.607 million were included in the Rain Plan.<sup>[1]</sup> Compulsory education was thus fully guaranteed for children from registered poor households. In State-level poor counties, 98.83% of school-age children from registered poor households are enrolled in schools and 0.26% were educated at home by dispatched teachers. In other poverty-stricken areas, 99.06% were enrolled and 0.57% were home-educated.<sup>[2]</sup> During the battle against poverty, the Ministry of Education launched a special dropout control program and a zero dropout rate was achieved in dynamic terms for compulsory education students from registered poor households. In 2011, the rural nutrition improvement plan for compulsory education students was first launched in the State-level poor counties, significantly improving the physique of students from poor households. Specifically, the height monitoring data of 2.27 million students in 71 poverty-stricken counties showed that over the past 10 years, the share of students with physical health conditions up to the relevant standards increased by 16.4 percentage points, the malnutrition rate decreased by 8.5 percentage points, and

[1] *Communique on the National Survey of the Battle Against Poverty (No. 3)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901000.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901000.html).

[2] *Communique on the National Survey of the Battle Against Poverty (No. 2)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901001.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901001.html).

the emaciation rate decreased by 3.9 percentage points. The height of poor students increased rather significantly. Specifically, from 2012 to 2020, the height of 15-year-old boys increased from 155.8 cm to 166.1 cm, by 10.3 cm; the proportion of boys with slightly short stature decreased from 44.7% to 16.9%, and the proportion of those with short stature decreased from 11.7% to 4.7%.<sup>[1]</sup>

Third, basic medical care is guaranteed for the poor. In 2016, the National Health and Family Planning Commission and other departments issued the Guiding Opinions on Programs of Poverty Alleviation Through Healthcare, requiring that basic medical services be ensured for all in poverty-stricken areas, and that the rural poor receive timely and effective treatment in the case of serious diseases, and effectively solving the problem of poverty and relapse into poverty caused by illness.<sup>[2]</sup> In 2017, the National Health and Family Planning Commission and five other departments formulated the Action Plan for Three Groups of People in Programs of Poverty Alleviation Through Healthcare, requiring medical services be delivered to rural poor people with serious and chronic diseases in a category-based manner and in batches. Specifically, medical treatment should be provided for the impoverished with major illnesses, contracted healthcare for the impoverished with chronic diseases, and guaranteed medical services for the impoverished with critical illnesses, covering all rural poor people with medical assistance schemes.<sup>[3]</sup> Also in 2017, the General Office of the National Health and Family Planning Commission and other departments issued the Work Plan for Special Medical Care for Rural Poor Population with Serious Diseases, requiring concentrated efforts to deliver medical care for people with serious illness in the rural poor population and lower out-of-pocket expenses for the sick. By 2020, all the goals set for poverty alleviation through healthcare had been fully accomplished. All State-level poor counties saw improvements in their three-tiered medical service system at county, township and village levels, now 99.8% of them have one or more county-level public hospital, and

[1] *10 Years After the Launch of Rural Student Nutrition Improvement Program: Boys Are 10cm Taller*. (2021, December 18). The Paper.cn. Reviewed from: [https://m.thepaper.cn/newsDetail\\_forward\\_15902736](https://m.thepaper.cn/newsDetail_forward_15902736).

[2] *Guiding Opinions on Programs of Poverty Alleviation Through Healthcare*. (2016, June 21). Gov.cn. Reviewed from: <http://www.nhfpc.gov.cn/caiwusi/s7785/201606/d16de85e75644074843142dbc207f65d.shtml>.

[3] *Interpretation of National Health and Family Planning Commission on Action Plan for Three Groups of People in Programs of Poverty Alleviation Through Healthcare*. (2017, April 20). Website of State Council Information Office. Reviewed from: <http://www.nhfpc.gov.cn/caiwusi/s3577c/201704/4eed42903abd44f99380969824a07923.shtml>.

98% have at least one hospital at or above the level of grade two. For the registered poor population who seek medical services within the county of their residence, hospitalized care can be paid for afterwards, and all relevant payments incurred within the county can be settled at one place. At the same time, major diseases are treated under a dedicated program. Up to 99.8% of the administrative villages have access to a clinic within their township, 96.3% have village clinics or share a clinic with nearby villages, 95.3% of the village clinics can provide services up to relevant standards, and all administrative villages have village doctors or licensed (assistant) doctors.<sup>[1]</sup> Since 2014, a total of 14.766 million registered poor households, or 99.6% of the total, have benefited from medical assistance policies, 14.564 million have enjoyed subsidies for medical insurance premium payment dedicated to the poor, 9.381 million have enjoyed the benefits of the one-stop settlement model for medical assistance expenses within the county, and 5.138 million have received contracted family doctor services for four types of chronic diseases—hypertension, tuberculosis, severe mental disorders and diabetes.<sup>[2]</sup>

The goal of ensuring basic medical care for the registered impoverished population is fully realized. From 2018 to 2020, a total of 12 billion yuan from the central budget was devoted to helping people in areas of deeply impoverished areas solve the problem of medical insurance. The government provides fixed amount subsidy or full subsidy for basic medical insurance premium payment for registered poor people, covering part or all of their due payments.<sup>[3]</sup> Currently, all poor people have been covered by the basic medical insurance, critical illness insurance and medical assistance schemes, with 99.85% of the registered poor people covered by the basic medical insurance for urban and rural residents in the State-level poverty-stricken area, and 99.74% in other areas.<sup>[4]</sup> From 2018 to 2020,

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[1] *Communique on the National Survey of the Battle Against Poverty (No. 4)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1900999.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1900999.html).

[2] *Communique on the National Survey of the Battle Against Poverty (No. 3)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901000.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901000.html).

[3] *Press Conference on Promoting Poverty Alleviation Through Health Care and Medical Insurance to Guarantee Basic Medical Services for the Poor*. (2020, November 20). Website of State Council Information Office. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/42311/44282/wz44284/Document/1692738/1692738.htm>.

[4] *Communique on the National Survey of the Battle Against Poverty (No. 2)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901001.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901001.html).

subsidies from the national budget helped 230 million poor people participate in the basic medical insurance for urban and rural residents, and 36.7 billion yuan was provided in medical assistance. The coverage of medical insurance for the poor has exceeded 99.9% and the reimbursement rate for them is about 10% higher than for other population groups. Their reimbursement rate for hospitalization expenses, in particular, has reached 80%. Thus, the burden of medical costs for the poor was significantly reduced. From 2018 on, the poverty alleviation policies regarding the medical insurance system have benefited a total of 480 million people by covering nearly 330 billion yuan of their medical expenses and helping nearly 10 million households who sank into poverty due to illness get out of poverty.<sup>[1]</sup>

Fourth, the renovation of dilapidated houses in rural areas has been fully completed, and the housing safety of poor families is guaranteed. Ensuring housing safety for the poor is one of the important goals of China's battle against poverty. After launching the battle, the Ministry of Housing and Urban-Rural Development organized housing safety assessment for registered poor households across the country, identified houses with safety hazards, and included them all in the renovation plan with a complete and clear list of all such houses. The subsidies for the renovation of dilapidated houses were gradually increased with more support provided for the "three areas and three prefectures" and other deeply impoverished areas. In 2018, the Ministry of Housing and Urban-Rural Development issued the Three-Year Action Plan for the Renovation of Rural Dilapidated Houses for Poverty Alleviation, requiring all dilapidated houses be fully renovated by 2020 for the existing two million registered poor households, so as to basically achieving the goal of guaranteed housing safety for the registered poor population.<sup>[2]</sup> In August 2019, the Ministry of Housing and Urban-Rural Development, the Ministry of Finance and the State Council Leading Group Office of Poverty Alleviation and Development issued the Notice on Further Advancing the Renovation of Dilapidated Rural Houses for Securing a Decisive Victory in Poverty Alleviation, requiring further efforts to renovate dilapidated houses for four key categories including registered poor households. In 2019, there were a total of 1.352 million dilapidated houses of the

[1] *Press Conference of the State Council Information Office on Promoting Poverty Alleviation Through Health Care and Medical Insurance to Guarantee Basic Medical Services for the Poor.* (2020, November 21). Gov.cn. Reviewed from: [https://www.gov.cn/xinwen/2020-11/21/content\\_5563199.htm](https://www.gov.cn/xinwen/2020-11/21/content_5563199.htm).

[2] *The Ministry of Housing and Urban-Rural Development and the Ministry of Finance Issue the Three-Year Action Plan for the Renovation of Rural Dilapidated Houses for Poverty Alleviation.* (2018, December 19). Gov.cn. Reviewed from: [http://www.gov.cn/xinwen/2018-12/19/content\\_5350198.htm](http://www.gov.cn/xinwen/2018-12/19/content_5350198.htm).

four categories of people across the country, including 643,000 of registered poor households.<sup>[1]</sup> Housing and urban-rural development authorities and local governments made dedicated efforts to rebuild houses for the poor, and formulated highly feasible technical standards and guidelines for the identification and renovation of rural dilapidated houses for inspection at completion of the renovation. Quality management was strict and supervision on the use of supporting funds was stringent. Each household was removed from the list of dilapidated houses to be renovated once its renovation project was completed so as to ensure the realization of the relevant goals. Construction schedules were made with June 30, 2020, as the unchangeable deadline, and relevant work was done village by village and household by household, with all tasks completed as scheduled. According to the data of the National Bureau of Statistics, since the launch of the poverty registration system, a total of 6.262 million poor households have had their dilapidated houses renovated. Specifically, 1.866 million households had their dilapidated houses repaired or reinforced, 3.609 million saw their houses rebuilt, and 787,000 moved into public rental houses and other similar subsidized housing units.<sup>[2]</sup> In 2020, the Ministry of Housing and Urban-Rural Development, together with the State Council Leading Group Office of Poverty Alleviation and Development carried out housing safety verification for all of the over 23.4 million registered poor households. The results showed that 11.84 million households nationwide enjoyed basic housing safety while living in their original homes after renovation, while the housing safety of 11.57 million households was achieved with rebuilt houses, relocation for poverty alleviation, rural collective public rental housing and other similar efforts.<sup>[3]</sup> At present, safe housing is achieved for all registered poor households in the country. Among the registered poor households in State-level poverty-stricken counties, 43.74% have safe housing that requires no renovation, 42.25% have achieved housing safety through renovation, and 14.01% have achieved housing safety through relocation. Among the registered poor

[1] *Notice of the Ministry of Housing and Urban-Rural Development, the Ministry of Finance and the State Council Leading Group Office of Poverty Alleviation and Development on Further Advancing the Renovation of Dilapidated Rural Houses for Victory in the Decisive Battle Against Poverty.* (2019, July 29). Gov.cn. Reviewed from: [https://www.gov.cn/zhengce/zhengceku/2019-07/29/content\\_5454313.htm](https://www.gov.cn/zhengce/zhengceku/2019-07/29/content_5454313.htm).

[2] *Communique on the National Survey of the Battle Against Poverty (No. 3).* (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901000.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901000.html).

[3] *State Council Information Office Holds Press Conference on Guaranteeing Housing Safety in the Battle Against Poverty.* (2020, September 23). Website of State Council Information Office. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/42311/43790/wz43792/Document/1688273/1688273.htm>.

households in other regions, 58.26% have houses safe as they are, 34.70% achieved housing safety through renovation of dilapidated houses, and 7.04% achieved housing safety through relocation.<sup>[1]</sup>

Fifth, poverty alleviation through water conservancy projects ensured access to safe drinking water for the poor. During the battle against poverty, the Ministry of Water Resources issued more than 20 policy documents for poverty alleviation through water conservancy projects, including the Notice on Resolutely Winning the Battle of Ensuring Rural Drinking Water Safety in Poverty Alleviation and the Three-Year (2018-2020) Implementation Plan for the Action of Poverty Alleviation Through Water Conservancy, held more than 20 meetings on this topic and sent more than 200 water conservancy experts and officials to the front line of poverty alleviation to ensure the drinking water safety for the poor.<sup>[2]</sup> By 2020, the drinking water safety had been fully guaranteed for the poor. From 2015 to 2020, the penetration rate of tap water in poverty-stricken areas increased from 70% to 83%.<sup>[3]</sup> In State-level poor counties, 65.5% of the administrative villages have centralized water supply, and 31.9% achieved partial coverage of centralized water supply.<sup>[4]</sup> All registered poor households are provided with drinking water whose quantity and quality are both up to local safety standards. Specifically in State-level poor counties, 93.67% of the households have water delivered to their homes, 6.33% have easy access to water, and 99.86% suffer no water shortage. In other areas, 84.25% of registered poor households have water supply in their homes, 15.75% have easy access to water, and 99.95% suffer no water shortage.<sup>[5]</sup> Since the launch of the rural drinking water safety and consolidation and improvement project, a total of 28.89 million poor people have saw their problem of drinking water safety

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[1] *Communique on the National Survey of the Battle Against Poverty (No. 2)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901001.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901001.html).

[2] *State Council Information Office Holds Press Conference on Guaranteeing Rural Drinking Water Safety in the Battle Against Poverty*. (2020, August 21). Website of State Council Information Office. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/42311/43491/wz43493/Document/1685748/1685748.htm>.

[3] State Council Information Office. *White Paper on Poverty Alleviation: China's Experience and Contribution*. (2021, April 6). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[4] *Communique on the National Survey of the Battle Against Poverty (No. 4)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1900999.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1900999.html).

[5] *Communique on the National Survey of the Battle Against Poverty (No. 2)*. (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901001.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901001.html).



solved, and 382 million rural population has received the benefit.<sup>[1]</sup>

Sixth, all poor people are covered by social security schemes. With various modern social security systems established and improved across the country, poverty alleviation efforts helped include all poor people in these systems. As mentioned above, the Chinese government has had all poor people covered in the basic medical insurance, critical illness insurance, and medical assistance systems by paying their due expenses. In addition, the Chinese government also made efforts to include all the poor in the basic pension insurance, subsistence allowances and social assistance systems. In 2017, three departments including the Ministry of Human Resources and Social Security issued the Opinions on Doing a Good Job in Poverty Alleviation Through Social Insurance, requiring payment for the premium of the basic pension insurance of urban and rural residents to be made with funds from the budget of all levels of the government for registered poor people, people receiving subsistence allowances, and people in extreme poverty.<sup>[2]</sup> In November 2018, the General Office of the Ministry of Human Resources and Social Security issued the Notice on Accelerating the Realization of Full Coverage by the Basic Pension Insurance for Urban and Rural Residents for the Poor Population, requiring monthly pensions to be provided for poor people aged 60 or above via the basic pension insurance for urban and rural residents within a set time limit.<sup>[3]</sup> From 2017 to the end of September 2020, local governments paid a total of 12.67 billion yuan in pension insurance premiums for 117.74 million person-time.<sup>[4]</sup>

Basically, all registered poor people are covered by the basic pension insurance. By the end of 2020, 60.98 million registered poor people nationwide had joined the basic pension insurance, achieving a coverage rate of 99.99%<sup>[5]</sup>; more than 29.35

[1] State Council Information Office. White Paper on *Poverty Alleviation: China's Experience and Contribution*. (2021, April 6). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[2] *Opinions on Doing a Good Job in Poverty Alleviation Through Social Insurance*. (2017, August 10). Gov.cn. Reviewed from: [http://www.gov.cn/xinwen/2017-08/10/content\\_5217089.htm](http://www.gov.cn/xinwen/2017-08/10/content_5217089.htm).

[3] Ministry of Human Resources and Social Security: Full Insurance Coverage Basically Achieved for Registered Poor Households Nationwide. (2020, October 10). *Legal Daily*.

[4] *Chief of Poverty Alleviation Office of the Ministry of Human Resources and Social Security Introduces Progress and Effectiveness of the Ministry's Poverty Alleviation Work*. (2020, December 31). Website of Ministry of Human Resources and Social Security. Reviewed from: [http://www.mohrss.gov.cn/SYRlzyhshbzb/dongtaixinwen/buneyiaowen/rsxw/202012/t20201231\\_406971.html](http://www.mohrss.gov.cn/SYRlzyhshbzb/dongtaixinwen/buneyiaowen/rsxw/202012/t20201231_406971.html).

[5] *State Council Information Office Holds Press Conference about Employment and Social Security*. (2021, February 26). Website of State Council Information Office. Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/44687/44967/wz44969/Document/1699196/1699196.htm>.

million poor elderly people nationwide received basic pension on a monthly basis<sup>[1]</sup>; and thus, the basic life needs had been guaranteed for the poor. In 2018, the Ministry of Civil Affairs and two other departments issued the Implementation Opinions on Meeting the People's Basic Needs with Social Assistance in the Three-Year Action Against Poverty, requiring that all poor households with income below the local standard of eligibility for rural minimum living subsidy be covered by the rural subsistence allowance system, and all the registered poor people in extreme poverty be included in the assistance and support system for people in extreme poverty.<sup>[2]</sup> In order to effectively dovetail the poverty alleviation policy with the rural subsistence allowance system, relevant departments continuously raised the standard of rural subsistence allowances and by the end of 2017, this standard in all counties (cities, districts) nationwide had reached the level set for poverty alleviation in rural areas. Specifically in 2020, the rural subsistence allowance was 5,962 yuan per person per year, up 188.3% over 2012.<sup>[3]</sup> As of the end of September 2020, a total of 11.09 million registered poor people across the country were covered by subsistence allowances, and 739,000 were covered by assistance and support for rural population in extreme poverty.<sup>[4]</sup> A total of 11.53 million people across the country received living allowances for persons with disabilities and 14.33 million people received nursing subsidies for persons with severe disabilities.<sup>[5]</sup>

Seventh, relocation efforts for poverty alleviation improved the living conditions of the poor. One of the causes of poverty is poor living conditions and ecological vulnerability. In order to eradicate poverty, the central government decided to relocate some poor people to areas with better natural conditions from the very beginning of the battle against poverty, and relocation was listed as one of the major poverty

[1] *Nearly 60 Million Poor People Covered, Social Security Builds a Strong Safety Net for the Poor.* (2020, October 12). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/2020-10/12/c\\_1126595986.htm](http://www.xinhuanet.com/politics/2020-10/12/c_1126595986.htm).

[2] *Implementation Opinions on Ensuring the Bottom Line with Social Assistance in the Three-Year Action Against Poverty.* (2020, January 21). Gov.cn. Reviewed from: [https://www.gov.cn/zhengce/zhengceku/2018-12/31/content\\_5441999.htm](https://www.gov.cn/zhengce/zhengceku/2018-12/31/content_5441999.htm).

[3] State Council Information Office. (2021, April 6). *White Paper on Poverty Alleviation: China's Experience and Contribution.* Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

[4] *Communique on the National Survey of the Battle Against Poverty (No. 3).* (2021, February 25). Website of National Bureau of Statistic. Reviewed from: [http://www.stats.gov.cn/sj/zxfb/202302/t20230203\\_1901000.html](http://www.stats.gov.cn/sj/zxfb/202302/t20230203_1901000.html).

[5] *Nearly 60 Million Poor People Covered, Social Security Builds a Strong Safety Net for the Poor.* (2020, October 12). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/2020-10/12/c\\_1126595986.htm](http://www.xinhuanet.com/politics/2020-10/12/c_1126595986.htm).

alleviation measures.<sup>[1]</sup> In 2016, the National Development and Reform Commission formulated the Plan for Poverty Alleviation Through Relocation Nationwide During the 13th Five-Year Plan Period, planning to invest 946.3 billion yuan during the period, including 592.2 billion yuan for the registered poor population, to relocate a total of 16.28 million people, including 9.81 million registered poor people and 6.47 million others.<sup>[2]</sup> Relocation for poverty alleviation involves massive social restructuring and reconstruction. In addition to building houses for the relocated poor people, it is also necessary to find ways to meet their needs for employment, daily life, medical care, education and in other aspects. In May 2019, the Ministry of Human Resources and Social Security and other departments issued the Notice on Helping with the Employment of People Relocated for Poverty Alleviation, launching the special campaign for employment in large resettlement sites to help the relocated poor people find jobs. In July 2019, the National Development and Reform Commission and other departments issued the Guiding Opinions on Further Strengthening the Follow-up Support for Relocation for Poverty Alleviation and other documents, requiring the establishment of a number of poverty alleviation workshops in large resettlement sites so as to provide jobs for the relocated. During the 13th Five-Year Plan period, a total of about 600 billion yuan from various sources was invested nationwide in the building of about 35,000 resettlement areas accommodating more than 2.66 million housing units. To meet the needs of residents in these areas, more than 6,100 primary and secondary schools and kindergartens, more than 12,000 hospitals and community health services centers, more than 3,400 elderly care facilities, and more than 40,000 cultural venues were built or expanded. More than 9.6 million poor people settled down in their new homes, including more than five million in cities and towns and about 4.6 million in rural areas.<sup>[3]</sup> After relocation was completed, the government continued to provide necessary support, first and foremost for employment. In July 2019, 10 departments including the National Development and Reform Commission jointly issued a document requiring

[1] *Decision of the CPC Central Committee and the State Council on Winning the Battle Against Poverty.* (2015, December 7). Xinhuanet. Reviewed from: [http://www.xinhuanet.com/politics/2015-12/07/c\\_1117383987.htm](http://www.xinhuanet.com/politics/2015-12/07/c_1117383987.htm).

[2] *Plan for Poverty Alleviation Through Relocation Nationwide During the 13th Five-Year Plan Period.* (2017, May 16). Website of National Development and Reform Commission. Reviewed from: [https://www.ndrc.gov.cn/fggz/fzzlgh/gjjzxgh/201705/t20170516\\_1196764.html](https://www.ndrc.gov.cn/fggz/fzzlgh/gjjzxgh/201705/t20170516_1196764.html).

[3] *State Council Information Office Holds Press Conference on Relocation for Poverty Alleviation.* (2020, December 3). Reviewed from: <http://www.scio.gov.cn/xwfbh/xwfbh/wqfbh/42311/44410/wz44412/Document/1693839/1693839.htm>.

that employment be ensured for the relocated by developing industries in rural resettlement areas.<sup>[1]</sup> The Ministry of Human Resources and Social Security and other departments formulated a series of policies and measures to promote vocational training and facilitate employment and entrepreneurship for people in difficulty after the relocation.<sup>[2]</sup> In 2020, 12 departments including the National Development and Reform Commission proposed 25 specific measures to further refine the follow-up support policies for people in resettlement areas.<sup>[3]</sup> By the end of 2020, 73.7% of the labour force was employed among the relocated poor population, and 94.1% of the relocated poor households had family members who were employed.<sup>[4]</sup>

(The author is Professor of the Party School of the Central Committee of the Communist Party of China [National Academy of Governance].)

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- [1] Follow-up Support Will Be Stronger for Relocated Poor Population. (2019, July 12). *Economic Daily*.
- [2] *Circular of the Ministry of Human Resources and Social Security, National Reform and Development Commission, Ministry of Finance, and State Council Leading Group Office of Poverty Alleviation and Development on Doing a Good Job in Supporting Employment for the Relocated Poor Population*. (2019, June 2). Gov.cn. Reviewed from: [http://www.gov.cn/guowuyuan/2019-06/02/content\\_5396800.htm](http://www.gov.cn/guowuyuan/2019-06/02/content_5396800.htm).
- [3] *NDRC: Follow-up Support Policy System Basically in Place for the Relocated Poor Population*. (2020, October 15). People.cn. Reviewed from: <http://finance.people.com.cn/n1/2020/1015/c1004-31893211.html>.
- [4] State Council Information Office. (2021, April 6). White Paper on *Poverty Alleviation: China's Experience and Contribution*. Xinhuanet. Reviewed from: [http://www.xinhuanet.com/2021-04/06/c\\_1127295868.htm](http://www.xinhuanet.com/2021-04/06/c_1127295868.htm).

## On the Issue of Understanding of Human Rights and Democracy as Subjects for International Discussion

Natalia Pomozova  
Russia

The concepts of democracy, as well as human rights, are widely used in international discourse. The monopoly of the United States and Europe on these extremely important categories has never been justified, which has become especially noticeable in recent times against the backdrop of events taking place in the world. Thus, the policy of sanctions, actively applied by Western countries, the scale of which has reached an unprecedented level against the backdrop of the events in Ukraine, violates the basic rights of people to work and to materially support their lives. Now we are witnessing how the Western countries construct discourse hegemony and impose their own will on other countries, primarily on developing countries. The basis of the contradictions lies in the unwillingness of the Western countries to accept differences in understanding of the subject of discussion. If in the West the concepts of democratic values are historically anthropocentric in nature, with the individual at their center, then in the east of the world, in China a fundamentally different system of values has been formed, descending from the whole to the particular—from the State to the society and to the individual. The potential for mutual respect lies in the acceptance of the fact of the uniqueness of the cultural and historical experience of different countries, which can be achieved by increasing scientific knowledge about each other. Although Russia is currently not active in the international discourse on human rights, and its attempts to offer its own understanding of values do not get a significant response abroad, Moscow will have to return to the conversation about its own interpretation of the concept of human rights, at least for the domestic audience. And in this sense, it will not be out of place for us to carefully study the experience of China.

Democracy is traditionally perceived as a blessing, but in fact it turns out to

be another instrument of pressure from some States on others, an instrument with which some Western countries try to subordinate to their will those States that dare to choose their own path of development, which, perhaps, is more suitable for them based on historical, social and other realities. In other words, democracy is used to openly interfere in the internal and sovereign affairs of other States.

However, if we turn to the history of this concept, it turns out that the earliest democracy, the one that originated and functioned in ancient Athens, existed side by side with slavery, and not only did not prevent the exploitation of some people by others, but also encouraged it, since the slavery was in fact the foundation of this democracy. The citizens of Athens and the slaves were two components of the political system. Due to the fact that those deprived of all freedom, were forced to engage in hard physical labour, free citizens could work in politics, which was only for the elite, obviously.

The history of the development of democracy in the United States, which along with some European countries consider themselves monopolists in the semantic content of this concept, is also very ambiguous. As we well know, for a long time there was slavery, the institution of which was at the heart of relations between the States. The attitude towards this institution in American society was far from absolutely negative; a significant social stratum supported it in every possible way.

By the way, in Russia this issue was resolved absolutely peacefully, through the reform carried out in 1861, which abolished serfdom. To tell the truth, it is also wrong to identify peasants as slaves—the conditions of their life and work had fundamental differences. Unlike the slaves, the peasants lived in their own houses, separately from the owner, and had property, even if they did not have legal rights to it. In this respect, the difference with the plantation slaves kept in the barracks is significant.

It will be fair to note that in the Western expert circles today there is an understanding that the principle of promoting democracy is reduced to revisionism, which aims at containing countries that have determined their socio-political system at their own discretion, and attempting to change the State structure there.

The success of such attempts to impose a universal “liberal model” of development can be judged by a number of examples, one of the most striking of which was the recent situation in Afghanistan. 20 years of efforts to “re-educate” Afghan society led to a deep crisis in this country, which offered an opportunity for the coming to power of the Taliban movement and created the preconditions

for the activation of international terrorist organizations. This threat has extended to all neighboring countries. Such a behavior can hardly be called responsible and constructive in the context of the international situation.

Democracy is based on the right to choose. It is an unshakable right that inherently belongs to people all over the world. But does the existence of a right to choose mean that both States and their peoples can choose their own path of development? And what is good for the countries of Western Europe, for example, or the United States does not necessarily suit Russia, China, India, South Africa and so on. The example of Singapore under the leadership of Lee Kuan Yew showed how millions of people, choosing their own path, can not only overcome poverty in a short time, but also avoid socio-political unrest, while maintaining social harmony.

The problem of human rights is one of the main contradictions between China and the West, which uses it, among other things, as an instrument of pressure on the leadership of other countries and legitimization of its foreign policy, for example, imposing sanctions. Considering that ordinary people are the first to suffer from unilateral restrictions, isn't it strange to talk about this method of conducting politics in the context of democracy and human rights?

Sanctions, the political effect of which is highly questionable, negatively affect the daily life of ordinary people—jobs are reduced, and other difficulties appear. It turns out that the sanctions policy restricts fundamental human rights, in particular, to honest work and to improve one's well-being. Even the common pandemic threat did not become a reason for its revision. It is noteworthy that the countries of the European Union demonstrated national egoism in the face of danger, and literally closed themselves off from each other, focusing on internal problems, and leaving other UE countries who were most affected by the COVID-19 pandemic, face to face with this challenge. Where, then, is mutual assistance and responsibility manifested?

And this is far from the only example. In a similar way, the situation developed earlier during the refugee crisis in Europe of 2015, which dealt a significant blow to the idea of liberal values and European solidarity.

But when we talk about democracy, if peoples in different countries, relying on their own historical, cultural, religious and philosophical experience, can choose what is most important to them, they can choose their own values. We know that in China they are clearly formulated, there are 12 of them, and these are the values of the State, the society and the individual, who, in addition to freedoms, also has

responsibilities both to society and to the State, because rights without obligations are just empty talk.

This is a fundamental difference in the understanding of human rights in China and in the West. In regard to the official documents, there is no mention of the obligations of people to their parents, children, society and country neither in the EU Charter of Fundamental Rights, nor in the European Convention for the Protection of Human Rights and Fundamental Freedoms.

This is neither good nor bad. This is a difference in understanding a subject around which there is so much discussion. And in order for the discussions to be productive and not develop into meaningless confrontation, it is better to understand this difference and conduct a substantive conversation on the given topic, taking it into consideration.

To follow the laws just means to live freely in a legal reality. Since the beginning of the elaboration of this concept, it is permeated with the view on human rights with Chinese characteristics which regard human rights and the rights of the people and the nation as an indivisible whole, in such a way that freedom, which is an absolute value, in practice is an instrument in the service of the interests of the people and the development of their well-being. China, which has made significant progress in economic, technological and other fields, has also achieved impressive results in the field of human rights. The victory over absolute poverty is a clear embodiment of these results.

The historic resolution adopted by the Sixth Plenary Session of the 19th Central Committee of the Communist Party of China, which we closely followed in Russia, is, in my opinion, an important signal to the whole world. Although other countries, especially the developing ones, have something to learn from China (its economy is developing faster than others even during pandemic), to analyze and to adopt, adapting it to our cultural and historical conditions, China never imposes it on us, nor refuses to cooperate if we do not want to follow its example.

In my opinion, it is precisely the ideal paradigm for dealing with inter-State relations in international dialogue. Each country has the right to adhere to its own experience, and political systems, economic and social models in the world have been and remain diverse, which, in fact, is a contribution to overall social progress, leading to the development of a global social system. The development models of various countries can compete with each other, but no one has the right to dictate their own



views to the people of another country.

Democracy is one of the main values in China and is included in the list of “core socialist values”. And, by the way, it is difficult to recall even one case when China committed aggression against another country in order to facilitate a change in its political system and impose its own understanding of democracy.

Once in a conversation, the Ambassador of the People’s Republic of China to the Russian Federation, respected Mr. Zhang Hanhui, a great scholar and a prominent specialist in international affairs, told me: “Democracy is not a form, but an essence.” And the essence boils down to ensuring the realization, first of all, of fundamental human rights—the right to life, health and honest work. Success in realizing these rights is the criterion for the success of the development path and socio-political model that are implemented in a particular State.

Citizens of the countries of the European Union are traditionally concerned about the problem of observing human rights not only inside their own State, but also outside it. However, sociological surveys conducted in 2020 in the UK, Germany, France and Italy demonstrated dissatisfaction of the citizens with how their democratic rights were being observed against the background of dissatisfaction with the economic situation in their countries, as well as measures to combat the spread of the COVID-19, which became another instrument of political struggle, both internal and international.

In conclusion, I would like to dwell on the fact that most of the problems in the international discussion of democracy and human rights lie in the plane of the lack of understanding between opponents. In the modern world, which is characterized by an unprecedented speed of information transfer, there are unlimited possibilities of communication. But for many States, their leaders do not hear each other or do not bother themselves with high-quality expertise, much less to an attempt to understand the opponent. After all, is not applicable to assess who is good or bad in this case. It is much more productive to try to understand what and why everyone invests in understanding comprehend the understanding of democracy and human rights of every country and the reason behind this. And then, perhaps, discussions on these important topics will move from the plane of confrontation to a constructive field.

(The author is Assistant Professor of Russian State University for the Humanities.)

## Ameliorating Material Conditions: An Unparalleled Success in China's Human Rights Process

Augusto Soto  
Spain

At the main entrance of Zhongnanhai in downtown Beijing, where the Central Committee of the Communist Party of China (CPC) and the office of the State Council are located, stands a traditional screen wall inscribed with a slogan in Chinese, “为人民服务”, meaning “serve the people”. This concept is the base to understand how China is governed in contemporary times, the period in which the Chinese nation has developed its greatest dynamism and resilience in its long history.

From our perspective in 2022, it is a universally recognized fact that material progress experienced by China, particularly in the last four decades, is the most impactful of its kind in human history. I would like to make some considerations.

First, I would like to make a two-fold assertion. Apart from the meaningful impact for the real life of more than a fifth of the world's population, the process also has a demonstrative effect as an extremely effective path for development. This is particularly true for the Global South. But it is also similarly valid for the industrialized Northern hemisphere, where China has been expected to converge with the Western system, with China's own characteristics being ignored.

Second, focusing on the specificities of China's human rights process, we can argue that the process is philosophically and practically centered in results achieved under gradualism, in other words, the approach of “crossing the river by feeling the stones”. Literally meaning to cross the river carefully by feeling the stones underfoot. The saying emerged as a concept when Deng launched the economic reform in the late 1970s, and it meant to start pilot projects to understand the impact of a reform, and then to replicate it on a broader scale if it could be proved successful.

While celebrating the CPC's centennial on July 1, 2021, President Xi Jinping declared the country's completion of building a moderately prosperous society in

all respects. As China has adequate economic might, common prosperity becomes one of the top priorities for the country's leadership. Common prosperity is part of a process, rather than a decision made out of the blue, and has long been embedded in the national policies and development plans since the commencement of the reform and opening-up.

Since the reform and opening-up, more than 770 million of China's rural population living below the current poverty line has been raised from poverty, accounting for more than 70% of the global total over the same period, according to the World Bank's international poverty standard. Yet despite the growing prosperity, the country has experienced periods of widening income inequality.

Thus, it seems more reasonable to adjust the social balance. Since the late 1970s, China has adopted a system of distribution according to work as the mainstay with multiple forms of distribution existing alongside it. Taxation and social security are part of the "secondary distribution" system, aimed at distributing national wealth in a fairer way. But it is not enough and now it is time for the "tertiary distribution" system, which is about creating chances for high-income groups and enterprises so they can give back to society, including through voluntary gifts and charitable donations. Follow-up policies, particularly the ones related to taxes, will be of critical relevance.

China's historical dimension mirroring national experience, including the role of its leadership deserves particular attention. When we talk about how Chinese government mobilizes people's engagement and action, we need to remember that Xi's personal commitment is based on his own life, an aspect that is sometimes neglected by Western mass media and academia. As a young man, in Shaanxi Province's countryside in northwest China, Xi worked with farmers. He spent several years living in the small village of Liangjiahe on the Loess Plateau, leading countless development initiatives. Xi's people-centered philosophy explains the government's efforts to save people's lives at any cost during the COVID-19 pandemic.

The focus on balanced improvement of the living standards of more than 1.4 billion people is very concrete.

Apart from lifting more than 770 million people out of poverty since the reform and opening-up, social security and healthcare are key to protect human rights. They have been bolstered by a community-level health service system encompassing urban and rural areas, significantly contributing to a dramatic rise in life expectancy,

from 35 years in 1949 to more than 77 in 2019. Currently some Chinese cities like Beijing and Shanghai have surpassed some US cities in life expectancy. Indeed, the life expectancy in Beijing is now 82 years and in Washington, 77 years. That's a tremendous accomplishment.

Education advancement is another key in human rights promotion. Since universal education has been implemented, in the early days of the People's Republic of China, the net primary education enrollment rate was 20% and the gross junior secondary education enrollment rate was 3%. Less than two years ago, the net enrolment rate of the primary education reached 99.96% and that of the nine-year compulsory education was above 95%. Not to mention the extraordinary progress made in higher education, in 2020, the number of colleges and universities reached 2,738. Among the mechanisms, we can highlight several systems being implemented, including compulsory primary and middle school education, subsistence allowances, minimum wages, labour security supervision, labour dispute settlement, employment assistance, etc. And at an also decisive level, it's worth mentioning the advancement in reform of household registration system, community-level autonomy, transparency, litigation system, etc.

As a first-hand observer of China's gigantic modernization process spanning over four decades, I have friends in major cities and the countryside of China whose living standards have improved dramatically since the 80s. In March 2017, I had the chance to visit impoverished villages in Hebei Province adjoining Beijing, where I interviewed several farmers as well as local officials. They were knowledgeable, confident and hardworking.

The people I talked to were among the last 56 million poverty-stricken people, who finally abandoned that condition a couple of years ago during the period of the 13th Five-Year Plan (2016-2020).

China's experience is very significant for various countries in different continents. Of course, combating climate change and moving towards carbon neutrality will be the next challenge for the improvement of the living standards for China and for all of us, but at the same time it will lead the advancement of human rights to a new step.

(The author is Professor at ESADE; Director of Dialogue with China Project.)

# The Chinese Creation of the Whole-Process People's Democracy

Tao Wenzhao  
China

The whole-process people's democracy is a new concept created by China. On November 2, 2019, during his visit to Shanghai, General Secretary Xi Jinping proposed that people's democracy is a type of whole-process democracy. On July 1, 2021, the speech by General Secretary Xi Jinping at a ceremony marking the 100th anniversary of the founding of the Communist Party of China (CPC) used the term "develop whole-process people's democracy"<sup>[1]</sup>. On October 13, 2021, General Secretary Xi Jinping comprehensively expounded the whole-process people's democracy at the work conference of the Central People's Congress. On November 11, 2021, the Resolution of the Central Committee of the Communist Party of China on the Major Achievements and Historical Experience of the Party over the Past Century adopted at the Sixth Plenary Session of the 19th CPC Central Committee includes "develop the whole-process people's democracy"<sup>[2]</sup> into the "10 affirmations" in Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era. The part on politics of the fourth volume of *Xi Jinping: The Governance of China* which has come out recently is titled "Whole-Process People's Democracy". The whole-process people's democracy, so frequently emphasized on important occasions, highly generalizes China's democratic development; it is a key to understanding contemporary Chinese politics and a key to grasping China's future development.

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[1] Xi Jinping (2021, July 2). Speech at a Ceremony Marking the Centenary of the CPC. *People's Daily*, p. 2.

[2] *Resolution of the Central Committee of the Communist Party of China on the Major Achievements and Historical Experience of the Party over the Past Century* (p. 24). (2021). Beijing: People's Publishing House.

## I. Strategic Background of the Whole-Process People's Democracy

“Strategic issues are fundamental to a political party and a country.”<sup>[1]</sup> The CPC is a big party, leading a large country, undertaking a great cause, good at strategic thinking; this requires all Party members to look upon and reflect on issues strategically. The development of the whole-process people's democracy is undoubtedly a major strategic issue. Why is the issue of democracy highlighted today? Why is the new wording “whole-process people's democracy” used? In order to grasp the great significance of the whole-process people's democracy, we must observe the new development of the world situation and the new trend of the competition between the two systems, especially between China and the United States.

In today's world politics, there is no word used as widely as democracy, no word as confusing as democracy, and no word used as a bullying instrument by Western powers as democracy. The Western States and especially the United States apparently always preach democracy, interpret democracy in legal terms, wantonly wield the stick of democracy, cause dissent or discord here and there, and unite with those which agree with them and attack those with different views. At the end of 2021, the United States, pretending to be the “leader” of global democracy, initiated the so-called “summit for democracy” and purposely divided the world into democratic and non-democratic countries, pointing its fingers to its strategic rivals like China, Russia and many developing countries. As a non-Western developing socialist country, China is fundamentally different from the Western countries in nature, and it will never give in to the Western countries in strategy. In face of the Western democratic hegemony, how can China make breakthroughs regarding democracy? It's an urgent complex test for China.

China recognizes that democracy is a common value shared by all mankind. In the face of the abuse and misuse of democracy in today's world, especially the hegemony of Western democracy, non-Western countries face difficulties in choosing their way. On the one hand, if we simply identify with abstract democracy, we are likely to fall into the trap of Western democracy and be subject to its infiltration. In recent decades, in the expansion of Western democracy in some developing countries, copying the Western mode has brought about a great impact, leading to social

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[1] Keep Deepening the Party History Learning and Make Full Use of the Historical Experience of the Party over the Past Century. (2022, January 12). *People's Daily*, p. 1.

fragmentation and chaos. On the other hand, if we deny democracy entirely, we may stand on the opposite side of the West and become the target and the isolated object attacked by Western democracy. The sanctions, “color revolutions” and even wars initiated by the West in recent decades have caused great difficulties and disasters for some countries. China has prudently sized up the situation and first of all affirmed that “democracy is the common value shared by all mankind”. On September 28, 2015, President Xi Jinping stated in his speech at the General Debate of the 70th Session of the United Nations General Assembly that “peace, development, equity, justice, democracy and freedom are the common values of all mankind”<sup>[1]</sup>. Since then, China has reiterated this basic position on important diplomatic occasions. The white paper entitled “China: Democracy That Works” published by the State Council Information Office of the People’s Republic of China in December 2021 begins with “Democracy is a common value of humanity.”<sup>[2]</sup> The Sixth Plenary Session of the 19th CPC Central Committee included it in the important document: the Resolution of the Central Committee of the Communist Party of China on the Major Achievements and Historical Experience of the Party over the Past Century, which pointed out that since the 18th CPC National Congress, in its diplomatic work, China has made strategic planning on the major-country diplomacy with Chinese characteristics, advanced the development of a new type of international relations and the building of a human community with a shared future for mankind, promoted the shared human values of peace, development, fairness, justice, democracy and freedom, and steered the tide of human progress.<sup>[3]</sup> China recognizes democracy as a common value of humanity, which is to respect democracy because China regards democracy as a result of the historical development of mankind, as a result of the people’s pursuit of liberation, and as a result of the inheritance of world political civilization. It is a manifestation of the nature of the CPC and the State, and of China’s magnanimity and global vision.

China believes that democracy comes in more than one form. General Secretary Xi Jinping has repeatedly pointed out, “Civilization is rich and varied,

[1] Xi Jinping. (2015, September 2). Working Together to Create a New Mutually Beneficial Partnership and Community of Shared Future for Mankind—Chinese President Xi Jinping’s Speech at the General Debate of the 70th Session of the UN General Assembly. *People’s Daily*, p. 2.

[2] State Council Information Office. (2021, December 4). White Paper on *China: Democracy That Works*. Xinhuanet. Reviewed from: [http://www.news.cn/2021-12/04/c\\_1128130025.htm](http://www.news.cn/2021-12/04/c_1128130025.htm).

[3] *Resolution of the Central Committee of the Communist Party of China on the Major Achievements and Historical Experience of the Party over the Past Century* (p. 60). (2021). Beijing: People’s Publishing House.

and democracy is also diversified. Democracy is not a custom-made product, so there is no reason to demand that the whole world should follow the same and only mode and standard. Whether a country is democratic or not shall be judged by the people of the country. It is in itself an undemocratic act to deny a form of democracy because of its difference.”<sup>[1]</sup> “Democracy is the common value of all mankind, and it comes in more than one form or one standard. It cannot be interpreted and imposed by the monopoly of individual countries.”<sup>[2]</sup> In today’s world, there are more than seven billion people of more than 2,500 ethnic groups in over 200 countries and regions, so it is impossible to achieve democracy in a uniform way. Countries have different conditions, and each country’s democracy is unique, which is the result of long-term development, gradual improvement and endogenous evolution on the basis of the country’s historical inheritance, cultural tradition and economic and social development. American democracy is the result of the evolution of American history and practice, but it is neither representative of the world nor universal. American democracy is far from perfect, since it has obvious flaws, which have been evidenced by the political practice in recent years of the United States, including the farce of elections, the vetocracy, the riots in the streets and American, etc.

## II. Chinese Standard for the Whole-Process People’s Democracy

China has put forward objective criteria for judging democracy. Democracy is the right of peoples of all countries, not the patent of a few countries. Whether a country is democratic should be judged by the people of that country, not by a few outsiders. Whether any country in the international community is democratic should be judged jointly by the international community, not by a small number of self-righteous countries. On September 5, 2014, General Secretary Xi Jinping, in his speech at a ceremony marking the 60th anniversary of the founding of the National People’s Congress, said, “The best way to evaluate whether a country’s political system is democratic and efficient is to observe whether the succession of its leadership is orderly and in line with the law, whether all people can manage State affairs and social, economic and cultural affairs in conformity with legal provisions, whether the public can express their requirements without hindrance, whether all sectors can efficiently participate in the country’s political affairs, whether national

[1] Xi Held a Video Meeting with US President Joe Biden. (November 17, 2021) *People’s Daily*, p. 1.

[2] Xi Jinping Spoke by Telephone with President Anastasiades of Cyprus. (2021, December 1). *People’s Daily*, p. 1.



decisions can be made in a rational and democratic way, whether professionals in all fields can be part of the team of the national leadership and administrative systems through fair competition, whether the ruling party can serve as a leader in State affairs in accordance with the Constitution and laws, and whether the exercise of power can be kept under effective restraint and supervision.”<sup>[1]</sup> General Secretary Xi Jinping emphasized this point again in his speech at the work conference of the Central People’s Congress on October 13, 2021.<sup>[2]</sup> This set of criteria for democracy is very pertinent. For a long time, the Western electoral system, like the “one person, one vote” and party competition, has been packaged as the only standard of democracy by a few Western countries, and has become the instrument to seek hegemony for the Western democratic system and democratic discourse. But the world is colorful, and democracy comes in diverse forms. Measuring the world’s varied political systems with the Western ruler is inherently undemocratic. Either “one person, one vote” or political party competition represents a form of democracy, but by no means the entirety of democracy. It is a very important strategic move for China to put forward the criteria for evaluating democracy, which goes beyond concrete debate on a case-by-case basis and fundamentally subverts Western hegemony with evaluation of democracy.

China focuses on the effectiveness of democracy. The form and essence of democracy are both unified and contradictory. Under the Western capitalist system, the form often conceals the essence; under the form covered up in the hustle and bustle, there is the final control of power by capital. According to General Secretary Xi Jinping, “Democracy is not an ornament to be used for decoration; it is to be used to solve the problems that the people want to solve. To judge whether a country is democratic, it is important to see whether the people are truly masters of the country and whether they have the right to vote or not, and it is all the more important to see whether the people have the right of broad participation; it is important to see what verbal promises people have got during the electoral process and it is all the more important to see how much of the promises has been fulfilled after the election; it is important to see what political procedures and rules the system and laws have provided, and it is all the more important to see whether the rules and laws have been

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[1] Xi Jinping. (2014, September 6). Speech on the Celebration of the 60th Anniversary of the Founding of the National People’s Congress. *People’s Daily*, p. 2.

[2] Adhering to and Improving the System of People’s Congresses and the Continuous Development of People’s Democracy Throughout the Process. (2021, October 15). *People’s Daily*, p. 1.

truly implemented; it is important to see whether the rules and procedures governing the exercise of power are democratic, and it is all the more important to see whether the exercise of power is truly supervised and restricted by the people.”<sup>[1]</sup> Obviously, the democracy in the West focuses on the aspect of “it is important to see” while the democracy in China involves “it is important to see” and “it is all the more important to see”, emphasizing both the form and the essence. To judge whether a form of democracy is good or not, practice is the most persuasive, and the people have the greatest say; in the final analysis, it is determined by whether people can live a good life. All in all, whether democracy in China is satisfactory depends on whether the Chinese people are satisfied and whether they support it or not. Relevant data show that in recent years, the Chinese people’s degree of satisfaction with the Chinese government has been kept at over 90% every year<sup>[2]</sup>, which speaks eloquently of the strong vitality of Chinese democracy. China’s situation is so complex that it poses considerable difficulties rarely seen elsewhere for governance. China’s democracy achieves the harmonization of the will and interests of all sides and the unity of all sides on the basis of common thinking, common interests and common goals so that the people live and work in peace and contentment and society is harmonious, stable and brimming with vitality. In the past few decades China has gone through the process of industrialization that took the developed Western countries hundreds of years to go through. Despite drastic social changes, China sees no social turbulence that is likely to occur in the modernization process in late-developing countries. China has created not only a miracle of rapid economic development, but also a miracle of long-term social stability. The two miracles are achievements of both social development and democratic development. It should be noted that the development of democracy and the modernization of national governance are concomitant, interactive and mutually reinforcing. Good democracy is bound to advance national development. Failure of national governance and piling-up of domestic problems cannot be a model of democracy. An overview of the democracy in the United States today shows that society is divided, riots keep popping up, trust is lacking or declining, and work is inefficient. In particular, among the high-ranking government officials, the demands of the two parties are very different, politicians

[1] Adhering to and Improving the System of People’s Congresses and the Continuous Development of People’s Democracy Throughout the Process. (2021, October 15). *People’s Daily*, p. 1.

[2] State Council Information Office. (2021, December 4). White Paper on *China: Democracy That Works*. Xinhuanet. Reviewed from: [http://www.news.cn/2021-12/04/c\\_1128130025.htm](http://www.news.cn/2021-12/04/c_1128130025.htm).

have been criticizing each other, and vetocracy has become a common practice which reflects the prevailing thought of “I won’t let you make it since I cannot do it”.

The whole-process democracy is a vivid reflection of the current democratic practice in China. In terms of fields and parts, the whole-process people’s democracy covers all aspects of economy, politics, culture, society and ecological civilization, and all the parts such as democratic election, democratic consultation, democratic decision-making, democratic management and democratic supervision. In all aspects of the political and social life of the country, the will of the people is reflected, and the voice of the people is heard. In terms of the forms and characteristics, the whole-process people’s democracy involves not only the people exercising their rights through elections and voting, but also full consultation among all parties of the people before major decisions are made to reach a consensus on issues of common interests as far as possible. In practical effect, the whole-process people’s democracy realizes the unity of process democracy and result democracy, procedural democracy and substantive democracy, direct democracy and indirect democracy, people’s democracy and the will of the State. In 2021, the Fourth Session of the 13th National People’s Congress adopted a decision to amend the Organic Law of the National People’s Congress, adding that “the National People’s Congress and its Standing Committee stick to whole-process democracy and maintain close ties with the people by heeding people’s comments and suggestions, reflecting people’s will, and safeguarding people’s rights and interests”. The whole-process democracy makes a point of bringing into play the initiative and creativity of the people. For example, there are five levels of people’s congress in China: State, provincial, municipal, county and township, with a total of 2.62 million deputies, among whom the deputies at county and township levels account for 94.5%.<sup>[1]</sup>

China heeds and makes public the comments and suggestions of the people through various forms and channels, and especially through the active adoption of information technology in recent years. The draft of the Outline of the 14th Five-Year Plan (2021-2025) solicited 1.018 million pieces of advice. Upon the compilation and launch of the Civil Code, more than 1.02 million opinions and suggestions have been received from 425,000 people. All these are vivid practice of the whole-process people’s democracy and active attempts for expanding citizens’ orderly political

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[1] State Council Information Office. (2021, December 4). White Paper on *China: Democracy That Works*. Xinhuanet. Reviewed from: [http://www.news.cn/2021-12/04/c\\_1128130025.htm](http://www.news.cn/2021-12/04/c_1128130025.htm).

participation. The 20th CPC National Congress is a major event in China's political life. To implement the essence of the important instructions of General Secretary Xi Jinping, opinions related to the 20th CPC National Congress began to be solicited on the online platform on April 15, 2022, and the work lasted till May 16, 2022. The contents of the opinions solicited online mainly concern eight aspects: adhering to and strengthening the overall leadership of the Party, and exercising full and rigorous Party self-governance; grasping the new stage of development, applying the new development philosophy, fostering a new development pattern and promoting high-quality development; comprehensively deepening reform and opening-up; proactively developing the whole-process people's democracy; advancing law-based governance in an all-round way; building a socialist cultural power; ensuring and improving public wellbeing; and enhancing ecological conservation.

### III. China's Contribution to the Whole-Process People's Democracy

China has created the whole-process people's democracy and enriched the forms of political civilization. In recent decades, amid surging waves of democratization, some countries have stagnated, some have fallen into turmoil, and others have fallen apart. Today's world is confronted with "democratic surplus" and "democratic overspeed" as well as "democratic deficit" and "democratic discoloration". What has happened to democracy? Does democracy still work? Figuring out the answer to the question about democracy and straightening out the democratic conceptions are of vital importance to the world's peaceful development and the future of human civilization. Since the 18th CPC National Congress, China has deepened its understanding of the law governing the development of democratic politics and put forward the important concept of the whole-process people's democracy by summing up China's practice of democratic politics. For a long time, the United States and other Western countries have labelled themselves as democratic countries, taught or criticized other countries in the name of teachers of democracy, and attempted to launch the so-called "democratic alliance" and "democratic economy" to lay a siege to China. The whole-process people's democracy directly cuts to the heart of the defects of Western democracy and exposes the hypocrisy of Western democracy. "If the people are only aroused when they vote and forced into sleep mode after they vote; if their ears are filled with exaggerated tales and slogans when they vote and they have no say after the election;

and if they are approached only when they vote and left out after the election, such democracy is not true democracy.”<sup>[1]</sup> Western democracy is out-and-out intermittent democracy, fuse-style democracy. It is undeniable that Western capitalist democracy represents a great progress compared with the despotism of the Middle Ages, and the essence of the people’s struggle has also been condensed in the practice of Western democracy. However, it should be noted: “Bourgeois democracy, although a great historical advance in comparison with medievalism, always remains, and under capitalism is bound to remain, restricted, truncated, false and hypocritical, a paradise for the rich and a snare and deception for the exploited, for the poor.”<sup>[2]</sup>

By developing the whole-process people’s democracy, China is contributing to the world democracy. “The world today is undergoing great changes of a magnitude not seen in a century. Institutional competition is an important aspect of composite national strength competition, and institutional advantage is an important advantage for a country to win strategic initiative.”<sup>[3]</sup> Today, more than at any other time in history, we are closer to the goal of achieving the great rejuvenation of the Chinese nation. However, the great rejuvenation of the Chinese nation can never be achieved with ease by beating the drums and gongs. It can even be said that the closer the great rejuvenation of the Chinese nation is to fulfillment, the more the resistance and the louder the curse there will be. We have put an end to the history of being beaten and starving, and today we focus our efforts on solving the problem of being scolded for no reason. Today, the Western world led by the United States is trying to besiege China in an all-round way. China is being scolded in an all-round way, for its economy, culture and especially politics. After the trade war initiated by the United States, the same country has deliberately provoked a clash of values that makes democracy become a focus of international competition. The competition between the two systems is becoming increasingly acute in terms of democracy. When the Western democratic system becomes the tool of capital competition all the more and increasingly exposes its inherent malpractice, it is a good opportunity for socialism to manifest the advantages of its democracy. In contrast to the

[1] Adhering to and Improving the System of People’s Congresses and the Continuous Development of People’s Democracy Throughout the Process. (2021, October 15). *People’s Daily*, p. 1.

[2] Vladimir Ilich Lenin. (2012). *Lenin Selected Works* (Vol. 3, p. 601). Central Compilation and Translation Bureau (Trans.). Beijing: People’s Publishing House.

[3] Adhering to and Improving the System of People’s Congresses and the Continuous Development of People’s Democracy Throughout the Process. (2021, October 15). *People’s Daily*, p. 1.

West, China has achieved whole-process people's democracy at home and the people are truly masters of the country. China advocates democratization of international relations and supports all countries to independently choose their own path of democratic development. China's whole-process people's democracy targets the essential defects of Western democracy, highlights the institutional advantages of Chinese democracy, and provides a new solution for the development of democracy.

(The author is Deputy Dean of the School of Marxism Studies, Renmin University of China; Vice President and Professor of the Academy of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era.)

## The Need for Latin America to Enrich Its Democracy Together with Other Countries

Gustavo Ng  
Argentina

Because this speech talks about the possibilities of multilateralism as a setting to discuss democracy, it is necessary to make it clear that I am speaking from a certain point on the planet, which is the Argentine Republic.

Argentina has a territory extremely rich in natural resources and its society has made important contributions to world culture. Our agriculture could feed 600 million people. However, we have a population of only 47 million and almost 40% of our population lives below the poverty line.

Argentines want to know how the Chinese did to end poverty, with a population that is 30 times larger than ours.

We wonder if the contrast between our two realities involves the issue of democracy.

In many ways, Argentina, like any Latin American country, represents all of Latin America.

Certainly, when talking about current notions of democracy in Latin America, the experience of one of our countries is very representative of the entire region.

One of the reasons for this uniformity is the economic dependence that our countries have on the main powers of the Western World.

In the process of gaining independence from the European colonial empires, our nations achieved some success, but they never managed to establish themselves definitively as sovereign economies.

In the particular way of dominating other countries of those colonial empires, economic and political measures were always two-pronged. On one side, there were the local sectors supported by the empires that worked for the interests of the empires. On the other side, Western empires, especially the United States, have used

the overthrow of elected governments in Latin America and the support of puppet rulers as their *modus operandi*.

In this way, the internal interference of the United States in our political life has been homogeneous in Latin America. It is noteworthy that in the same way they interfered in our symbolic superstructure. Hollywood stands as an emblem of the transmission from the United States to our countries, of moral values, sense of life, model of family, individual and society, desires and aspirations, in short, a way of life, a common sense and a worldview.

Since the 1960s, the political interventions of the United States and its allies in Latin America have taken the form of ousting civilian governments and making military governments rule the region for several years. As you know, there were military dictatorships in almost all our countries, which were ruled by practicing State terrorism and which invariably created the conditions for the unrestricted establishment of neoliberal economic system. Our societies suffered from these dictatorships in many ways. The tortures, the disappearances, the murders, the theft of babies, the alienation of all kinds of property, from houses to companies, were the most horrifying form. On the other hand, the imposition of a market without State intervention, like a hunting ground for the most powerful, broke the middle sectors and generated an increase in social injustice and poverty that was not recorded until then.

In the same way that more than a century before our societies fought for independence, during those dictatorships, they fought for the return to democracy. For us, democracy was the sign of freedom from the oppression imposed upon our peoples by the military and economic sector that operated in collusion with the military. For us, democracy was the symbol of the realization of constitutional rights and human rights and the end of State terrorism. For Latin Americans, democracy became nothing more and nothing less than the possibility of surviving, of being alive, of not being assassinated, of not finding out one day that our mother, our co-worker, our brother, our friend or our daughter, had been kidnapped by the government. So in this way, democracy, from the period of those dictatorships, gained a sacred status for Latin Americans. Democracy is intangible for us. We can discuss everything, but on the basis that we all respect the democracy.

The demonic violence of the military dictatorships in Latin America shocked us in such a way that when they ended, the great majority of our peoples only saw the



military as primary actors of violence and only knew the appalling crimes they had committed. Only over the years did we begin to understand that terror had been the strategic step to establish an economic order that would aggravate social injustice, marginalize more and more people from a dignified life and rapidly concentrate the wealth of our countries in a few hands. The recovery of democracy did not stop the economic process of neoliberalism, which continues to this day.

In my country, Argentina, the first president of the recovered democracy, Raul Alfonsín, was a visionary in this sense, repeating in his speeches that democracy was equivalent to education, social welfare and an equitable distribution of wealth.

As our democratic governments could not solve the economic problems of the peoples, we began to speak of “formal democracy”. Meanwhile, we saw that the phenomenon was not exclusive to Latin America, but that something similar was happening in those countries that we considered bastions of democracy. Both the United States and the powers of Europe raised their democracy as the system that the entire planet should apply, while in the international order they exercised their power in a dictatorial way.

Of course, implementing Western democracy in a dictatorial way was not a new phenomenon. It appeared in the beginning of colonialism, as well as in the installation of puppet governments, in the exercise of military dictatorships and in the punishment of countries that rebelled against their will, as is the case of Cuba, which has suffered an inhumane blockade for six decades. However, it was when we Latin Americans began to realize that our democracies were just formal, that we clearly understood that the democracies of Western countries were also formal. They were formal democracies in the international order and also in the internal order.

When any of these countries comes to lecture us about our democratic fragility, we consider that their speech is hypocritical, because the democracy they advocate is a cynical one.

The truth is that materializing a cynical democracy, in the best of cases, can only form an empty democracy. An empty democracy is one that claims rights that it does not make effective. The distance between an empty democracy and a real democracy is the same between the declaration of a right and its implementation.

Our Latin American peoples need real democracies, that are not banners of the ruling classes that exploit the rest of society, but that focus on the well-being of all people.

For an evolution from an empty democracy to an effective democracy in each of our Latin American countries, the international order plays a substantial role. We believe that this role should be given through horizontal dialogue between nations. In other words, the exchange focused on the benefit of the people is essential to give content to our formal democracies in Latin American countries.

From the field of social communication, we have full confidence in the beneficial experience gained by peoples when they are in touch authentically. Our peoples need to know each other's lives, and learn from the way in which democracy and the lack of democracy could affect their lives.

The peoples of Latin America need to directly know the life of the Chinese. We need to understand, as I said, the relationship between Chinese democracy and how the Chinese people ended extreme poverty. Right now, the media in major Western countries is engaged in a campaign against China. That is a dead-end way. The Chinese government has a generous desire to make its experiences known, in an effort that faces great challenges of the difference in languages and the lack of established communication channels. However, our peoples have the desire to know how China's destinies are decided by the Chinese people.

We hope that in the future more and more effective mechanisms can be established for the exchange of politicians, academics, journalists, artists, intellectuals and students. In short, we need horizontal communication that allows an exchange of experiences related with democracy.

(The author is Founder and Editor-in-Chief of *Revista DangDai*.)



Part 3 :

Public Health Security and Human  
Rights Protection

## Public Health Security and Human Rights Protection in Cambodia

Keo Remy  
Cambodia

Since the end of 2019, we have encountered “unprecedented event” of a global health crisis caused by the COVID-19 pandemic where we have all witnessed the tragic loss of millions of lives. COVID-19 pandemic has ravaged the economy, triggered rapid changes to the structural foundations of the governments and brought us to revisit how vital public health security and human rights protection were to a nation and even the whole world. People are the foundation of a State.

A government governs for the people and relies on the people. I believe that in the whole process of people’s democracy, there is a comprehensive and coordinated system that cover extensive and regular participation to ensure that people’s voices are heard and their needs are reflected in all aspects of a country’s political and social life. Since the beginning of the outbreak of the global pandemic, China has taken swift actions to protect their people by establishing rigorous and thorough protection measures and comprehensive control measure for curbing the spread of the virus. On the international front, China has also provided vaccines to other countries and have saved lives of millions of people. Allow me to reaffirm Cambodian’s gratitude to the Chinese’s government and people for supporting Cambodia in fighting against the pandemic.

In this great opportunity, allow me to share some perspectives and insights relevant to the public health security and human rights protection in the context of the COVID-19 pandemic in Cambodia.

Cambodia has been ravaged by wars before, but this war against the invisible virus has also crippled us by causing the death of a large population and stalling our economy and impacting on societal structures. The royal government of Cambodia, under the leadership of Samdech Techo Hun Sen, Prime Minister of Cambodia,

called for the need to accord the utmost importance to the public health security and renews urgency to the protection of the right to health of the citizens. Vaccinations and booster, as well as medical care and treatment were provided across the country swiftly. The right to public health was further guaranteed for the people in prisons or detention centers to ensure accessibility to vaccination and medication. Emergency cash transfers were also set up and rolled out to vulnerable households to deal with the repercussion of the pandemic by ensuring protection of livelihood and redoubling efforts to help businesses and corporations retain jobs. The people have demonstrated their solidarity further by donating more than 56.9 million dollars against this plight. With national solidarity and civic participation, Cambodia was able to control and contain the disease and by the end of 2021, the government has fully re-opened the country and abolished the mandatory mask-wearing, living with COVID-19, adjusting to the new normal.

The government of Cambodia remains and will be committed to ensure the public health security and human rights protection by effectively working and engaging with its people, relevant stakeholders and foreign interested parties, upholding the basic principles of human rights, through monitoring, protection, technical support and cooperation, capacity building of relevant local actors, and strengthening the accountability of the State, to fully promote and protect human rights.

It is our aspiration that Cambodia can contribute to the betterment of public health security and promotion and protection of human rights for years to come, for increasing its scope and depth. I would like to conclude my remarks by reaffirming our commitment to raise the awareness as regards the significance of respecting and protecting human rights in the course of work related to health, security, politic and development.

Every State has the responsibility to safeguard their citizens' health and well-being. We hope to work together towards an even fairer, more equitable, reasonable and inclusive global human rights governance. And I wish all States to be prosperous and the peoples to live in peace and obtain a stronger sense of fulfillment, happiness, and security.

(The author is Minister attached to the Prime Minister; President of the Cambodian Human Rights Committee.)

# Limitations on and Protection of Social Rights by the Government's Emergency Preparedness Actions Against COVID-19

Gong Xianghe & Zhang Yaoyuan  
China

In China, the state of emergency can only be declared in case of particularly significant emergencies such as political riot, while the state of preparedness applies to general emergencies, such as natural disasters, serious accidents and public health emergencies. As a major public health emergency, the outbreak of COVID-19 can at least constitute a national state of preparedness. In this state, the government needs to control the spread of the virus by necessary legal means, that is, emergency preparedness actions which will inevitably limit citizens' social rights.

The basic rights of people include the rights to freedom and social rights. The principle and method of restricting them are not the same. Existing theories about the limitations on basic rights concern primarily with the rights to freedom, and rarely social rights. This paper argues that in epidemic prevention and control, the government's emergency preparedness has the dual effect of limiting and protecting social rights, which means that in the state of preparedness, social rights can be limited, but also protected and even advanced.

## I. Limitations on Social Rights in Emergency Preparedness: Necessity and Justification

The logic basis of the existence and exercise of the State emergency power is that "necessity begets justifiability, and justifiability begets legality"<sup>[1]</sup>. Therefore, in order to justify the limitation on social rights by the government's preparedness actions, we should first make clear the necessity of these actions.

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[1] Teng Hongqing. (2018). *Emergency Constitution: Emergency Justice for Freedom and Security* (p. 209). Beijing: Law Press.

### 1. The necessary “evil” done by the government’s preparedness actions to social rights

The main purpose of the government’s preparedness actions is to restore the State and society to normality as soon as possible, but the pursuit of efficiency and the fear of unknown make it impossible for the government to fully observe the normal order of rule of law, so sometimes it is inevitable to harm the citizens’ rights. That’s why the government’s preparedness actions are labeled as “evil”.

From the perspective of political science, the government’s preparedness actions are necessary for the country. Aristotle believed that the State was the highest kind of community aimed for pursuing the highest “good”, and it’s necessary to take extraordinary measures to attain that purpose. By comparing the State to a fictional figure known as Leviathan, Thomas Hobbes recounted the extreme dangers of anarchy, or “state of nature”, thereby justifying the need for emergency powers.<sup>[1]</sup> Rousseau, on the basis of Hobbes’ social contract theory of “obedience for protection”, proposed the abstract idea of “public will” with tints of mysticism, and demanded that everyone should obey the supreme guidance of “public will”. Therefore, when a crisis arises, there must be a supreme power in place of the law to uphold and enforce the “public will”.<sup>[2]</sup> Hence the Chinese government’s preparedness actions taken in response to a major emergency crisis, which break the normal legal order, and partially restrict people’s rights, are essentially necessary for safeguarding public interests.

From the perspective of legal philosophy, rights conflicts that arise in the practice of rights protection show that it is objectively necessary for the government to limit rights in its preparedness actions. The conflict of rights should be limited between lawful and justifiable rights<sup>[3]</sup>, which is actually the conflict between objective interests and subjective values. In reality, different people have different interest orientations. Especially in the epidemic prevention and control, the fierce conflict of interest among different people is magnified to the extreme, and it’s almost impossible to satisfy both sides; someone must make a compromise. Every person is more or less different in the way they perceive things. “This difference,

[1] Bertrand Russell. (1976). *A History of Western Philosophy* (Vol. 2, pp. 82-83). Ma Yuande (Trans.). Beijing: The Commercial Press.

[2] Jean-Jacques Rousseau. (1997). *The Social Contract* (p. 36). He Zhaowu (Trans.). Beijing: The Commercial Press.

[3] Liu Zuoxiang. (2002). Several Theoretical Problems of Rights Conflict. *China Legal Science*, 2, 57.

when tiny and subtle, is not enough to create and form conflicts; but when it escalates to a certain degree and produces fierce tension, conflicts will arise.”<sup>[1]</sup> In the state of preparedness for epidemic prevention and control, the value opposition between the State (government) and individuals becomes more acute, and the conflict of rights is inevitable. Therefore, in the state of preparedness, there must be an authoritative force to decide on whether to restrict or to protect relevant rights, and this force is the government’s emergency power.

## 2. The justification of limitations on social rights in emergency preparedness

The justification of limitations on rights concerns the purpose of the limitation; in other words, the limitations must have good reasons.<sup>[2]</sup> The purpose of the limitations refers to the desired result of the limitations.

In history, when major infectious diseases broke out, the only effective measure a government could take was mass isolation and quarantine. But as the relationship between plagues and social stability became clearer, the government attitude and reaction became more and more politicalized, and the main difference lied in the organization of social resources to deal with the epidemics and the transparency degree of epidemic-related information. Although modern governments pay more attention to the protection of individual rights in response to the epidemic than ancient ones, this does not mean that governments should bind their own hands in the face of epidemics. “Skills, knowledge and organization will change; what won’t change is the fragility of human being in the face of epidemic disease.”<sup>[3]</sup> From the perspective of path dependence, the government’s restrictions on social rights in preparedness actions bear on human survival and accord with the survival instinct.

In terms of norms, Article 4 of the International Covenant on Economic, Social

[1] Liu Zuoxiang. *op. cit.* 60.

[2] Some scholars argue that the justification theory of the restrictions on fundamental rights mainly concerns the purpose of and reason for the restrictions, and according to Article 51 of the Constitution, the purpose of restrictions is to better protect the rights, and the reasons for restrictions are for the “the interests of the State, of society and of the collective”, and “the lawful freedoms and rights of other citizens”. See Shi Wenlong. (2014). Development of the System of Restrictions on Fundamental Rights in China—Article 51 of the Constitution of China vs. Article 19 of the Basic Law of Germany. *Journal of Comparative Law*, 5, 168. The authors believe that justifiability is a higher degree of abstract generalization of the essence, and the reason for the restrictions on rights is based on the specific justifiable situation of the restrictions, so the reason for restrictions is taken as the specific cause or condition for restrictions.

[3] William McNeill. *Plagues and People* (p. 237). Yu Xinzhong & Bi Huicheng (Trans.). Beijing: China CITIC Press.



and Cultural Rights (ICESCR) states that the restrictions on social rights are for the purpose of “promoting the general welfare” in a society. But in Limburg Principles on the Implementation of the ICESCR adopted in 1986, it specifies: “Article 4 was primarily intended to be protective of the rights of individuals rather than permissive of the imposition of limitations by the State.” It can be seen that the purpose of imposing limitations is not for the so-called “promoting the general welfare” in a society, but for the protection or even expansion of individual rights, and also for limiting the limitations imposed by the State. The limitations on the fundamental rights stipulated in Article 51 of the Constitution should also be understood as “limitations for the sake of protection”, that is, “limitations on limitations” in essence. In other words, “the Constitution’s provisions of limitations on fundamental rights should focus not only on how to limit citizens’ exercise of fundamental rights, but also on how to limit the limitations themselves”<sup>[1]</sup>.

## II. The Dual Influence of the Government’s Preparedness Actions on Social Rights: Restrictive and Protective

The impact of the government’s preparedness actions on social rights is twofold: the former limits the latter to a certain degree, but at the same time, it also expands the scope and increase the intensity of protection. But there is still misunderstanding about the “limitations only” on social rights, and the purpose and boundary of such limitations are not clear, so the theory of social rights protection has failed to further evolve during epidemic prevention and control.

### 1. The “limitations-only” misconception

(1) Is it true that government’s preparedness actions have only limitations on, but no protection of social rights?

Of course not. This misconception is mainly shaped by the conventional thinking of “knowing about only limitations and not expansion”. Because theories about restrictions on basic rights are often centered on the rights to freedom and lack analysis of limitations on social rights, it is easy to confuse the limitations on the rights to freedom with those on social rights. But rights to freedom and social rights are obviously different in nature: the former is mainly reflected in the passive inaction of the State, while the latter in the initiative of the State to

[1] Zhao Hong. (2011). Limitations on Limitations: The Inherent Mechanism of the German Model of Limitations on Fundamental Rights. *Jurists Review*, 2, 163.

facilitate and provide public services. Therefore, the theory about limitations on the rights to freedom cannot be simply applied to those on social rights; otherwise, we would be ignoring another important aspect—the protection of social rights in the government’s preparedness actions.

Comparatively speaking, social rights have a more limited scope and much less influence than the rights to freedom. Moreover, relevant theoretical research on the limitations on basic rights in China “is mostly confined to the hypothesis that the system of rights to freedom is the premise of the theory, and the biggest problem with such research is the avoidance of the rights in real life”<sup>[1]</sup>. In addition, the question of whether social rights are actionable is another reason why theorists specialized in limitations on basic rights rarely touch on the topic. In practice, “when the State protects and practices the fundamental social rights, it must not only go through legal procedures, but also highly respect the individual and traditional fundamental rights to freedom, to obtain the maximum coordination and the minimum limitations on the rights to freedom”<sup>[2]</sup>. In other words, even if a State accepts a citizen’s request for remedy for his/her social rights, it is subject to strict legal procedures, and social rights must be compromised when they are in conflict with the rights to freedom. Therefore, in the West, few countries directly grant protection of social rights, and even if they do, in practice social rights must be subjugated to the rights to freedom.

Secondly, theories of restrictions on basic rights based on the rights to freedom tend to focus on whether the restrictions are constitutional and hope to protect the basic rights indirectly through “limitations” on limitations, while neglecting direct protection of rights. When such a theory is applied to the restrictions on social rights by the government’s preparedness actions, the latter’s direct protection of social rights is naturally neglected. But social rights are realized mainly by having the State fulfill active obligations, and even in the state of preparedness, they should be realized through active guarantee, not passive limitations. After all, “the most important purpose of limitations on basic rights is to strengthen the protection of basic rights”<sup>[3]</sup>. Therefore, the theory of restrictions on basic rights based on the rights to freedom is very different from that of restrictions on social rights and the two are

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[1] Zhu Jun. (2018). *A Controlled Study on the Limitations on Social Rights and Their Constitutionality* (p. 66). Nanjing, China: School of Law, Southeast University.

[2] Chen Xinmin. (2010). *Basic Theory of German Public Law* (p. 702). Jinan, China: Shandong People’s Publishing House.

[3] Gao Huiming. (2015). On the Prohibition of Abuse of Fundamental Rights. *Tsinghua University Law Journal*, 1, 127-128.

not interchangeable.

(2) The confusion of social rights and their way of realization

The second reason for this misconception is because social rights themselves are confused with the way of their realization, which leads to the mistaking of limitations on the way of realization as direct limitations on social rights. This occurs when people lack clear criterion for judging whether social rights are restricted or not, and can only speculate based on personal experience. The key to correctly distinguishing the right itself from the way of its realization lies in clearly defining the criteria of whether social rights are restricted, that is, whether the inherent action of obtaining benefits is restricted, and whether the State obligations are being actively, fully and reasonably fulfilled.

To judge whether social rights are restricted, we need to clarify their object which is human actions to obtain the subsistence and development interests. Here, subsistence interests refer to the right to subsistence including the right to a proper standard of living and the right to health, and development interests refer to such rights as the right to education, the right to work and other social rights. Therefore, an important criterion to judge whether the social rights are restricted is to examine whether the State obligation to realize social rights is fulfilled actively. In other words, we should judge whether rights are limited on the basis of whether these rights are fully realized in a progressive manner, whether the State has taken sufficiently reasonable measures with the intension to achieve full realization of these rights in a progressive manner, whether the State has given priority to the most urgent needs of the vast majority of vulnerable groups in society, or whether it has proved impossible to realize these rights immediately.

For example, during the height of the pandemic, the government ordered people to “stay at home”. Though the imposed quarantine affected the realization of the right to work, there was no direct causal relationship between the two—the direct purpose of restricting people’s movement was not to impede the realization of the right to work. In comparison, the government order for economic shutdown was the direct cause of the restriction on the right to work. When the situation improved, the government responded immediately by organizing large-scale resumption of work and production, and even adopted a range of measures to stabilize employment.<sup>[1]</sup>

[1] See *Implementation Opinions of the General Office of the State Council on Strengthening and Measures to Stabilize the Employment Situation in Response to COVID-19*. (2020, March 20). Gov.cn. Reviewed from: [https://www.gov.cn/zhengce/content/2020-03/20/content\\_5493574.htm](https://www.gov.cn/zhengce/content/2020-03/20/content_5493574.htm)

This shows that, in the state of preparedness amid the pandemic, the State is doing its utmost to use sufficiently reasonable means to gradually fulfil its active obligation to guarantee the right to work, despite restrictions on freedom of movement. In particular, it also provides special subsistence guarantee for vulnerable groups. Freedom of movement is actually only one way to realize the right to work, and limited movement does not mean that the right to work will be limited. Moreover, with the development of digital technology, a great deal of work can be done on the Internet, the dependence on physical presence is gradually weakened. The restriction on freedom of movement has been proved not as big an obstacle as imagined to the right to work.

## 2. Protection of social rights in the government's preparedness actions

### (1) The restriction boundary of the government's preparedness actions

The protection of social rights in the government's preparedness actions can be examined from two aspects: one is passive protection of social rights by defining the boundary of limitations on social rights; the other is active protection realized directly through such actions. Before moving on to their protection of social rights, we need to first discuss the boundary of the limitations on social rights in these actions.

First of all, the international human rights treaties stipulate three restrictive factors for the limitations on social rights. First, limitations must be determined by law. The government, while taking preparedness actions, should respect the social rights stipulated in the law, and even in the case of epidemic prevention and control, it must not arbitrarily restrict social rights, but should seek authorization from the law. Second, limitations must meet just requirements. In the state of preparedness, the government should meet the first goal of "promoting general welfare" and the second of "protecting individual rights", at least not go against them. Third, the government must offer special measures to protect vulnerable groups. Due to historical, physiological and social reasons, special groups such as children, persons with disabilities, women, sexual minorities and patients with serious diseases are naturally in a relatively disadvantaged position, so the government should be more careful about imposing limitations on their social rights.

In the Constitution, in addition to Article 51 "when exercising their freedoms and rights, citizens of the People's Republic of China shall not undermine the interests of the State, society or collectives, or infringe upon the lawful freedoms

and rights of other citizens” and Article 53 “citizens of the People’s Republic of China must abide by the Constitution and the law, keep State secrets, protect public property, observe discipline in the workplace, observe public order, and respect social morality”, which echo the above two restrictive factors stipulated in international human rights treaties, the fourth paragraph of Article 14 “the State shall establish a sound social security system compatible with the level of economic development” mentions another restrictive factor for imposing limitations on social rights, namely, the “level of economic development”. “The degree of the realization of social rights is closely related to the level of economic development, and the insufficient and excess protection of social rights will cause certain damage to economic development, and thus break the balance between them.”<sup>[1]</sup> Restrictions on the limitations on social rights and restrictions on social rights are in fact two sides of the same coin. When in the state of preparedness, the government must take into account the level of local economic development while restricting social rights.

Last but not least, there is a red line that must not be crossed for the limitations on social rights: the absolute, non-derogable rights—the rights related to human subsistence and dignity. Social rights also have contents reflecting their, which can be reflected differently in different environments and traditions, but the rights directly based on human subsistence and dignity are surely recognized by all. As the income gap widens, the maintenance of human life alone is no longer sufficient to guarantee the dignity that all members of society deserve. Therefore, the concept of the right to subsistence requires the State to provide the minimum means of subsistence to protect the right of individuals in real life.<sup>[2]</sup>

#### (2) The guarantee of social rights in the government’s preparedness actions

In the fight against COVID-19, the Chinese government has adopted a series of preparedness actions to “satisfy people’s basic living needs”, most of which offered direct, active protection of social rights. This shows that even in the state of preparedness, the government has never waived its obligation to guarantee social rights.

First, the government should guarantee the right to health. The ICESCR (para. 1, Article 12) defines the right to health as “the right of everyone to the enjoyment

[1] Gong Xianghe & Dong Hongwei. (2015). Reasonable Range of Social Rights Protection under Economic Development. *Thinking*, 1, 64.

[2] Gong Xianghe. (2011). Critique and Reconstruction of the Concept of Right to Subsistence. *Study & Exploration*, 1, 103.

of the highest attainable standard of physical and mental health”. In other words, the protection of the right to health concerns not only physical health, but also mental health and a healthy social environment. But it does not require the State to ensure everyone’s health or to provide everyone with the highest-quality health services, which is not realistic under the current economic and social conditions. Therefore, as long as the government can make full use of its existing economic and social conditions and reach the best state that the whole society can achieve, it can be said that it has guaranteed the citizens’ right to health.

Second, the government should guarantee the right to education. The right to education is a basic human right that citizens enjoy according to law, which requires the State to actively provide equal conditions and opportunities for education, help develop their individuality, talent and physical and mental abilities through learning, and offer equal opportunities for survival and development.<sup>[1]</sup> The right to education is both active and passive, and the State can guarantee it by either passively respecting and protecting it from interference, or actively offering and guaranteeing the conditions and opportunities for its realization.

Third, the government should guarantee the right to subsistence. Although there is no universal agreement on the concept of the right to subsistence, the academic community has reached a consensus on the application of the “human dignity” and the “minimum standard” it implies.<sup>[2]</sup> In modern society, however, almost no one can fully meet his/her basic living needs by himself/herself alone. Therefore, to make a person human, the State must assume certain obligations to provide and guarantee public goods and services.

Fourth, the government should guarantee the right to work. The right to work

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[1] Gong Xianghe. (2004). *On the Right to Education* (p. 24). Beijing: Publishing House of the People’s Public Security University of China.

[2] For example, Gong Xianghe holds that “the right to subsistence does not include the right to life, but only the right to a proper standard of living, the right to health and the right to social security”. See Gong Xianghe. (2011). Critique and Reconstruction of the Concept of Right to Subsistence. *Study & Exploration*, 1.

Shangguan Piliang believes that “the right to subsistence does not include the right to life, but only the right to a proper standard of living”. See Shangguan Piliang. (2006). What Is the Right to Subsistence? *Journal of Jiangsu Police Institute*, 6.

Xu Xianming believes that “the natural form of the right to subsistence is still life, with the environment, health and peace as its contemporary content”. See Xu Xianming. (1992). On the Right to Subsistence. *Social Sciences in China*, 5.

But all three scholars agree that the right to subsistence represents “a minimum standard of human dignity”.

is embodied first and foremost in the means by which a person earns a living, and the income thus earned is sufficient to enable him/her to support himself/herself or his/her family, that is, in terms of human subsistence. Secondly, the right to work is essential for one's self-actualization and the development of one's personality, that is, in terms of human dignity. And thirdly, the number of job opportunities and the quality of the working environment related to the right to work bear on the stability of the whole society and the realization of distributive justice. The core of the right to work is sufficient and equal work opportunities and good working conditions, which the government directly guarantees in preparedness actions.

**Table 1 Protection of Social Rights by Government Preparedness Actions for Epidemic Prevention and Control**

<b>Government preparedness actions</b>	<b>The right guaranteed</b>	<b>Category</b>
Implementing the policy of ensuring that all those in need are tested or treated	The right to full and equal access to medical care	The right to health
Exemption of special medical expenses and reimbursement of medical insurance		
Provision of online education and special care for needy students	The right to full learning opportunities and equal learning conditions	The right to education
Helping the people in need and ensuring the supply of key materials	The right to social security and an adequate standard of living	The right to subsistence
Providing business subsidies and healthy working environments	Full and equal job opportunities and good working conditions	The right to work

### III. The Expanded Protection of Social Rights in the Government's Preparedness Actions: China's Practices and Their International Significance

The basic rights stipulated in the Constitution include not only civil and political rights, but also economic, social and cultural rights. In the state of preparedness for epidemic prevention and control, the government's expanded protection of social rights, as a unique advantage of human rights protection in China, has contributed China's ideas and solutions to the international cooperation in combating the

pandemic.

### 1. The enlarged scope and increased intensity of protection

In the state of preparedness for epidemic prevention and control, China has expanded the protection scope to cover more social rights and rights holders. First of all, social rights are entitled by all citizens, but in reality, different groups might enjoy different degrees of protection. The realization of social rights can be achieved with the provision of minimum guarantee. In other words, the State can meet the basic criteria of social rights guarantee by prioritizing regular protection of vulnerable groups. Therefore, in this sense, social rights can be said to be mainly vested in the vulnerable groups.<sup>[1]</sup> Secondly, the obligation for realization of social rights generally lies with the State, that is, all the public authorities that fulfill specific obligations. In the state of preparedness for epidemic prevention and control, the protection of social rights is gradually expanded from the vulnerable groups to all citizens without distinction, and the obligation of protection from the State to the social organizations and enterprises that undertake certain social responsibilities. For example, the Constitution lists only three circumstances for the protection of the right to social security: old age, illness and incapacity (disability). In fact, the development of the social security system in China has already exceeded the scope stipulated in Article 45 of the Constitution, as evidenced by the existence of unemployment insurance and the expanded coverage of medical insurance on ordinary people.<sup>[2]</sup>

It is impossible to guarantee social rights in all aspects, but it should at least meet the “minimum standard of human dignity”, that is, the minimum requirement for a person to live with dignity at the current level of economic development. Moreover, social rights in the state of preparedness are under more severe threat than in normal societies, and “minimum standards” can no longer effectively guarantee a life with dignity for individuals. Therefore, deepening (increasing) the degree (intensity) of protection of social rights has become the country’s best choice.

### 2. The international significance of China’s ideas and solutions

Based on the universality of human rights, we can draw up some common criteria for human rights evaluation. First, the recognition and respect of human dignity and value. At the moment, at least, no country or government dares to openly

[1] Tang Hongsen. (2016). *The Justification and Realization of Social Rights* (p. 42). Changchun, China: Law School of Jilin University.

[2] Lin Hongchao. (2008). On the Social Security Right of Citizens and State Relief in Emergencies. *Administrative Law Review*, 1, 32.



deny human dignity and worth. Second, the safeguarding of the common interests of all mankind, that is, the building of a community with a shared future for mankind. Third, the observance of the common rules of modernity.

But the evaluation criteria vary from country to country at different stages of development and with different historical and cultural backgrounds. The criterion of “attaching more importance to the rights to freedom than to social rights” in the state of preparedness is a typical Western one, and it does not represent the whole world, especially China. “The Western criteria may be the best for the West, but it is groundless to say that the Western criteria are also the best for most people.”<sup>[1]</sup> Compared with the developed countries in the West, China has always put the safety and health of the people first in the fight against COVID-19, and has adhered to the people-centered values, thus highlighting the image of a responsible big country and sharing its ideas and solutions for international cooperation in combating the pandemic.

#### IV. Closing Remarks: More Importance Should Be Attached to the Role of the Government's Preparedness Actions in Guaranteeing Social Rights

The government's preparedness actions for epidemic control both limit and guarantee the realization of social rights. This shows that we need to understand not only the government preparedness actions' limitations on social rights, but also the former's protection of the latter. From the point of view of restricting social rights, these actions are necessary and justifiable to a certain degree and thus restrict social rights to varying degrees. From the perspective of guaranteeing social rights, China's epidemic control practice has proved that we need to get rid of the “limitations-only” misconception about social rights, clarify the criteria for determining the limitations on social rights, correctly distinguish the right itself and the way of its realization, and then actively play the promotion role of the government's preparedness actions in the realization of social rights.

In the state of preparedness for epidemic prevention and control, China has strengthened the protection of social rights, including expanding the protection to cover more rights and rights holders, and deepening the degree and increasing the

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[1] A. J. M. Milne. (1995). *Human Rights and Human Diversity—An Essay in the Philosophy of Rights* (p. 4). Xia Yong & Zhang Zhiming (Trans.). Beijing: Encyclopedia of China Publishing House.

intensity of protection. Attaching importance to the role of government preparedness actions in safeguarding social rights is a unique and valuable experience in China's epidemic prevention and control. It can serve as a reference in intergovernmental cooperation in the fight against COVID-19. It also proves that human rights evaluation criteria should be based on the vision of the community with a shared future for mankind and should be based on the historical and cultural traditions and ideological backgrounds of different countries.

(The author Gong Xianghe is Executive Director and Professor of the Institute for Human Rights, Southeast University. The author Zhang Yaoyuan is PhD candidate of the School of Law and Research Fellow of the Human Rights Research Institute, Southeast University.)

## Human Rights Protection in China's International Cooperation

Jiang Yi  
China

To continue to carry forward the common values of humanity is advocated in China's view of human rights. Since the 18th CPC National Congress, President Xi Jinping vigorously promoted the common values of humanity, advanced the building of a community with a shared future for mankind and proposed "developing human rights is a common cause for the whole of mankind", pushing for a fairer, sounder and more inclusive global human rights governance. China actively shared its achievements and experience in the human rights cause with countries around the world and called for exchanges and mutual learning among different civilizations to contribute to the healthy development of global human rights cause. The idea of a community with a shared future for mankind, a mirror of the human longing for a better life, primarily reflected such international human rights as the rights to peace, security, subsistence, development and environment, and became the Chinese solution for global governance and international human rights protection. That's why it was repeatedly included into the resolutions of the United Nations, especially those of the Human Rights Council, ushering in a new era of building the international human rights discourse system.

The right to health is a basic human right acknowledged by the international human rights law and the Constitution of many countries<sup>[1]</sup>. Since the founding of the People's Republic of China, the Party and the government remained committed to the people-first approach of governance and united people of all ethnic groups across the country to realize leapfrog development in the health cause and historic progress in human rights. Also, with internationalist and humanitarian spirits, China

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[1] Qu Xiangfei. (2008). Protection of the Right to Health in the International Law Cases: Analysis Based on the Right to Health as a Human Right in International Law. *Study & Exploration*, 2, 112-115.

has been paying attention to and supporting the efforts of other developing countries in improving people's livelihood and pursuing development, while offering assistance in the field of health and protecting the people's rights to life and health in the developing world.

## I. China's Development and Progress in the International Health Cooperation

Since 2003, China has evolved to a new stage in the international health cooperation<sup>[1]</sup>. It actively developed multilateral mechanisms with the World Health Organization, Shanghai Cooperation Organization, ASEAN-China Centre and Asia-Pacific Economic Cooperation as well as bilateral mechanisms with priority countries. China actively participated in discussions of global and regional major health topics and making of health policies, having grown into an important player in the international health cooperation.

Since the 18th CPC National Congress, the CPC Central Committee with Comrade Xi Jinping at its core has proposed a series of new initiatives to indicate the way forward for addressing global health problems and refining global health governance. In 2016, President Xi Jinping proposed in his speech at the Legislative Chamber of the Supreme Assembly of Uzbekistan to “work together to develop a green, healthy, intelligent and peaceful Silk Road”<sup>[2]</sup>, and included health as an important task for the Belt and Road construction. To promote and safeguard the development of the Silk Road of Health and benefit the world with health progress, China issued the Three-Year Implementation Plan of the National Health and Family Planning Commission for Promoting the Belt and Road Exchanges and Cooperation in Health (2015-2017) and signed the Memorandum of Understanding Between the Government of the People's Republic of China and the World Health Organization on the Belt and Road Health Cooperation Mechanism, marking a milestone in its international health cooperation.

In 2020, faced by the rampant COVID-19 worldwide, President Xi called upon the international community to cooperate in the fight against the pandemic and jointly build a community of common health for mankind in an effort to protect the life and health of people all over the world, playing a guiding role for boosting global

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[1] Luo Yanhua. (2011). The Influence and Challenges of Global Health Diplomacy for China. *The Journal of International Studies*, 2, 7-8 & 55-71.

[2] Xi Jinping. (2016, June 23). Work Together to Add New Glories to the Silk Road. *People's Daily*, p. 2.

confidence against the pandemic and strengthening international solidarity.<sup>[1]</sup>

## II. China Practicing Its View of Human Rights in Helping South Pacific Island Countries Protect the Right to Health

South Pacific Island countries are generally reduced to backward health status by their long colonial history, distance from geopolitical centers and low economic and social development level, so they are unable to secure local people's right to health. The majority of them are financially strained for developing medical and health services and severely short-staffed in this regard and fail to provide sufficient medical infrastructure or available basic medical services, thus having strong demand for international health assistance.

### 1. Health development assistance as the main form of health cooperation

In China's cooperation with South Pacific Island countries, health development assistance is the most primary form, in which, input to aided construction of medical infrastructure occupies a large share, mainly used to build or renovate general hospitals and medical centers on a turnkey basis funded by unconditional contributions or concessional loans, such as Enga Provincial Hospital in Papua New Guinea and Navua Hospital in central Fiji built with concessional loans. Sending medical teams abroad is a form of cooperation with the longest history and the broadest coverage between China and South Pacific Island countries. Since 1987, when Chinese government sent a medical team to Vanuatu, Chongqing, Shandong and Jilin have sent multiple medical teams to six countries including Papua New Guinea, Tonga, Samoa, Micronesia, Vanuatu and Solomon Islands<sup>[2]</sup>. Unlike Western countries, China offers development assistance with no political strings attached, only which can fundamentally protect the recipients' right to health.

### 2. Health emergency cooperation increased due to the pandemic prevention and control

After the outbreak of COVID-19, China and South Pacific Island countries turned to a combined bilateral, multilateral and regional cooperation and further deepened the health emergency cooperation. First, additional capital was injected several times to the China-Pacific Island Countries Cooperation Fund against

[1] "Silk Road of Health" Provides the Escort for Life: Indispensable Awareness of a Community of Shared Future in the Fight Against the Pandemic. (2020, March 24). *People's Daily*, p. 3.

[2] Yu Changsen. (2017). *Annual Report on Development of Oceania (2016-2017)* (p. 229). Beijing: Social Sciences Academic Press.

COVID-19 set up in March 2022 to offer capital support to all the South Pacific Island countries with diplomatic ties with China<sup>[1]</sup>. Second, in March 2020, China initiated the China-Pacific Island Countries COVID-19 Expert Videoconferencing with 10 countries with diplomatic ties, where Chinese representatives shared the experience in pandemic prevention and control, diagnosis and treatment, helping improve the anti-pandemic capacity of the island countries. Third, Chinese government set up and started to use the China-Pacific Island Countries Reserve of Emergency Supplies in Guangdong after regular pandemic prevention and control were conducted. So far, the reserve has been used to send urgently needed supplies to Solomon Islands, Tonga and Kiribati. Fourth, as of January 2022, China has provided 200,000 doses, 20,000 doses and 50,000 doses of Sinopharm COVID-19 vaccines to Papua New Guinea, Vanuatu and Solomon Islands respectively, greatly increasing the vaccination rate in the South Pacific region. These measures gave the people in the island countries thorough protection of the right to health in the health emergencies.

### 3. Gradually deepened cooperation in infectious disease prevention and control

Malaria is a main infectious disease in some South Pacific Island countries. In recent years, China has achieved outstanding progress and accumulated rich experience in malaria prevention and control, which can be used as reference by the island countries. The first is to conduct standardized trainings for lab personnel and jointly construct medical labs to improve the malaria testing capability of Papua New Guinea. In 2015, the China-Australia-Papua New Guinea trilateral malaria project was initiated to help personnel and labs in Papua New Guinea for higher testing capability and to launch related applied research. This preliminarily realized the goal of bringing down the incidence rate and mortality rate of malaria in the country and enriched China's management experience in assistance programs<sup>[2]</sup>. The second is to popularize the malaria-free strategy with artemisinin compound to guide Papua New Guinea onto the malaria-free fast lane. In 2017, Guangdong New South Group undertook the demonstrative malaria-free project with artemisinin compound

[1] *Foreign Ministry Spokesperson Hua Chunying's Regular Press Conference*. (2021, January 4). Website of Ministry of Foreign Affairs. Reviewed from: [https://www.fmprc.gov.cn/web/fyrbt\\_673021/jzhsl\\_673025/202101/t20210104\\_5419697.shtml](https://www.fmprc.gov.cn/web/fyrbt_673021/jzhsl_673025/202101/t20210104_5419697.shtml).

[2] *NHC Representatives Attends the Sixth Meeting of the Steering Committee of China-Australia-Papua New Guinea Trilateral Malaria Project*. (2019, April 19). Website of Department of International Cooperation, National Health Commission. Reviewed from: <http://www.nhc.gov.cn/gjhzs/s3582/201904/cc05392039f047ed9c0ccc3a9a170158.shtml>.

in Kiriwina, Papua New Guinea, an assistance program of Shenzhen municipal government. As a result, the malaria infection rate on the island plunged from 18% to 0.31% by 98.3%, setting an admirable example for accelerating the malaria-free course in the country.

### III. China's Health Cooperation Expected to Advance the World Human Rights Cause

China, as the initiator, promoter and practitioner of international medical and health cooperation, is committed to materializing the Programme of Action of the International Conference on Population and Development and implementing the UN 2030 Agenda for Sustainable Development, especially the Sustainable Development Goals in health. It actively conducts international health cooperation and earnestly practices international conventions in health to advance with real actions the realization of people's rights to health and development in South Pacific Island countries. Over recent years, the health cooperation and exchanges have been constantly deepened and expanded to infectious disease prevention and control, health emergencies, medical and public health assistance, and traditional medicines, improving the people's well-being with all the breakthroughs and demonstrative progress made and contributing to the human rights cause in South Pacific Island countries. As China's modernization is steadily advanced, the right to health of Chinese people will be protected at a higher level, and China will contribute more to the development of the world human rights cause.

(The author is Deputy Director of the Department of Public Management at the School of Public Health and Management, Chongqing Medical University.)

## Public Health and Human Rights Protection

Viorica Dăncilă  
Romania

I would like to start by stating the obvious, as recognized by many experts and politicians: We all fight for health as a human right, which is regarded as a necessity and a commitment, but has so far been very hard. And we have always to deal with limited resources.

Fighting against the COVID-19 pandemic has fully proved this point. In fact, we have learned the hard way that when we want to protect public health, we risk failure if we do not take into consideration issues like underdevelopment and inequality. We do too little when we provide just vaccines.

Health, like education, is part of the foundation of a thriving society. A government that ensures its citizens' access to quality healthcare makes an investment in the human capital and performs, which is part of the social contract between the State and citizens.

Health has been recognized as a fundamental human right since the appearance of the idea of human rights. I know that China is making progress towards achieving Universal Health Coverage and has officially included the right to health in its Constitution, in various multilateral treaties and in many policy papers.

I am deeply convinced that in Romania and China we reach a consensus: Protecting public health and promoting human rights are not mutually exclusive choices.

Measures to protect public health can protect human rights, like the right to life. And restrictions on human rights can sometimes be justified if they are necessary to protect public health.

International human rights law allows governments to restrict many rights and freedoms during a public health emergency, like a pandemic, for the safety of everyone in the community.



Any limitations on human rights should be kept to the minimum necessary and in the shortest time needed to address the emergency. The need for the restrictions must be regularly assessed and the moment they are no longer necessary, they must be lifted.

In my country, Romania, during the pandemic, many decisions were made at the central government level, rather than in parliament, and the responsibility for implementing those decisions was split between central and local administrations. Of course, this complicated the conducting of proper human rights scrutiny of the measures.

We followed with interest the measures taken by the Chinese government giving priority to people's life, safety and health. We noted the "dynamic zero-COVID" policy, the targeted and science-based approach for the most effective containment of the COVID-19 at the lowest possible cost.

Fortunately, beyond the costs and sacrifices, the restrictions and efforts proved that the measures were worthwhile. Actually, we are happy to see that in our both countries, given the efforts we made in our respective ways, the production, business activities and public life have been resumed in an orderly fashion.

I have learned with interest that, on May 25, the State Council of China issued the Priorities for Further Reform of the Medical and Healthcare Systems for the Year 2022 to improve the medical and health care system this year. The document also emphasized pushing forward the Healthy China initiative, comprehensive reform and development of high-quality public hospitals by increasing government input and stimulus.

My country, as a member of the international community, is open and constructive in its approach to the promotion of human rights, we try to listen to the concerns and positions of other countries, rather than unilaterally and selectively imposing its values on others.

I am aware that in the wake of COVID-19, China advanced an initiative of building a global community of health for all to assume the international responsibility and ensure stability of global supply chains during the pandemic, and actively advanced international cooperation in vaccines, to contribute to the global fight against the coronavirus.

I think all these deserve our consideration.

(The author is Former Prime Minister of Romania.)

## The Legal Attributes and Protection Mechanism of Health Information

Zeng Yikang  
China

What is health information? From a legal perspective, Article 4 of China's Administrative Measures on National Health and Medical Care Big Data Standards, Security and Services (Trial) prescribes that for the purpose of these Measures, healthcare big data refers to the healthcare-related data generated in the course of disease prevention and control and health management. And according to the Civil Code, health information is considered personal information. From an academic perspective, Prof. Tang Xiaotian notes that personal healthcare information is an integral part of personal information, comprising information involved during physical examination, diagnosis, disease control and medical research, such as personal physical features, health conditions, interpersonal contact, genetic genes, medical history and records, etc. Prof. He Lan suggests that personal health information refers to the information collected during disease prevention, physical examination, diagnosis, and treatment that relates to a person's physical and mental health conditions. It is an identified symbolic system that reflects an individual's characteristics, consisting of identification information, such as name, date of birth, gender, family address, occupation, workplace and phone number, and diagnosis and treatment information, such as an individual's medical history, family medical history, physical examination results, diagnoses, diseases, treatment plans, prescriptions and nursing notes. Prof. Qian Yafang sees health big data as information involved during medical services, physical examination, disease control and medical research, such as personal characteristics, health conditions, genetic information, medical history and medical information.

Drawing on the aforementioned laws and scholars' views, I argue that health information can be defined as health data that includes a natural person's past, current and future physical and mental health conditions and medical care records, which

directly identify the specific individual. Under this definition, health information is subject to three rules. First, in terms of the subject, only natural persons, rather than other subjects such as legal or non-legal entities, possess health information. Second, in terms of the form, health information should be physically recorded, as its value is greatly reduced when it cannot be reproduced for repeated processing. Third, in terms of the content, health information should be able to identify a specific individual's health condition or health data in a certain way, whether it pertains to the past, present, or even future.

Regarding the characteristics of health information, Tian Ye, Zhang Yuxuan and others suggest that health information is highly sensitive, socially public, weakly controlled and has multilayer application value. Yang Muqing argues that health information is highly sensitive and has the attribute of being of public interest. Personal health data presents promising industrialization prospects while risking abuse due to its vulnerability to leakage and loss. Building on Yang's argument, Chen Yupeng proposes that subjects of health information collection show specificity while those of health information usage possess such features as comprehensiveness, etc., that are closely linked to the legal attributes of health information. According to the Civil Code, health information is an integral part of personal information, and thus, discussions on the legal attributes of health information lie within discussions on the legal attributes of personal information.

Amid the long-standing debates on the legal attributes of personal information, four typical theories have emerged: the theory of ownership, the theory of privacy, the theory of personality rights, and the theory of fundamental human rights. In my opinion, a subject is more likely to assert personality rights and interests over health information rather than specific personality rights. This is because personal information overlaps with specific personality rights, for example, facial information and the right to likeness, identity information and the right to name, and private information and the right to privacy. Therefore, there is no need to establish it as a separate right for protection. Additionally, forcefully establishing personal information as a specific personality right through legislation will interfere with the application of other specific personality rights. Consequently, it is more appropriate for a natural person to assert only personality rights and interests over health information. Moreover, a natural person can enjoy the right to privacy over health information. According to the second paragraph of Article 1032 of the Civil

Code, privacy is the undisturbed private life of a natural person and his private space, private activities, and private information that he does not want to be known to others. In light of this, a natural person can assert the right to privacy over his private health information, which should meet two standards. First, subjectively, the subject has no desire to disclose the information to others, that is, the subject has a reasonable expectation of privacy in relation to his health information. Second, objectively, personal health information is confidential. Health information relates to a natural person's physical or mental condition, and the subject expects and has the right to keep it private without being accessed by others.

The protection of health information generally follows a number of principles, including the principle of privacy, the principle of security, the principle of enforcement, the principle of identifiable health protection, the principle of personal sovereignty over health information, the principle of minimum necessary limit, the principle of simplified management, the principle of health information security protection, and the principle of balance between health information security and privacy protection and the public interest. However, such protection is not absolute but rather relative, which means reasonable disclosure should be permitted in cases where there is a conflict with the public interest or other significant personal rights and interests. It is important to note that, however, any disclosure of citizens' health information, as a last resort, must be de-identified.

Finally, we will discuss the systematization of the protection of health information in law. Firstly, in terms of principles, we should enhance the rule of "informed consent" and ensure that individuals can assert the right to be forgotten over personal health information. Secondly, in terms of legislation, we should clearly establish the right of action for subjects of personal information, refine regulations on personal information infringement, strengthen mechanisms of liability for health information breaches through legislation, and strike a balance between patients' rights and interests in personal information and the public interest through specific legislation. Lastly, in terms of technology, we should regulate the collection of personal health information to ensure its legitimate purpose and enhance the privacy protection of medical information.

(The author is Director of the Health Law and Policy Research Center of Guangzhou Medical University.)

# Right to Health as a Fundamental Global Human Rights

Peter T. C. Chang  
Malaysia

## I. Introduction

Protection of human rights remains a critical challenge in global governance. The lack of civil political liberty and social economic wellbeing continues to plague a significant part of the human population. It remains a vital challenge to overcome these inadequacies. This paper will look at the protection of human rights from the perspective of public health security. More specifically, we will examine the question of accessibility to vaccine as a fundamental human right.

The paper begins with a review of health care as a core human right. We then analyze the COVID-19 pandemic impact on a range of human rights, including the right to basic health care. The next section will examine Malaysia as a case study. We will consider how China's vaccine played a vital role in helping Malaysia vaccinate its population. This is followed by a look at China's Health Silk Road and its importance with regard to improving global public health governance. The paper closes with the argument that the COVID-19 pandemic has showed that health care is a fundamental human right. And though we are beginning to emerge from the crisis, the world must get ready and be better prepared to respond to the next public health crisis.

## II. Health Care: A Fundamental Human Rights

“The enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.”<sup>[1]</sup>

Some 70 years ago, these words were adopted in the Constitution of the World

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[1] World Health Organization. (1946, July 22). *Constitution of the World Health Organization*. Reviewed from: <https://www.who.int/about/governance/constitution>.

Health Organization. It affirmed the right to health as the economic, social and cultural right to a universal minimum standard of health to which all individuals are entitled. Today, these words and affirmation are more powerful and relevant than ever. Indeed, inaccessibility to medical care continues to be a rights violation that afflict the world, especially in the poorest countries. A fair and equitable world order ought to be one that protect the rights of all to universal health care.

“The right to health for all people means that everyone should have access to the health services they need, when and where they need them, without suffering financial hardship. No one should get sick and die just because they are poor, or because they cannot access the health services they need.”<sup>[1]</sup>

That said, good health is determined by more than just access to medical care. It also covers other basic human rights that include access to safe drinking water and sanitation, nutritious foods, adequate housing, education, and safe working conditions. For some in the developing world, access to these basic amenities remains a daily challenge. And without question, the COVID-19 pandemic outbreak has aggravated the problem in the provision of these fundamental rights to health.

### III. The COVID-19 Pandemic and Right to Health

According to the World Health Organization (WHO), as of March 2022, the coronavirus pandemic has killed five million people and sicken hundreds of millions more. Aside from these tragic numbers, the pandemic has also inflicted enormous economic pain and toll, devastating the livelihood of millions across the globe.

Clearly, the world was caught off-guard by the pandemic. And how governments reacted to the crisis have in fact led to widespread erosion of human rights. The imposition of restrictions on freedom of movement, for example, severely undermine social-economic viability of many. Prolonged quarantine has aggravated structural and entrenched discrimination, causing a widening in wealth gap and a rise in inequities.

In the public health domain, the uneven distribution of medical care further complicates the welfare of those in the lower social-economic class. At the global level, vaccine nationalism has deprived many poor countries of the possibility of

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[1] Ghebreyesus, T. A. (2017, October 10). *Health Is a Fundamental Human Right*. Website of World Health Organization. Retrieved from <https://www.who.int/news-room/commentaries/detail/health-is-a-fundamental-human-right#:~:text=The%20right%20to%20health%20for,the%20health%20services%20they%20need.>

the timely delivery of the needed vaccine to immunize its population against the coronavirus. The denial of open access to vaccine undoubtedly constitutes a violation of an individual's fundamental right to health.

The COVID-19 crisis underscored how unprepared the international community was in responding to the pandemic. According to the WHO's assessment, the world remains very vulnerable to another outbreak that can cripple the global order. Moving forward, the international community must work together to better prepare for the next public health crisis.

### 1. Malaysia and the COVID-19 pandemic

As with the rest of the world, the COVID-19 pandemic inflicted enormous public health and social-economic toll on Malaysia. After some early missteps, the country began to gain control of the crisis through comprehensive deployment of medical resources and careful imposition of nationwide mandatory quarantine.

At the outset, China had stepped forward to assist Malaysia's response to the crisis. For example, China sent shipments of medical supplies and hospital equipment, like ventilators to help hospitals in Malaysia to cope with the sudden increase in demand for emergency treatment. Chinese medical experts and researchers were also on the ground to provide clinical support and to monitor and assess the situation.

A year into the COVID-19 crisis, Malaysia began to implement its vaccination program as a way out of the pandemic. The government decided that as a matter of protecting the fundamental human rights of access to public health, the vaccine would be made available and free of charge to every resident in Malaysia, citizens and non-citizens alike. This policy ensured that the entire adult population in the country was swiftly immunized against the disease.

China also played a vital role in the Malaysia vaccination rollout. Sinovac was one of the main vaccines used in the Malaysia national immunization program. The China pharmaceutical company, Sinopharm, allowed its Malaysia partner, Pharmaniaga, to process and bottle the vaccines locally. This joint production is part of China's broader effort to help develop Malaysia's own vaccine research and manufacturing capacity. A second China vaccine, the single-shot CanSino had an important role in helping Malaysia to inoculate communities living in rural and less accessible parts of the country.

### 2. China's Silk Road for Health

Malaysia, like most of the world, is gradually emerging out of the worst of

the pandemic, though the coronavirus remains a threat. Looking ahead, the world needs to be better prepared for the next pandemic. The COVID-19 crisis has exposed the inequity of global health care where many in the developing world were left unprotected and vulnerable.

To that end, China's vision of a "Health Silk Road" is of critical importance. In addition to constructing infrastructure such as ports and highways, the Belt and Road Initiative has a medical plan to build hospitals, clinics and medical research and training facilities in the developing world.

One crucial element in the Health Silk Road is the collaboration of vaccine development. During the pandemic, vaccine nationalism caused serious delay in the global distribution of vaccines and in the poorer countries, many did not have access to the needed inoculation. To overcome this problem, every country ought to have their own vaccine manufacturing capacities. China's willingness to waive intellectual rights and set up production bases in the developing world will ensure COVID-19 vaccines, and other future vaccines, can be made available and affordable to all.

More broadly, China's commitment to help developing country to strengthen public health service is an important step towards improving people's medical wellbeing and realizing the provision of universal health care.

#### IV. Conclusion

Protection of human rights, including the right to basic health care, remains a critical challenge in global governance. The COVID-19 pandemic has shown how unprepared the global community was to protect these fundamental rights. Though we are emerging from the COVID-19 crisis, the world must remain vigilant and be better prepared for the next pandemic. To that end, China's Health Silk Road has a critical role in assisting developing countries to put in place the necessary medical infrastructure, resources and expertise in order to cope with future crisis. Through these efforts, the world can move one step closer towards achieving universal health care for all, and a fairer, more equitable, reasonable and inclusive global human rights governance.

(The author is Deputy Director of Institute of China Studies, University of Malaya.)



# Value of the Right to Life

Zhang Yonghe  
China

Saving lives is the first consensus human society should reach when facing major disasters and pandemics. Theoretically, this consensus is easy to achieve because we are humans born with “reason and conscience”. In fact, however, how a life is perceived, particularly how the life of “human” is perceived, and thus how it is saved needs to go back to the question of how humans understand the meaning of their lives as “humans”, which is also an ultimate pursuit of humans as a true being.

## I. Treat Our Lives Rationally

Why do humans cherish their lives so much? Through the ages, all nations in the world have thought it profoundly. In the modern society, humans acquire a new understanding of “self” and human rights become a “lingua franca of global moral thought”, with a set of discourse to explain rights, including the right to life, evolving through human rights theory. There are two systems for the cognition of life—the metaphysical system and the physical system. In the metaphysical system, the life exists in the framework of logical derivation, while people’s lives cannot simply stay in logical derivation but must be restored to each and every human being. That is to say, the understanding of people’s lives must be grounded. Only in this way can we truly observe the being of life. Therefore, the practicality of life becomes the most important system for life observation, which is the physical system. Here, life becomes the manifestation of human being and humans are the carrier of life. The former is the “code” of logical knowledge, and the latter is the “rule” of practice. The “code” and “rule” can be commensurable with one another, and this common divisor is called “rationality”, which dominates both “code” and “rules”. In sum, a rational outlook on life is an attitude towards life in conformity to both “code” and “rules”, that is, cherishing the life of each individual at the “humans” height.

## II. The Right to Life Is Superior to Other Rights

Human rights care for “humans”. Nevertheless, “human rights” are not everything about humans but only a concrete expression of rights of humans, part of humans, and the other part should be “obligations”. If we consider the human rights theory as a system, it can be stated that “human” is the concept of the highest order, while “human rights” is of the second order. Here, human rights are an abstract concept that needs to be illustrated as each specific right, whereby the third-order concepts including “the right to life”, “the right to subsistence”, “the right to development”, “democracy” and “freedom” are obtained. The values of rights are equivalent in a general sense, but it is only a ranking in a pure sense, a preset consequence of the “code”. In a realistic and specific setting, there should be a value ranking of the third-order concepts, for example, the right to life is superior to other rights.

Let us look at the rights theory. Why must we first protect our lives? Because in the point of genesis of rights, some rights are innate, like the right to life; some rights come from society, that is, acquired, such as “freedom”, “dignity” and “property rights”, which are called social rights. Among many rights, only the right to life is directly related to human nature, which needs no explain, while why other rights are connected with human nature needs to be explained. In this way, the right to life is the premise and foundation of all rights, as other rights come alive with the being of life. Therefore, there must be a value ranking of rights in certain scenarios, where the value of the right to life should be ranked first.

## III. All Human Beings Are Equal in Front of Lives

If resources are scarce or there may be two or more lives facing death at the same time, can we rank and choose between lives? The options should be equal from the perspective of metaphysical “code”, but in the making of “rules”, is it possible that there will be a situation of “ranking”? This requires “rules” to communicate with “code” following the guide of “rationality”, and ranking would be inevitable if the communication fails. Once there is a ranking of lives, the bottom line of human nature is broken.

While equality in “code” and equality in “rules” are not identical in many cases, they are interlinked. We can certainly say that equality is not entirely a metaphysical issue, it is realistic, as only in reality can equality be perceived, recognized and understood. People will not take the “principles” and “creeds” of equality for a

comparison of what is equality and what is inequality in real life. Nonetheless, since the idea of equality arises from concrete unequal experiences, any specific inequality directly influences our holistic judgment of equality. The “code” of equality has an impact on the “rules” of equality. There will be no value pursuit for equality without “code” of equality, and such an idea of equality is utilitarian. Taking utilitarian equality as an ultimate pursuit of humans is unable to achieve equality, moreover, the result is counterproductive.

At the meantime, we should note that equality is above all a moral concept, and moral equality plays a vital role in maintaining a good life of the social community. Legal equality is easy to grasp, while moral equality is not. In theory or practice, all lives should be equal. The belief in the Universal Declaration of Human Rights that “all human beings are born equal” should not be merely spoken of but can be realized in practice. There is no weak or strong in front of lives. A civilized society is the one in which the weak are best protected. Only when the weak get the same protection can we expect everyone to be protected. This established “code” is not difficult to realize in the “rules” but depends on whether we have “humans” in mind or only one kind of them. The correct attitude towards the weak represents the true equality in our mind.

Finally, risks are ubiquitous all the time in a real society. Who can play the most important role in the face of great disasters? That must be the country. Nothing is more precious than the lives and health of the people, and a country must put the protection of people’s lives and health as the top priority. All that every country has to do is to face risks, stand forward with the tenets of human rights protection, humanity, equality and justice, never breach the moral standard or neglect fundamental human rights, and assume responsibility for responding to risks. Herein is the significance of the country, also the supreme virtue of the country. A country failing to guarantee its citizens’ right to life and health loses its proper significance. People’s opinion on whether a country has justice should be based on whether the country is able to adjust social relations to the satisfaction of all social members. Of course, a country that can satisfy the needs of every member of society is not likely to exist, but the State should make efforts to gain the recognition and satisfaction from most members of society, which is also the defining feature of democracy.

(The author is Executive Director and Professor of the Human Rights Institute, Southwest University of Political Science and Law.)





Part 4 :

Multilateralism and Global Human  
Rights Governance

## PRC in the Front Line of the Universal Declaration of Human Rights

António dos Santos Queirós  
Portugal

People don't know the substance, the original text of the Universal Declaration of Human Rights (UDHR), and the historical conditions in which it was drafted.

The Universal Declaration of Human Rights was adopted by the UN on December 10, 1948 (A/RES/217). It was drafted by J. P. Humphrey of Canada and Dr. P. C. Chang, representative of China and mediator of Asian countries, who was the main negotiator of the consensus established in its 30 articles.

Eleanor Roosevelt enthusiastically supported the declaration. However, the United States, the United Kingdom and France, didn't respect the initial articles of the UDHR (the 1-5 articles), because they were colonialist countries, with social and racial discrimination institutionalized and practiced in the metropolis and in the colonies. Obviously, the fascist regimes of Deutschland, Italy or Japan, could not be the promoters of UDHR neither.

Labour rights, economic democracy, the right of nations to self-determination and independence, refusal of hegemonism and a new era of peace and justice ... they have been elevated to the condition of the realization of fundamental human rights but, are incompatible with the political nature and evolution of liberal democracies.

The propaganda of Cold War needed to subvert and distort the principles of the original UDHR.

In the US (and the West), human rights are seen and reduced as formal civil and political rights. But it ends there.

The propaganda of Cold War, linking political human rights with the model of liberal democracy, is a fallacy. What Article 21 of the UDHR prescribes is the way to citizenship and the diversity of democratic regimes. Article 21 of the UDHR opens the gate of new democracies and the wheel of history can roll forward again to

realize all the dreams and a human utopia. That is the Chinese Dream, the Beautiful China and the socialism with Chinese characteristics.

UDHR. Article 18: Everyone has the right to freedom of thought, conscience and religion.

UDHR. Article 19: Everyone has the right to freedom of opinion and expression.

UDHR. Article 20: Everyone has the right to freedom of peaceful assembly and association.

The Article 35 of the Constitution of the PRC states: “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”

The Peoples Republic of China, incorporate the 30 articles of the UDHR in the Constitution and progressively, they turn them into reality for common people and design the international policy of China, since the Five Principles of Peaceful Coexistence to the Global Security Initiative guided by the principle of indivisible security.

### I. China at the Helm of Global Governance of Human Rights

Articles 22 to 27 of the UDHR concern labour rights, welfare, education and culture. China proposes at the United Nations and the United Nations Human Rights Council the view that “the rights to subsistence and development are the primary, basic human rights”.

In response to the UN Vienna Declaration and Programme of Action, the Chinese government has made and carried out the national human rights action plans, including the National Human Rights Action Plan of China (2016-2020).

The goal of delivering the Two Assurances and Three Guarantees was achieved in the year of 2020, for all people. The “Two Assurances” refer to the necessary food and clothing. And the “Three Guarantees” refer to compulsory education, basic medical treatment and housing security.

Article 25 of the UDHR, says: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security.”

From its establishment in 1949 to the year 2020, the PRC has liberated 850 million people from the extreme poverty. In the liberal democracies, there do not

exist the Two Assurances and Three Guarantees.

## II. Socialism with Chinese Characteristics

The fundamental contribution from China to implement the UDHR was the act of founding the People's Republic of China, proclaiming the founding of a new democracy. The concept of "socialism with Chinese characteristics" was then enshrined in its Constitution. The socialist political system with Chinese characteristics is based on the frame of the system of people's congresses, the system of multiparty cooperation and political consultation under the leadership of the CPC, the system of regional ethnic autonomy and the system of community-level self-governance. Regarding of the economic system, China practices a socialist market economy in which public ownership plays the leading role alongside other forms of ownership. In the land reform, the redistribution of land rights and benefits covered over 300 million of peasants. The agrarian reform in China has made the Article 17 of the UDHR reality.

Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era is in line with the principles of the UDHR. He identified the principal contradiction facing Chinese society as that between unbalanced and inadequate development and the people's ever-growing needs for a better life.

Xi Jinping defends that each country has the right to choose its path to modernization, which is a guideline for international policy, and proclaims that to build a community with a shared future for mankind, following a path of peaceful development is necessary (pursuing and updating the Five Principles of Peaceful Coexistence).

## III. The New Silk Route for Peace

Concerning BRICS, the Silk Road routes, the Regional Comprehensive Economic Partnership (RCEP), the South-South cooperation, the China-Africa summit, the EU-China Comprehensive Agreement on Investment, etc., compared with other international treaties the superiority of those proposals lies, first of all, in the access to low interest credit for all countries; second, in the respect for the sovereign decision of each one on the choice of their strategic projects; third, in the position of China as a partner that does not seek the hegemony and promotes the transition to a sustainable and ecological economy.



That's means to implement the articles 28, 29 and 30 of the UDHR.

#### IV. The Global Security Initiative and the Principle of Indivisible Security

The UDHR is supported by two principles, expressed in the Preamble: the principle of peace (promote the development of friendly relations between nations), and the principle of dignity (recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world).

The “principle of indivisible security” is in line with the fundamentals of the UDHR: it rejects the path of pursuing one’s own security at the expense of the security of others.

On April 21, 2022, President Xi Jinping proposed this principle on the recent Boao Forum for Asia Annual Conference.

This principle is in line with the principles of the UN, is committed to the respect for the sovereignty and territorial integrity of all countries, advocates non-interference in their internal affairs and respects the different political and social regimes chosen by the history of their peoples.

This new architecture, for perpetual peace, can be built with the support of the United Nations and accompanied by the progressive abrogation of military pacts and the progressive reduction of nuclear, chemical, biological, digital and other mass destruction weapons.

China participated in drafting the Universal Declaration of Human Rights and has improved its principles and articles. China has contributed much more than other countries in the national policy and the international policy.

(The author is Vice President of “Observatory for China”, Portugal.)

# Contribution of China to Global Human Rights Governance

Dai Ruijun  
China

Global human rights governance is an integral part of global governance. In the 1990s, to keep up with the trend of globalization and world multi-polarization, some scholars put forward the theory of global governance<sup>[1]</sup>, defining it as the process and mechanism of managing global affairs by diverse actors.<sup>[2]</sup> Within this theoretical framework, global human rights governance can be defined as the process of addressing global human rights issues and advancing human rights development through institutional or non-institutional norms and mechanisms, a process that is participated by all. At the current stage, it mainly refers to the course of countries, together with other players, mediating inter-State contradictions and balancing interests through international mechanisms to promote improvement of global human rights.<sup>[3]</sup>

China proposed to “fully participate in global human rights governance” for the first time in 2015.<sup>[4]</sup> The white paper entitled “Progress in Human Rights over the 40 Years of Reform and Opening Up in China” issued in 2018 explained “active participation in global governance of human rights” in a separate part.<sup>[5]</sup> In the article

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[1] Ingvar Carlsson & Shridath Ramphal. (1995). *Our Global Neighborhood: The Report of the Commission on Global Governance*. Beijing: China Translation & Publishing Corporation. He Ying & Huo Jianguo. (2012). *Analysis on Dual Functions of Global Governance to Protect and Develop Human Rights*. *Human Rights*, 1, 40-42.

[2] Li Dongyan. (2015). *Global Governance: Actors, Mechanisms and Topics* (p. 5). Beijing: Contemporary China Publishing House.

[3] Sun Meng. (2020). *China and UN Human Rights Mechanisms: Influence and Reform* (p. 218). Beijing: China University of Political Science and Law Press.

[4] State Council Information Office. (2015, June 8). White Paper on *Progress in China's Human Rights in 2014*. Gov.cn. Reviewed from: [https://www.gov.cn/xinwen/2015-06/08/content\\_2875241.htm](https://www.gov.cn/xinwen/2015-06/08/content_2875241.htm).

[5] State Council Information Office. (2018, December 12). White Paper on *Progress in Human Rights over the 40 Years of Reform and Opening-Up in China*. Gov.cn. Reviewed from: [https://www.gov.cn/xinwen/2018-12/12/content\\_5347961.htm](https://www.gov.cn/xinwen/2018-12/12/content_5347961.htm).

“Unswervingly Follow the Path of Human Rights Development in China to Further Advance the Human Rights Cause” by President Xi Jinping published at *Qiushi* in June 2022, to “actively advance global human rights governance” was highlighted as a priority of the current work in human rights.<sup>[1]</sup>

### I. Multiple Challenges for Global Human Rights Governance

Global human rights governance presently faces diverse challenges, and the governance “deficit” is prominent. On the one hand, regional conflicts, arms race, terrorism, cybersecurity, climate change, food security, energy crisis and global poverty are presenting greater human rights challenges. On the other hand, structural contradictions such as the gap between the North and the South, the unequal status among countries and the imbalanced development remain unchanged; meanwhile, the rising nationalism and the rampant hegemonism and unilateralism are heavily impacting global human rights governance.

“Unilateralism” is a striking problem for global human rights governance, behind which stands the United States, the initiator.

First, with regard to human rights standards, the US shows overweening arrogance with a rejective attitude towards internationally recognized human rights standards embodied in international treaties. So far, the country has acceded to only three out of the nine core human rights treaties of the United Nations, with a large number of reservations for each one to keep its domestic law prioritized. It hasn’t acknowledged economic, social and cultural rights as basic human rights; it is the only UN Member State that hasn’t acceded to Convention on the Rights of the Child, which has been adopted by 196 countries. Meanwhile, the US uses its domestic law as criteria to review human rights status of other countries and frequently enacts human rights sanction acts to impose sanctions on individuals, enterprises, entities and entire industries of other countries. The US Congress passed the Global Magnitsky Human Rights Accountability Act in 2016, claiming to “aim at the violations of human rights from all corners of the world”. Such act of forcing its own domestic law on others as “international rules” violated the basic principle of sovereign equality of the

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[1] Xi Jinping. (2022, December). Unswervingly Follow the Path of Human Rights Development in China to Further Advance the Human Rights Cause. *Qiushi*.

international law and mirrored its pursuit of hegemony. EU<sup>[1]</sup> and Australia<sup>[2]</sup> followed its lead and also introduced respective human rights sanction acts.

Second, the US, proclaiming itself a “global sheriff for human rights”, criticizes human rights status of other countries and selectively imposes “disciplinary actions” to serve its political purposes. Since the 1970s, it kept releasing the so-called “Country Reports on Human Rights Practices” and pegged human rights to foreign aid and foreign policies, coercing other countries in the excuse of human rights problems to seek political interests. In recent years, to serve its purpose of suppressing and containing China, the US Congress adopted the so-called “Reciprocal Access to Tibet Act of 2018”, the “Hong Kong Human Rights and Democracy Act of 2019”, the “Hong Kong Autonomy Act” and the “Uyghur Human Rights Policy Act of 2020”, directly interfering in China’s internal affairs based on its domestic law and imposing sanctions against China in the excuse of human rights issues. On June 21, 2022, the US “Act to Ensure That Goods Made with Forced Labor in the Xinjiang Uyghur Autonomous Region of the People’s Republic of China Do Not Enter the United States Market, and For Other Purposes (the Uyghur Forced Labor Prevention Act)” was enforced. The Act, in violation of the basic principles of rule of law, presumed that goods are made with forced labour as long as any part in the supply chain from raw materials to finished products is related with Xinjiang or with entities presumed for forced labour on the entity list, unless importers can prove themselves innocent. The so-called “rebuttable presumption” was almost impossible to rebut because of the required exceedingly high standards of proof. Furthermore, according to the Act, the US claimed it would mobilize all the means and unite with its partners and allies to boycott products from Xinjiang, China. The arbitrary unilateral sanctions severely blocked the development of related countries, infringed on human rights in other countries and disturbed the international trade order, thus identified illegal by UN human rights experts. Such practice of making their own rules outside the UN-led global human rights governance system was a flagrant violation of global governance

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[1] On December 7, 2020, the Council of the European Union passed the Decision Concerning Restrictive Measures Against Serious Human Rights Violations and Abuses; on the same day, it adopted the Regulation Concerning Restrictive Measures Against Serious Human Rights Violations and Abuses. The two jointly constituted the legal basis of the EU global human rights sanction mechanism. See Wang Yuanyuan. (2022). The Transformation of EU Sanctions Mechanism. *Chinese Review of International Law*, 3, 72-90.

[2] In December 2021, the Australian Parliament passed the Autonomous Sanctions Amendment 2021, which was called the Australian version of the Magnitsky Human Rights Accountability Act.

and multilateralism.

International human rights law and the United Nations are interdependent. Though new requirements have been raised concerning global human rights governance, the UN human rights mechanisms remain the core of the governance. In 2006, the UN established Human Rights Council as a substitute for UN Commission on Human Rights and set up the Universal Periodic Review system, hoping to tame the previous chaos of the UN Forum on Human Rights reducing to a “political abattoir” manipulated by the West and remain true again to the original aspiration of facilitating international cooperation. However, the mechanism currently comes to the verge of manipulation by the West again and becomes a space of false information dissemination, group confrontation and political oppression. The US and some Western countries show no intention of reflecting on their historical debts of serious human rights violations such as genocide, forced labour and colonial exploitation, but keep creating human rights disasters and refugee crises by starting wars all over the world. The appalling tragedy of the Afghans being crushed by and falling off the US military aircrafts when American troops left Afghanistan is still visible before the eyes. On the other hand, the countries act as the “preacher for human rights”, name and shame other countries, and even fabricate charges to fulfill their political purposes. Such practice has utterly deviated from the basic principles of democracy and equality for global human rights governance and the way of work by dialogue and cooperation and has again politicalized and instrumentalized multilateral human rights mechanisms. To seek hegemony and absolute dominance to maximize its own interest with exclusive rules has been the constant behavioral pattern of the US in participating in multilateral activities.<sup>[1]</sup> The US boycotted the founding of the UN Human Rights Council in 2006, but joined it later in 2009; it irresponsibly announced withdrawal from the Council without fulfilling its term duties in 2018, and announced the establishment of the so-called “Commission on Unalienable Rights” to serve its human rights foreign policies one year later; in 2022, it reengaged with the Council. The capricious behavior of the US in shirking responsibility is the crucial reason for dysfunctional multilateralism and hinders the effective discussions on global human rights issues, turning back the wheel of history for human rights governance.

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[1] Li Xiaoyan. (2022). From Multilateralism to New Multilateralism: The Dilemma of Consensus Scarcity and the Way Out. *Academics in China*, 5, 49-50.

## II. China Striving to Guide Global Human Rights Governance Back on Track and Indicate the Way Forward

Multilateralism in the true sense is about reaching consensus by all the participants after thorough consultation by observing the principles of sovereign equality, inseparable political rights and responsibilities, and diffuse reciprocity.<sup>[1]</sup> While the US and some Western countries are distorting multilateralism and impacting global human rights governance, China reaffirms the stand of cooperation for benefit for all and stays committed to multilateralism, bringing global human rights governance to the right place.

In response to the chaos with the governance, Chinese delegation spoke boldly in defense of justice multiple times on behalf of a group of countries at the UN Human Rights Council sessions to boycott and remedy the anti-multilateralism and anti-global governance trend. China highlights the following points. First, we should put the people front and center to concretely protect the right to life and to health, advance international cooperation, multilateralism and solidarity for collaboration, effectively cope with COVID-19 and promote fair distribution of the vaccines globally. Second, we oppose some countries' intervening in internal affairs of other countries, damaging the sovereignty of other countries and sabotaging international cooperation in the excuse of human rights out of political purposes. We are against some countries' stoking division and confrontation by drawing lines according to ideology. Third, we are deeply concerned that the Human Rights Council has become increasingly politicized and confrontational, and disinformation has become rampant, which seriously runs counter to the original purpose of the Human Rights Council. Multilateral human rights mechanisms should serve as a platform for cooperation and dialogue, rather than a venue for division and confrontation. All parties should promote multilateralism in the field of human rights, uphold the principles of universality, impartiality, objectivity, non-selectivity and non-politicization, and jointly promote the sound development of the international human rights cause.

On the other hand, China has proposed the building of a community with a shared future for mankind, the common values of humanity and the Global Development Initiative, pointing out the way forward for global human rights governance.

Global human rights governance is never a zero-sum game, but a course of

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[1] Li Xiaoyan. *op. cit.* 51.

promoting human rights development for benefits for all. In March 2021, the UN Human Rights Council adopted the resolution titled “Promoting Mutually Beneficial Cooperation in the Field of Human Rights” initiated by China, and called upon all parties to adhere to multilateralism, conduct constructive dialogue and cooperation in human rights, and enhance technical assistance and ability building to promote mutually beneficial cooperation and jointly build a community with a shared future for mankind.<sup>[1]</sup>

Global human rights governance requires the guidance from universally recognized and appealing values. Chinese President Xi Jinping proposed to uphold and carry forward the common values of humanity at multiple important occasions, in an effort to bridge differences and build consensus. On December 10, 2018, in a congratulatory letter to the Symposium on the 70th Anniversary of the Universal Declaration of Human Rights, Xi wrote: “Chinese people will work with people of other countries to uphold the common values of humanity, which are peace, development, equality, justice, democracy and freedom, to safeguard human dignity and rights, to promote fairer, sounder and more inclusive global human rights governance, and to build a community with a shared future for mankind.” The letter reaffirmed the common values of humanity—peace, development, equality, justice, democracy and freedom, and put forward the objective of faire, sound and inclusive global human rights governance. At the conference for celebrating the 100th Anniversary of the Founding of the Communist Party of China on July 1, 2021, Xi advocated again that we will “promote the common values of peace, development, fairness, justice, democracy and freedom, and continue to champion cooperation over confrontation, to open up rather than closing our doors, and to focus on mutual benefits instead of zero-sum games”. Common values of humanity are both the shared wealth of human civilizations and a key to solving problems of the time, intrinsically driving the development of global human rights governance.

Development is the power source for multilateralism to serve as the basic form of international exchanges and also the foundation for the enjoyment of human rights. Without development, neither peace nor prosperity is possible. On September 21, 2021, President Xi Jinping attended and addressed the General Debate of the 76th Session of The United Nations General Assembly, and proposed the “Global

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[1] United Nations Human Rights Council. (2021, March 31). *Promoting Mutually Beneficial Cooperation in the Field of Human Rights*. A/HRC/RES/46/13.

Development Initiative”.<sup>[1]</sup> He emphasized that development holds the key to people’s well-being. Facing the severe shocks of COVID-19, we need to work together to steer global development toward a new stage of balanced, coordinated and inclusive growth. The countries should stay committed to a people-centered approach, safeguard and improve people’s livelihoods and protect and promote human rights through development, and make sure that development is for the people and by the people, and that its fruits are shared among the people. The countries should stay committed to benefits for all and put emphasis on addressing unbalanced and inadequate development among and within countries. The countries should also stay committed to multilateralism and support the coordinating role of the UN in implementing the 2030 Agenda.

To “advance development through cooperation and promote human rights through development” is both the reflection of China’s path of human rights development over the past few decades, and also the experience and contribution of China to global human rights governance.

### III. Practicing Multilateralism and Advancing the Healthy Development of Global Human Rights Governance in Practical Action

China actively participates in global human rights governance, and earnestly fulfills its international human rights obligations. It has ratified or joined 29 international human rights instruments and served as member of the UN Human Right Council for five times. China has proposed a series of initiatives such as advancing human rights with development and in cooperation, mitigating negative impact of legacies of colonialism, opposing racism and racial discrimination, promoting fair distribution of vaccines and objecting to unilateral coercive measures, winning the support and endorsement of the international community, especially the broad developing countries. Moreover, with respect to major human rights issues of transnational and global significance such as right to development, right to health and right to environment, China practices true multilateralism, adheres to extensive consultation, joint contribution and shared benefits, calls for openness and inclusiveness, and proactively takes up its responsibilities as a major global player.

China insists that the rights to subsistence and development are primary basic

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[1] Xi Jinping. (2021, September 22). Bolstering Confidence and Jointly Overcoming Difficulties to Build a Better World. *People’s Daily*, p. 2.



human rights. In July 2021, the UN Human Rights Council adopted the resolution entitled “The Contribution of Development to the Enjoyment of All Human Rights” proposed by China, and identified the objectives of development as improving well-being for all and meeting people’s longing for a better life.<sup>[1]</sup> China has proposed the Belt and Road initiative and stayed committed to the principles of extensive consultation, joint contribution and shared benefits, having built an enormous platform of cooperation for all the countries to realize common development. In building a moderately prosperous society in all respects, China has lifted one fifth of the world population out of poverty and fulfilled the goal of eliminating poverty in the 2030 Agenda for Sustainable Development 10 years ahead of schedule, making major contribution to the world human rights cause.

In the face of the threat from COVID-19 to people’s life and health globally, China called for strengthening the global health governance to ensure fair availability of vaccines in the developing world and remedy the immunization gap. Meanwhile, China generously offered aid to the broad developing countries. By March 2022, the country had provided over 2.1 billion doses of vaccines to more than 120 countries and international organizations, which made it the largest provider in the world, and continued to offer one billion doses to Africa and 150 million doses to ASEAN countries.<sup>[2]</sup> In practical action, China has contributed to the provision of available and affordable vaccines in developing countries.

The COVID-19 pandemic and the unilateral sanctions abused by some countries have driven global development to regress and caused deepened poverty and intensified inequalities within and among countries, while the protection of economic, social and cultural rights bears the brunt of the impact. In response, at the 49th session of the UN Human Rights Council, China and over 60 other countries jointly proposed the resolution entitled “Promoting and Protecting Economic, Social and Cultural Rights within the Context of Addressing Inequalities in the Recovery from the COVID-19 Pandemic”, encouraging international financial institutions not to adopt retrenchment policies that might impede materialization of economic, social and cultural rights, and calling upon the Office of the High Commissioner for Human Rights to step up efforts and offer

[1] United Nations Human Rights Council. (2021, July 27). *The Contribution of Development to the Enjoyment of All Human Rights*. A/HRC/RES/47/11.

[2] *China Has Offered over 2.1 Billion Doses of COVID-19 Vaccines to Other Countries*. (2022, March 4). The Paper.cn. Reviewed from: [https://www.thepaper.cn/newsDetail\\_forward\\_16955200](https://www.thepaper.cn/newsDetail_forward_16955200).

effective assistance to the countries.<sup>[1]</sup>

To respond to climate change and protect people's right to environment across the countries, China actively facilitated the Paris Agreement and set an example in practical action. It announced to scale up the nationally determined contributions and proposed the goals of carbon peaking by 2030 and carbon neutrality by 2060.

To continue to actively participate in global human rights governance is both a primary characteristic of China's human rights development and also the valuable experience of the country in the practice of the cause. China will continue to carry forward the common values of humanity and follow the principles of equality, mutual trust, inclusiveness, mutual learning, win-win cooperation and common development, striving to promote fairer, sounder and more inclusive global human rights governance.

(The author is Research Fellow of the Institute of International Law, Chinese Academy of Social Science.)

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[1] United Nations Human Rights Council. (2022, April 8). *Promoting and Protecting Economic, Social and Cultural Rights Within the Context of Addressing Inequalities in the Recovery from the COVID-19 Pandemic*. A/HRC/RES/49/19.

## Focusing on Development and Building Consensus: Jointly Advancing Global Human Rights Governance to a New Stage

Du Zhanyuan  
China

It is a common pursuit of humanity to realize human rights for all. At present, the international community is highly concerned about development issues. The right to development is an important component of human rights and key to improving global governance. The Declaration on the Right to Development adopted by the United Nations General Assembly clearly points out that “the right to development is an inalienable human right”, and “all human rights and fundamental freedoms” can only be “fully realized” when the right to development is properly addressed. As such, I believe that:

To fully realize human rights, we should build consensus regarding development to create a solid foundation for human rights protection. Developing countries now account for more than 80% of the global population, and their aspiration for development makes the right to development a fundamental human right with the greatest influence in the world. According to the Global Development Report published June 2022, 2020 saw a decrease in global average SDG index score for the first time, and the realization of two thirds of the 169 targets was at risk. Specifically, an additional over 100 million people were pushed into poverty globally, leading to the rise in the poverty rate for the first time in more than two decades. It is likely that the realization of SDGs in the poorest countries and regions will be delayed for a decade. The stagnation of global development poses a direct threat to human rights development, and developing countries are disproportionately affected. All parties should prioritize development and livelihoods in international macro policies and vigorously advance global sustainable development progress to ensure that people of all countries have a growing sense of fulfillment and happiness.

To fully realize human rights, we should enhance development cooperation to provide a strong impetus for human rights. Cooperation is conducive to development, human rights, and peace. However, unilateralism and protectionism are currently prevalent worldwide, resulting in grave negative impacts on global human rights development. Some countries practice hegemony and interfere in the internal affairs of others in the name of human rights, causing livelihood crises; seek decoupling and supply disruption and impose economic and sci-tech sanctions, resulting in global inflation; fail to honor their aid commitments to climate change, placing small island States at risk of existential threats; and create monopolies on information, leading to widespread rumors and contributions to racial discrimination and xenophobia ... These attempts to create exclusive small circles undermine both comprehensive human development and global sustainable development. All countries should advocate true multilateralism and strengthen cooperation in fields such as poverty reduction, food security, public health, clean energy and digital economy, so as to help more countries and people benefit fairly from development outcomes.

To fully realize human rights, we should coordinate development and security to ensure the bottom line of human rights protection. Security is the prerequisite for improving development and protecting human rights. In recent years, regional conflicts such as the Ukraine crisis have taken place frequently, resulting in a severe food and energy crisis worldwide. The rights of people of all countries to subsistence and development are thus under direct threat. According to the latest research reports, nearly 90 million people in Asia and Africa are unable to afford the energy expenses to meet their basic needs in 2022 due to an over 50% increase in global energy prices, while more than 300 million people are expected to suffer from hunger in the coming years due to a projected rise of almost 20% in non-energy prices, including agriculture. These humanitarian crises have once again warned us that without security, human rights protection will only be lip service. Only when development is based on security can it be considered sustainable and truly protect and advance human rights. The international community should coordinate development and security, promote the implementation of the Global Security Initiative, and advocate the vision of common, comprehensive, cooperative and sustainable security, so as to create a safe environment for global common development and lay a solid foundation for protecting and advancing human rights, as well as for improving global human rights governance.

China is the largest developing country in the world. Having gone through the tribulations of modern times, the Chinese people hold a profound appreciation for the value of development and cherish the right to development. Earlier this month, the China International Communications Group published the fourth volume of *Xi Jinping: The Governance of China*. The whole volume comprehensively and systematically introduces China's stance on human rights, development, security and global governance, and documents China's efforts to improve people's livelihoods and protect human rights in the pursuit of development. Over recent years, China has adhered to the people-centered development philosophy, carried out COVID-19 response, and pursued economic and social development in an effective and well-coordinated way. Notably, 98.99 million rural people have been lifted out of poverty and the goal of building a moderately prosperous society in all respects has been finished as scheduled. These achievements have contributed greatly to international human rights. In 2021, President Xi Jinping proposed the Global Development Initiative, and more recently, he announced the 32 measures to support global development, offering a Chinese solution to accelerate the implementation of the 2030 Agenda for Sustainable Development.

I believe that by focusing on development and building consensus, we will surely make new contributions to global sustainable development and human rights.

(The author is President of China International Communications Group.)

## Right to Development and Share Destiny

Juan Carlos Capunay  
Peru

On 1986, the United Nations General Assembly (UNGA) approved its Resolution 41/128, named “Declaration on the Right to Development”. According to this Resolution, the right to development is an inalienable human right which means, every person and all the people are entitled to participate in, contribute to and enjoy economic, social, cultural and political development. All the people have the right to enjoy equal opportunities, high standard of living, full employment and economic and social progress. With the same view, in 1992, the Rio Declaration recognized the right to development as one of its 27 principles.

In 1993, the Article 10 of the Vienna Declaration and Programme of Action, reaffirms that the development process has to facilitate and assure the enjoyment of the human rights. Therefore, States should cooperate in the promotion of a comprehensive development and in the elimination of its obstacles through mutual understanding and assistance. In 2015, the 70th session of the UNGA approved the 2030 Agenda for Sustainable Development.

In this respect, the right to development represents a wide and comprehensive concept oriented to improve the living conditions of the people in order to create a common development. The international relations of the last four decades have been characterized by a globalization and integration. This change, after the era of the Cold War, led the international community to the prevailing of the cooperation and interdependence. The governments improved their functioning to increase efficiency and competitiveness in order to bring it into modernization.

Nevertheless, it is fitting to indicate that this globalization and integration process has confronted severe challenges and limitations since early 21st century, due to new waves of protectionism and unilateralism policies adopted by the great powers. This situation has affected the right to development of the people and its

expectations of peace, security and welfare. Moreover, some new tendencies like the deglobalization are affecting the productive structure and interdependence on a global scale, involving new challenges to the whole international community.

Nowadays, the new technological developments and the innovation have widened the digital gap formed in the Fourth Industrial Revolution. Its consequences have affected dramatically the sanitary and health conditions of the countries and their capacity to recover after the COVID-19 pandemic. In the same way, it has limited the level and quality of the educational systems.

However, recently innovative proposals have been introduced to support the development and stability of the international community as a whole, based on new and open comprehensive cooperation programs, including measures and assistance to improve the economic, cultural, social and political fields. These new proposals would allow all the developing countries a better use of the economic complementarity and facilitate the access to the benefits of bilateral and regional projects, under the principle of equal benefit.

The initiative of Xi Jinping, the President of China, proposed in 2013, named “the Belt and Road Initiative (BRI)” is one of those new proposals in support of the right to development of the people. It is aimed to promote win-win cooperation, transfer of technology and knowledge and financial assistance. It is important to highlight that this initiative doesn’t impose any economic or political conditions to its participants. Every member of the initiative can choose its priority, plans and programs, according to its own national goals. This initiative offers an open regionalism and its benefits, different to any kind of confrontation, blockade or protectionism. Today more than 150 countries are members of the BRI. A total of 21 are Latin American and Caribbean countries.

On the other hand, other relevant proposal is the Global Development Initiative (GDI) introduced by China at the United Nations, as an important tool for the formulation of appropriate mechanism in the promotion of a development based in innovation and new technologies and centered in the needs and expectations of the people. The initiative supports the identification of priorities areas of cooperation as a way to design feasible road maps for the implementation of the 2030 Agenda for Sustainable Development. To this respect, it is relevant to mention that the mechanism of dual-circulation paradigm implemented by China will also benefit mainly the developing countries, allowing the small economies to join the global

economy and therefore adapt to the new normal.

The right to the development will be reinforced through the implementation of the initiatives explained before. There is an international responsibility for the great powers to cooperate in the design of programs to facilitate the common development and a win-win cooperation, including transfer of resources oriented to alleviate poverty, improve education and health conditions and satisfy social and cultural needs. The BRI and GDI were formulated with the vision to help the economies to identify priorities and strategies in those sectors related to the wellbeing of the people. Their programs take into account the need to incentivize the growth of the economic, cultural and social sectors of each country, providing the necessary instruments for the reactivation of the nation as a whole in the post COVID-19 era.

The international community need to develop common goals and best practices for the exchange of cooperation and collective actions. It will reinforce the economic and cultural construction on the basis of open dialogue, mutual respect, justice, free determination and cultural tolerance. It will represent the best guarantee for all countries to have peaceful relations and economic interdependence, cultural and social integration and political stability. It will lead the global community to a new international order based in understandings and equity, a new international order with a shared destiny far away from ideological blocks.

(The author is Former Ambassador of Peru to China.)



# US-Style View on Human Rights and Threat to Global Human Rights Governance

Huang Jinrong  
China

The US had exerted great influence on the emergence and development of international human rights concept and system, but it has never genuinely embraced the UN human rights since the 1950s. It strongly resists the application of international human rights treaties in the US, while “fervently” advocating “universal human rights” all over the world. Since the end of the Cold War, the US has pursued double standard, instrumentalism and interventionism on human rights to the extreme. This view on human rights does nobody any good and provokes tremendous threat to the effective governance of global human rights. Only by seeing through and fighting against the conceit and arbitrariness of the US-style view on human rights will the global human rights governance based on a community with a shared future for mankind have the hope to start a virtuous circle.

## I. Features of US-Style View on Human Rights

The US is one of the origins of the concept of human rights and one of the first countries to establish constitutional guarantees for human rights. It exercised eminent leadership in the establishment of UN human rights system after World War II. Unfortunately, however, the US soon lost its interest in international human rights, and around the end of the Cold War when resuming the interest, it developed a complex view on human rights that embraced human rights and rejected the international human rights at the same time. The features of the US-style view on human rights are as follows.

First, US standard is blatantly placed above international human rights standards. Shouting a loud slogan for human rights, though, the US is in fact still one of the few countries to boycott applying international human rights treaties.

After the 1950s, the United Nations human rights treaties began to be taken as a scourge eroding US sovereignty and system and were resisted by the US for a long time. It was not until the 1980s that the US reset the process of ratifying international human rights treaties for the need of human rights diplomacy. However, despite this, it has only ratified a very limited number of United Nations human rights treaties until today. So far, the US only ratified three of the nine major United Nations human rights treaties. It has neither ratified the International Covenant on Economic, Social and Cultural Rights, one of the two comprehensive core human rights treaties of the United Nations, nor has it ratified the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of Persons with Disabilities, which were highly accepted among the United Nations human rights treaties, and it is even the only one refusing to ratify the Convention on the Rights of the Child. Besides that, even for the few treaties to which the US is a party, it is one of those with the maximum number of reservations; even more, in the process of ratification, the US declares essentially that “the US will not undertake an treaty obligation if it is not able to carry out because it is inconsistent with the US Constitution” and that “US adherence to an international human rights treaty should not effect or promise change the existing US law or practice”<sup>[1]</sup>. It means the US ratification of some human rights treaties must be on the premise of not changing its system and practice at all. In other words, it has essentially adopted an attitude of resisting the application of international human rights treaties.

Second, the US is accustomed to preaching its narrow view of human rights by the name of international human rights. As Louis Henkin, a former president of the American Society of International Law, said that, it mostly pointed to the “Constitutional rights and Constitutionalism in the US”<sup>[2]</sup>, which Americans were proud of as they spoke of human rights in the US. Since human rights can only be certain civil and political rights recognized by the US Constitution, the US government has long neglected or even publicly denied the existence of economic, social and cultural rights. On occasions where economic, social and cultural rights have to be mentioned, the US government once revealed its contempt by adding

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[1] Louis Henkin. (1995). US Ratification of Human Rights Conventions: The Ghost of Senator Bricker. *American Journal of International Law*, 89(2), 341.

[2] Louis Henkin. (1997). *The Age of Rights* (p. 141). Xin Chunying et al. (Trans.) Beijing: Knowledge Press.

“so-called” and quotation marks.<sup>[1]</sup> For this reason, it is still the only country in the West refusing to ratify the International Covenant on Economic, Social and Cultural Rights. As the world’s most developed country, the US lacks real interest in the right to development. As a matter of fact, there is nothing wrong with Americans’ tradition of focusing more on political freedom and individual rights. The problem with the US is that it has been preaching human rights to the outside world; and the bigger problem is that what it keeps on saying is “universal human rights”, but what it actually does is promote the special view of human rights from the US. This is why we see that when the US government criticizes “human rights situation” in other countries, it actually means the “real human rights” by its standard—civil rights and political rights, especially those recognized by the US Constitution, while the economic, social and cultural rights and the right to development clearly stated in the international human rights instruments appear to the US government as if they never existed.

Third, the US pursues double standard barefacedly. The US-style view on human rights firmly follows cultural relativism domestically, opposing constraints of international human rights standards on its domestic system, at the same time as it forcefully asks for universalism internationally to have other countries observe international human rights. The US claims human rights overriding sovereignty in foreign countries, while it upholds just the opposite domestically. The most unimaginable thing about the US-style view on human rights is that it attempts to “lead” the world, especially the non-Western world, to comply with “universal human rights” despite its strong resistance against international human rights standards within the country. Neither the US conservatives nor liberals deny this. Jack Goldsmith, a conservative scholar who served in senior government offices during the George W. Bush administration, publicly admitted: “The US government uses the international human rights system to measure the legitimacy of foreign governmental acts, but it systematically declines to hold domestic acts to the same legal scrutiny.”<sup>[2]</sup> Professor Louis Henkin, also criticized: “The US only wants to judge others but does not want any international judgment on its human rights acts.”<sup>[3]</sup> According to him, for the US, “international human rights are only for ‘exports’; the Congress resorts

[1] See Philip Alston. (1990). US Ratification of the Covenant on Economic, Social and Cultural Rights: The Need for an Entirely New Strategy. *American Journal of International Law*, 84(2), 367-372.

[2] Jack Goldsmith. (1998). International Human Rights Law and the United States Double Standard. *The Green Bag*, 1, 365-369.

[3] Louis Henkin. (1995). *op. cit.* 341-344.

to international human rights standards only to sanction other countries” and “the president also resorts to human rights treaties to criticize other countries”<sup>[1]</sup>. As it may be observed, the US-style view on human rights practices double standard blatantly.

Fourth, the US is obsessed with politicizing and weaponizing human rights. Politicization of human rights is a way of handling human rights issues for political gain based on political pragmatism in international relations. Since the late 1970s, the US has recovered its interest in international human rights to carry out human rights diplomacy with impure motives. At first, it used human rights as an ideological tool attacking the Soviet bloc, and after the end of the Cold War it geared towards preaching “values of the US” to maintain its hegemony. The facts that the US boycotts applying international human rights treaties and overtly using double standard on human rights issues uncover that it has no true belief in international human rights standards, and it is hard to believe it will care about the protection of human rights of people in other countries. The US is obsessed with commenting on the human rights of others with its narrow view on human rights but always turns a blind eye to the will and views of people in these countries who enjoy human rights. The US prefers human rights confrontations to dialogue when handling human rights issues and is used to suppressing developing countries, especially those that it regards as international political opponents, by exploiting and even creating human rights issues. It judges the human rights situation in other countries through its “political prism” instead of objective criteria. No matter how much progress has been made by countries that the US sees as challengers of its global hegemony, they will inevitably be rated practicing “awful human rights” in the US mind. It can explain why, despite the fact that China’s development achievements are so remarkable to be on a par with Europe and the US in many aspects, the US annual report on human rights always claims the human rights situation in China has deteriorated; it can also explain why the US has intensified its efforts to hype and even concoct these lies about China’s human rights in the international community after China was seen as the only geopolitical opponent that could threaten US hegemony in recent years.

## II. Exceptionalism Root and Adverse Impact of US-Style View on Human Rights

The US-style view on human rights well reflects the deep-rooted American

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[1] Louis Henkin. (1997). *op. cit.* 96.

exceptionalism (or superiority) and hegemonic thinking. American exceptionalism has been long rooted. It stemmed not only from Americans' pride in their tradition of freedom and history of success, but also from the feeling of sanctity caused by the messianic views of Christian. American exceptionalism highlights that the US itself is a special existence compared with other countries, gifted with a sacred mission as well as superiority over others in history, culture, system and power, and believes that its acts can be different from others. Goldsmith, for instance, believed that despite its unwillingness to enforce international human rights law to US officials, the US remains one of the greatest protectors of individual rights in the world by virtue of its domestic constitutional and democratic processes, even in the absence of international human rights law, and as he said: "International human rights law is primarily designed for nations with domestic institutions that do not hold the promise for generating adequate human rights protections."<sup>[1]</sup> In the point of Goldsmith, the force of international human rights law existed with strong support of the US and the double standard was preferable to complete indifference of the US to human rights of other countries. For this reason, "the United States double standard is one price the international community pays for the important benefit of United States enforcement"<sup>[2]</sup>. Of course, Goldsmith did not forget to remind the international community that, fundamentally, "the United States declines to embrace international human rights law because it can"<sup>[3]</sup>, as US paramount economic, technological and military power, combined with its strength of allies, meant that it was free in arbitrary sanctions on others and was largely immune from international sanctions. Goldsmith's defense of US double standard on human rights is a typical reflection of the hyper-narcissism and arrogance peculiar to American exceptionalism. From the perspective of other countries, however, the US super-confidence in its system and view on human rights as well as its "savior role" is an "American narcissism", essentially a "solipsism with ethnocentrism"<sup>[4]</sup>. This solipsism makes the US rest on its laurels domestically and be oblivious to its human rights imperialism and hegemonism as well as their adverse consequences internationally.

The arrogance from American exceptionalism has come at a price not just for

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[1] Jack Goldsmith. *op. cit.* 365-372.

[2] Jack Goldsmith. *op. cit.* 373.

[3] Jack Goldsmith. *op. cit.* 371.

[4] Robert Stam & Ella Shohat. (2007). *Flagging Patriotism: Crises of Narcissism and Anti-Americanism* (p. 33). New York: Routledge.

Americans, and also for the wider world. This exceptionalism “enjoins Americans to deliberate, to listen, to engage with other citizens of other cultures”<sup>[1]</sup> and makes it misbelieve that “the US has no need to learn from nor to be monitored by others, especially those with poor human rights situation”<sup>[2]</sup>. The result is that US beacon of human rights always tries to illuminate others but fails to illuminate itself. Under the complacent human rights protection in the US, consequently, we see serious human rights issues, such as juvenile death penalty, police brutality, racial discrimination and conflicts and public disorder, long prevail and how Americans are caught up in gun violence because of the right of the people to keep and bear arms, the “quintessence” enshrined in the US Constitution. Not long ago, we witnessed how US vaunted judicial system made abortion rights of women, not an issue in most countries, another nightmare for many American women. American exceptionalism discloses US arrogance domestically and tyranny of it as a world power internationally. Exceptionalism makes the US always try to intervene with and transform other countries and societies by its values but causes long-lasting social unrest and serious loss of lives and property instead of prosperity and stability. Armed interventions of the US in Iraq, Afghanistan, Libya and other countries have directly led to hundreds of thousands of deaths and thousands of refugees fleeing their homes. Still, the US, which caused all these human rights tragedies, has never been really held accountable.

### III. Serious Threat of US-Style View on Human Rights to Global Human Rights Governance

The US remains by far the most politically, economically, militarily and culturally powerful nation, leading the largest Western allies and wielding extraordinary influence over international relations and international human rights governance. The primary issue with the US-style view on human rights is not that the US seeks to uphold its domestic human rights convention and system, but that it pursues entrenched double standard, politicization of human rights and unbridled interventionism. For a long time, the US-style view on human rights has produced very adverse impacts on global human rights governance.

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[1] Michael Ignatieff. (2005). Chapter 1. Introduction: American Exceptionalism and Human Rights. In Michael Ignatieff (Ed.), *American Exceptionalism and Human Rights* (p. 26). Princeton: Princeton University Press.

[2] Louis Henkin. (1997). *op. cit.* 98.

First of all, the US-style view on human rights seriously endangers the credibility of international human rights protection established by the United Nations. As the world's largest power, the US has led in every possible way resisting the application of international human rights treaties, judging human rights practices of other countries with its narrow standards on human rights, and always promoting the US-style view on human rights in the name of international human rights standards. Such acts undoubtedly have caused terrific adverse impacts on the credibility of the United Nations human rights which developed over more than 70 years after World War II. As a result of the proliferation of US-style view on human rights, the economic, social and cultural rights as well as the right to development, recognized by the United Nations and cherished by the vast developing countries, have not been paid enough attention for a long time, and the global picture of international human rights have been greatly distorted. Following this view, interference and wars have been waged wantonly on the pretext of international human rights by the US and caused miserable human rights and humanitarian disasters to many developing countries, but it always easily escapes punishment by virtue of its power, while countries identified as human rights violators by the US and its allies are routinely imposed sanctions. Such double standard has caused serious threat to the credibility of the United Nations international human rights protection.

Second, the US-style view on human rights has largely caused a serious split in the international community on human rights issues. In the Western world, double standard on international human rights is not exclusive to the US, but clearly, US double standard is “unparalleled” even in the Western world. “While the West presents an appearance of a common rights identity to the non-Western world, its leader—the United States—increasingly stands apart.”<sup>[1]</sup> It has neither shown its support for universal human rights by ratifying most United Nations and regional human rights treaties as other Western countries did, nor has it demonstrated human rights could override sovereignty by submitting to the jurisdiction of international human rights bodies, like the European Court of Human Rights. The problem, though, is that US power as well as the alliances with most Western countries have led Western allies to be coerced by the US even if they did not fully agree with US-style view and practice of human rights. That is why the wars in Iraq, Afghanistan, Libya or the NATO bombing of the Yugoslavia were “masterpieces” of the US-led

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[1] Michael Ignatieff. *op. cit.* 10-11.

Western world. The US has stepped up human rights attacks on China in recent years as it views China as a major geopolitical opponent, and many Western countries quickly followed suit and begun a “chorus” of human rights against China. The US-dominated Western world, working together as gangs and taking human rights as a political stick, is prone to the loss of objectivity and justice in human rights evaluation, and will inevitably entail resistance from the non-Western world which would lead to a split of the international community on human rights issues. This split has been amply illustrated in the votes both during the United Nations Commission on Human Rights and after the setup of the UNHRC, and it is likely to grow as the US starts to launch all-round encirclement and suppression against China for the sake of its hegemony.

Third, the US-style view on human rights seriously hinders the realization of international human rights. With the influence of the US-style view on human rights, the US-led Western world politicize human rights and threatens with sanctions in an arbitrary manner. Accustomed to giving orders on human rights issues to other countries, they are utterly overlooking the wishes and views of the people. This approach of replacing human rights dialogue with confrontations fails to promote human rights and provokes widespread resistance from the non-Western world. In 2006, the United Nations decided setting up the UNHRC in replacement of the Commission on Human Rights and the Universal Periodic Review in replacement of the review by Commission on Human Rights. The original mechanisms, operated by the US-led Western countries, were too politicized and confrontational to carry out effectively almost any objective and rational human rights dialogue. This politicized, confrontational approach is generally unpopular with the international community, especially the non-Western world. Because of this, the UNHRC’s Resolution 5/1 demands that “the Universal Periodic Review should be conducted in an objective, transparent, non-selective, constructive, non-confrontational and non-politicized manner”. Nevertheless, we must be soberly aware that it is very hard to expect the US and some of its Western allies, accustomed to giving orders, to change course on human rights issues, as long as the US-style view on human rights stays unchanged. In this case, the non-Western world may have no choice but to fight for unity.

(The author is Research Fellow of the Institute of Law, Chinese Academy of Social Sciences.)



## Human Rights Protection in the Contexts of European and Global Law

Kimmo Nuotio  
Finland

“Human rights” was one of the catchwords of post-World War II world. It was the ground on which United Nations was founded. The Universal Declaration of Human Rights put this foundation into words in 1948. Later legally binding documents have turned these ideas into common heritage of mankind.

Even though human rights law carries with itself an inherent universality, the more we go into detail, the more different regional and local understandings we have.

In my talk today I will give a few remarks on the topic of how to understand the role of human rights in the context of global law. I will, however, begin with a few words about the significance of human rights law in the lawmaking process of Europe.

Europe is very much the home of human rights law since European constitutional traditions have inspired the international law tradition of human rights. The European Convention on Human Rights came into force in 1953. It was the first instrument to give effect to certain of the rights stated in the Universal Declaration of Human Rights and make them binding.

It is central to the European idea that human rights have little value unless they are effectively protected. Human rights have a close link to the constitutional law and the protection of fundamental rights. As regards Finland, for example, the European human rights standards were taken into account when the provisions of fundamental rights were amended. The human rights norms have the character of minimum standards whereas the constitutionally defined fundamental rights do not have this limitation.

The philosophical significance of human rights needs to be brought to light by interpretation. Human rights express values, but they are also rights which ground

the claims vis-à-vis a State. They are rights in the context of a State. Rights convey the message that a sovereign State does not exercise unconditional authority, but that the power originally stems from the people. Earlier in history, political thinkers such as Hobbes, Rousseau and Locke theorized about the character of the social contract which could bind people with the State and grant it legitimacy. In rationalistic natural law theory, this was the common approach since the authority of the king could no longer be founded by using a religious reasoning.

In the idealist philosophy of the 18th and 19th century similar phenomena were being discussed which later were consolidated as rights of the individual.

In the current setting of Europe, a characteristic feature is that every individual has the right to file a complaint in the European Court of Human Rights which will, if the case is admissible, decide on whether the State has violated a certain right or not. The Court cannot overrule the judgment of the local court, however. The role of ECtHR depends on the willingness of the States Parties to recognize its jurisdiction.

When we move beyond Europe, to Africa, South America or Asia, we will find different regional and local approaches to human rights law. Usually, the implementation mechanisms are weaker than the “Strong European” versions. Often also the role of Constitutions is weaker in the sense that even the rights constitutionally recognized cannot enjoy full protection. There are a variety of reasons behind the difference, theoretical or practical. The independence of the judiciary may be deficient due to corruption or political manipulation. The priorities concerning the human rights may be different. The balancing of the rights of individuals and the rights of groups may vary. Cultural issues and religious commitments as regards family issues may result in understandings in which rights of the women receive less attention than elsewhere. In developing countries, even the capacity of the public authorities to recognize and implement human rights such as social rights may be deficient.

The international system of safeguarding human rights is certainly still deficient in many ways. The international supervising bodies of the UN, for instance, exercise monitoring of the performance of the countries, but the monitoring does not as such guarantee that the observations lead to corrections and improvements.

The crucial question thus is, how could human rights protection be improved if these States are not willing to wholeheartedly promote such agendas and if they lack the capacity to do better. The matter of human rights is somewhat similar to the

development in rule of law issues: The overall situation, globally, is not improving, rather the opposite.

My own take on this all is somewhat pragmatic, and also realistic. What I mean is that all too often we find references to human right even when in reality the individual has very limited chances to have his or her right protected. We often find cases in which the constitutional provisions recognize certain rights, but in fact the more detailed legislation is lacking or deficient. We should not trust lip service.

If we talk about fair trial as a basic procedural right, for instance, it carries with itself an entire bunch of rights and requirements. The idea is that the criminal procedure needs to be arranged so that the defense has a fair chance. The assistance of a defense lawyer from the first hearing is instrumental, rough investigation methods need to be excluded, the plea bargaining, if used, need to be fair, presumption of innocence needs to be adopted, the burden of proof shall lie on the side of the prosecutor, an appeal to another court must be granted, etc. A procedural human right requires quite a lot in the arrangement of the criminal procedure. It is not a surprise that the famous German professor Claus Roxin has called criminal procedure an excellent “barometer of constitutional law”. Looking at the quality of criminal justice, one may term it as the quality of the protection of the individual within a State.

In the work of Jeremy Waldron, we find a similar idea. When the US was struggling with the idea of whether torture would be justified in investigation of terrorist offences, he taught that a State should never utilize possible lacunae as concerns legal definition of torture. The prohibition of torture exists for the purpose of protecting the individual human beings and it is perverse to turn this setting upside down. Relativizing the absolute prohibition would risk having consequences in how we see the legal system and it would loosen the commitment to non-brutality in the legal system.

In my opinion, it is crucial to begin with what the underlying rationale of a legal system is since the relationship of the citizens as individuals with the State will ultimately be defined by such often unwritten features. A Leviathan State with unlimited powers will risk crushing its citizens and seek goals which do not serve the interests of its citizens. Human rights have the important function to tie the State to a purpose of serving the interests of the people. Different human rights relate to this in different ways. The political rights of the people establish the rights of the people

to control the exercise of public power. Freedom rights establish a sphere in which the State should not intervene. Social, economic and cultural rights indicate what the State should also deliver to the people.

It is interesting to note that the famous UN Sustainable Development Goals only deal with human rights and rule of law issues indirectly, as subtopics of the Goal 16: promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels. Target 16.3 urges to promote the rule of law at the national and international levels and ensure equal access to justice for all. Target 16.10, finally, urges to protect fundamental freedoms, in accordance with national legislation and international agreements.

It seems that when drafting the UN SDGs document, it has been easier to agree on the more substantive goals such as reduction of poverty than on issues concerning human rights, democracy and the rule of law. Some progress has, in any case, been made if we compare this document to the previous one, the UN Millennium Development Goals. The UN SDGs tell about a growing understanding that matters concerning human rights, civic participation and rule of law are a central part of all real development, if measured not just by economic factors or other collective, external factors.

The weaknesses of the international governance of human rights would need to be complemented by consistent domestic efforts. Paul Gowder has stated that rule of law reform begins at home. The same applies for human rights law.

(The author is Professor and Former Dean of the Faculty of Law of the University of Helsinki; Member of the Board of China Law Center, Finland.)

## Opposition to the Politicization, Selectivity and Double Standard of Human Rights

Ri Chol Ho

Democratic People's Republic of Korea

With the malignant COVID-19 crisis sweeping across the world, socio-economic issues such as inequality and stagnation are on the increase, and the interference in internal affairs and infringement of sovereignty caused by hegemonism and conflicts are persisting in every part of the world. As a result, people are dying in large numbers and their homes are devastated still further.

Although the rights to life and existence of mankind continue to be trampled down without let-up, we see no efforts being made to put an end to this tragedy in the UN human rights arena. Instead, confrontation is taking place to pursue ulterior political purposes which have nothing to do with human rights.

What can't be overlooked is that the human rights issue, representing the human dignity, is so extremely politicized losing its original character, turned into and misused as a means to interfere in internal affairs of other countries and infringe upon their sovereignties.

The US and other Western countries, while advocating "universality" of human rights and "humanitarian intervention", are trying to disgrace and demonize the countries which they dislike before the international community in an attempt to interfere in their internal affairs and disintegrate and overthrow their systems.

The total denial of the system chosen by the people of a certain country for the very reason that they differ in ideology and standard of behavior is an act of violating the human rights and debasing the people's dignity of the country concerned.

It is the stark reality of the UN human rights arena that developing countries fall victim to politicization, selectivity, and double standard of human rights, being the targets of harsh criticism and collective attack, while the dismal human rights situations of the Western countries, rife with systematic violations including racial

discrimination, maltreatment of immigrants and gun-related crimes, have never been questioned.

If the UN is to be truly faithful to its missions for the promotion and protection of human rights worldwide, it should maintain impartiality and objectivity, the lifeline of its activities, and reject all sorts of attempts to misuse the human rights issue for sinister political purposes, on the principle of sovereign equality enshrined in the UN Charter. The UN should also continue to take practical measures to build bridge for constructive dialogue and genuine cooperation.

Ever since its founding, the government of the Democratic People's Republic of Korea (DPRK) has taken it as the cornerstone of its activities to take responsible for improving the human rights of the people incessantly, and the people's interests are given top and absolute priority through the application of the people-first principle.

In the DPRK, all the civil rights including the rights to vote and to be elected, gender equality, rights to labour and rest and the rights to free education and medical care are broadly stipulated in the Socialist Constitution of the Democratic People's Republic of Korea, the basic law of the State, as well as in hundreds of sectoral laws including the Socialist Labour Law, Education Law and the Law on the Nursing and Upbringing of Children. Moreover, these rights are practically exercised and enjoyed by people through the popular State policies.

Even under the severe conditions of unprecedented global health crisis and natural disasters, children can enjoy treatment of the highest level. They study free of charge from kindergarten to university with dairy products and other nutritional food, high-quality school uniforms and school things provided by the State. Thanks to the State policy of attaching importance to women, they are accorded preferential treatment in various sectors of medical care, employment and protection at work including the 240-day maternity leave. And working people are provided with dwelling houses free of charge at the State's expense.

Recently, the DPRK has been exposed to an unexpected emergency caused by the virus imported from the outside.

Kim Jong Un, chairman of the State Affairs, considered it as the most important policy to alleviate people's misfortune and sufferings as soon as possible and took timely measures and policies. As a result, the spread of national pandemic is contained and stabilized in a short span of time.

Our people have strongly felt in their hearts that the people-centered socialist system is the most reliable guarantee of protection and promotion of human rights.

The DPRK will as ever exert every possible effort to safeguard its socialist system where the people are the masters of the country and people's human rights are fully ensured, and as a member of the international community, it will actively join in their efforts to protect and promote human rights.

(The author is Counsellor of the Embassy of the Democratic People's Republic of Korea to China.)

## Abide by the UN Charter and Promote International Development and Protection of Human Rights

Liu Xinsheng  
China

On October 25, 1971, the 26th session of the United Nations General Assembly adopted the Resolution 2758 to restore the lawful seat of the People's Republic of China in the UN. 50 years later, this historic moment was solemnly commemorated by the Chinese government on October 25, 2021. In his speech at the Conference Marking the 50th Anniversary of the Restoration of the Lawful Seat of the People's Republic of China, Chinese President Xi Jinping pointed out: "The restoration of New China's lawful seat in the United Nations was a momentous event for the world and the United Nations. It came as the result of joint efforts of all peace-loving countries that stood up for justice in the world. It marked the return of the Chinese people, or one-fourth of the world's population, back to the UN stage. The importance was significant and far-reaching for both China and the wider world."

China supports multilateralism in international affairs, abides by the purposes and principles of the UN Charter, and promotes democracy, the rule of law and fairness in international relations. China actively advocates global governance based on equality and win-win cooperation, upholds and promotes international fairness and justice, adheres to multilateralism, and opposes all forms of hegemony and power politics. With rising composite national strength and continued economic growth, China has actively contributed to promoting peace, stability and economic growth throughout the world and to respecting and protecting human rights.

First, since its inception, the UN has been concerned about economic and social development issues worldwide and helping countries, especially developing countries, to develop.

The UN Charter stipulates that one of the purposes of the UN is "to achieve international cooperation in solving international problems of an economic, social,



cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion”.

Development and human rights are two important factors for international peace and national stability and are interdependent and mutually reinforcing. Development is not just about economic growth or specific development projects; it is about the full development of the people and society. The result of development should be a better life for the people and a higher level of enjoyment of all human rights and fundamental freedoms. In order to promote the universal realization of development, the UN has formulated a succession of 10-year development strategies since the 1960s and adopted the Millennium Development Goals at the beginning of the 21st century. During this period, although developing countries made some achievements in development, the gap between them and the developed countries was widening. In 2016, the UN launched the 2030 Agenda for Sustainable Development, calling on countries to take actions to achieve the 17 Sustainable Development Goals (SDGs), and not to leave anyone behind. The scope of the SDGs is broad, covering social, economic and environmental spheres, as well as important aspects related to peace, justice and efficient implementation.

In recent years, the international community has been seriously concerned about the threats to peace and development. The power politics of some Western countries has incited and created national and regional disturbances, and world peace faces traditional and non-traditional security threats. The world is struggling for economic and social development, and the ongoing COVID-19 pandemic since 2020 has made the situation even worse. In particular, the situation is particularly challenging in Africa due to political instability, a low economic level, poor infrastructure and the failure of many developed countries to deliver their promised aid, all this resulting in the greatest concentration of least developed countries (LDCs) on the continent. The peace, development, economic, political and ecological challenges facing mankind are becoming more and more complex, and global governance faces uncertainties and challenges.

Second, to address global challenges in the new era, we must advocate mutual accommodation and win-win cooperation, which is the right direction for global governance.

With the progress in globalization and international exchanges, and the

successive emergence of new technologies, economies and societies are becoming increasingly interdependent, and the world is becoming more interconnected in all aspects. In this new era, global governance faces unprecedented challenges, and only through joint participation and cooperation can the international community effectively respond to them. In the efforts to achieve peace, development and human rights, the international community must promote the spirit of win-win cooperation.

Win-win cooperation in international affairs means that in international development and governance activities, all countries are equal and should respect each other, so as to achieve common benefits for both or multiple parties. As we are all residents of this Global Village, our interests might be in conflict or converged; there are differences and also common understandings; we may hold different views on some issues and aim for the same thing on some others. Only by abandoning conflicts and seeking common ground while shelving differences can we achieve win-win results, ensure the universal participation of all countries regardless of our different stages of development, and fully guarantee the interests of all countries. Cooperation is the foundation of development, and only when countries develop in synchronization can they achieve win-win results and advance together. In the face of mushrooming novelties and new challenges, win-win cooperation is the right choice of the times.

Win-win cooperation is at the heart of the idea of global governance advocated by China and an important component of China's traditional culture. When it comes to the exchanges and relations between different countries, different ethnic groups and members within a family, Chinese people have always stressed the importance of unity, solidarity and cooperation since ancient times. As the saying goes, "the flames rise high when everybody joins to add fuel" and "people with one mind and heart have the power to move a mountain". This philosophy reflects the spirit of the times and unites people to promote extensive consultation and joint contribution for share benefits. By reviewing, summarizing and combing through China's outlook on global governance, we can better promote China's theories and successful practices in global and national governance. Solving complex international problems requires cooperation of all countries, and it is in the common interests of all countries to solve such problems in a fair and reasonable way. The vision of "building a community with a shared future for mankind" advocated by China has won increasing approval and support from at home and abroad and integrated into the international

governance discourse system.

But in today's world, anti-globalization and anti-multilateralism are pervasive. In order to maintain their dominant position, hegemonic countries take monopoly and control of the international system as their basic goal. The US government has repeatedly discarded the principle of multilateralism, the UN and the international governance system and taken unilateral hegemonic actions that are self-centered. The turmoil and serious humanitarian disasters thus caused in Africa, the Middle East and Eurasia in recent years are sending a warning to the international community that hegemonic countries are abusing unilateralism to pursue their absolute interests and will cause tragedy and disaster for the civilization and order of the world.

Third, development is of vital importance to world peace and harmonious coexistence among all countries. Peace, development and human rights depend on and promote each other.

The material basis of a society in different stages and periods of development will determine its superstructure of social governance in a certain period. Therefore, global governance would not be possible without the necessary material conditions and basic economic and social development in any period. Throughout the development history of theories and practices of human rights protection, from the proposal of the concept of human rights hundreds of years ago to the inclusion of the issue of human rights into diplomatic and international relations after the end of World War II, human rights were never realized out of thin air.

Peace and progress in human rights are the goal of development, and they are achieved gradually along with development. Without economic and social development as the basis, peace and the enjoyment of human rights would not be possible. Development provides conditions and the material basis for the exercise of human rights. When a country is developed, it will have better conditions for its people to enjoy human rights. When a country is underdeveloped and lacks the minimum basis to guarantee human rights, human rights would be reduced to lip service.

Development is an important fundamental issue for the progress of the international community. Development is conducive to maintaining peace and improving people's living standards and well-being, and poverty and backwardness will plunge countries into chaos. Only in conditions of peace, stability and sustainable development can a country/society provide the basic environment for all to enjoy

human rights. Therefore, a country's sustainable economic and social development, together with democracy and the rule of law, is conducive to better balancing relations between social classes and promoting social equity, justice, prosperity and harmony.

National development will help improve the educational, cultural and moral level of the people and enhance their understanding and awareness of human rights, so that they will better understand and protect human rights, actively exercise civil and political rights, and thus form the cultural foundation and value basis for democracy, rule of law, and good governance of the country. At the same time, the level of economic and social development of a country will determine the extent to which its people can exercise economic, social and cultural rights. A higher economic and social development level will enable the country to guarantee the exercise of these rights in a broader scope and at a deeper level.

The UN Declaration on the Right to Development of 1986 defines development as follows: "Development is a comprehensive economic, social, cultural and political process, which aims at the constant improvement of the well-being of the entire population and of all individuals on the basis of their active, free and meaningful participation in development and in the fair distribution of benefits resulting therefrom." On September 13, 2019, Ambassador Chen Xu of the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva made a joint statement calling for full realization of the right to development for the benefit of all people at the Human Rights Council on behalf of 139 countries, expounding the theoretical connotation of the right to development. According to the statement, all countries should, guided by the UN Declaration on the Right to Development, promote the realization of the right to development, pursue innovative, coordinated, green, and open development that is for all, adhere to the spirit of equality, mutual trust, inclusiveness and mutual learning, and win-win cooperation, support development, promote human rights and jointly build a community with a shared future for mankind.

Fourth, the Chinese government actively contributes China's strength, proposals, and ideas to the improvement in global governance.

China has always adhered to the principle of sovereign equality in international relations. All countries should advocate respect for the sovereignty and territorial integrity of each other, respect cultural diversity, respect and safeguard the social

systems independently chosen by all peoples and respect each country's development path suited to its own national conditions.

After decades of development, China has realized that a peaceful environment and a stable and safe society in good order are of vital importance for a country, without which development would be like water without a source and trees without roots. China supports the efforts of the UN and the UN Security Council in international affairs and advocates the maintenance of international peace and security and the peaceful settlement of international disputes, with the aim to provide a peaceful and stable environment for all countries. In cooperation with international organizations and other countries, China has taken a clear-cut stand in combating terrorism, separatism, extremism and drug-related crimes. China is also active in international peacekeeping operations. Over the past 30 years, China has cumulatively participated in 25 UN peacekeeping operations and sent more than 40,000 peacekeepers, 16 of whom lost their precious life in defending world peace.

The Chinese government attaches great importance to the implementation of the UN 2030 Agenda for Sustainable Development and has incorporated it into the five-year plans for national economic and social development and medium- and long-term development strategies. In September 2019, China issued the Progress Report on Implementation of the 2030 Agenda for Sustainable Development 2019, the second of its kind issued by the Chinese government. The report systematically reviews China's measures, progress, challenges and gaps in promoting sustainable development in all respects and plans for future work. As the largest developing country and a responsible major country, China has always strived unswervingly to fulfill its sustainability commitments, demonstrating its determination to apply the new development philosophy, and achieve high-quality development.

The Chinese government has delivered on its commitment to poverty elimination: By the end of 2020, it had lifted more than 700 million people out of poverty and had eliminated absolute poverty in the country. Progress is seen in various social undertakings, and continuous improvement is made in the environment for the development of health, education and gender equality and the system of public legal services. China also actively promotes international cooperation for sustainable development, adheres to the "people-oriented" and "green development" principles, and proposes extensive consultation and joint contribution for shared benefits to build a beautiful environment where man and Nature co-exist in harmony. In September

2018, during the 39th session of the UN Human Rights Council China and South Africa jointly held a meeting in Geneva, entitled “The Eradication of Poverty and the Promotion, Protection and Fulfillment of All Human Rights, Including the Right to Development”. The delegates pointed out that proceeding from its basic national conditions, China gave priority to the people’s rights to subsistence and development and worked hard to protect and improve the people’s livelihood, thus blazing a path toward poverty reduction with Chinese characteristics. They agreed that without China’s contribution, the 2030 UN SDGs would be difficult to achieve.

More than two years into the COVID-19 pandemic, countries are facing grave threats to the security of people’s life, property and economic and social development. In the darkest days of the pandemic, the Communist Party of China and the Chinese government exercised strong leadership, and local governments actively responded by using scientific and legal means to protect the people’s right to life and health and gave full play to the country’s administrative capacity and institutional advantages. Through nationwide concerted efforts, China has managed to minimize the impact of COVID-19.

Since the implementation of the reform and opening-up policy, China has become stronger and more prosperous day by day and its people now enjoy peace and tranquility, and exercise various rights on a higher level. The amendment adopted in 2004 added the line “The State respects and safeguards human rights” into the Constitution, reflecting China’s determination to advance human rights and providing legal and institutional guarantees for human rights protection. While keeping improving the level for the people to exercise their basic rights, the Chinese government has made international cooperation in the field of human rights an important part of its overall diplomacy. China upholds the principles of equality and mutual respect, actively participates in the UN human rights protection activities, and has made remarkable achievements in international exchanges and cooperation, and contributions to international governance and human rights protection. Not long ago, the UN High Commissioner for Human Rights Michelle Bachelet visited China at the invitation of the Chinese government and made extensive contact and direct communication with government officials and people from all walks of life. The visit achieved positive results.

As the world’s fastest-growing economy in the past decades, China has been actively promoting South-South cooperation in development. Via China-

UN Peace and Development Fund, South-South Cooperation Assistance Fund, and other platforms and through bilateral channels, the government has provided assistance within its capacity to other developing countries in Asia, Africa and Latin America to help them achieve the SDGs. China has also extended a hand of friendship and cooperation and invited other countries to jointly implement the Belt and Road Initiative (BRI), to share China's economic development fruits and create opportunities for common development. The BRI highly aligns with the UN 2030 Agenda for Sustainable Development in terms of objectives, principles and implementation path. It has attracted the participation of about 150 countries and 32 international organizations and has signed more than 200 cooperation documents. The BRI, a proposal put forward by China to advance development worldwide, is making a real, substantial contribution to building a community with a shared future for mankind.

(The author is Ambassador of the Ministry of Foreign Affairs of China, Expert of the United Nations Human Rights Council Advisory Committee.)

## The Diversity of Civilizations and Global Human Rights Governance

Liu Xiaomei  
China

Diversity is intrinsic to human civilizations; it makes the civilizations appealing, and powers the world development. In their coexistence, civilizations should seek harmony in differences, and to put an end to the “end of history” is an indispensable rule for the development of civilizations. Only by respecting each other, learning from each other and coexisting harmoniously in diversity, can the world prosper in rich colors. Human rights, a reflection of human civilizations, similarly have no universal “samples” to follow, but need observe the principles of equality and respect and embrace diversified development in light of national conditions and people’s needs. China’s view, practice and path of human rights have contributed wisdom to the world human rights cause, provided the program of adding diversity to the concept of human rights, and become an integral part of global human rights governance.

By theoretical logic, human rights originate from human nature and are human-centered and human-oriented value systems and institutional systems. They need conform to human nature and facilitate all-round development of human being. Chinese and Western cultures understand human beings differently. Traditional Chinese culture understood the way of existing of human being as “benevolence is humanity”, where the Chinese character for “benevolence (仁)” consists of two parts, one standing for “human (人)” and the other for “two (二)”, meaning two human beings make an interconnected unity. “I” join a family, a country and even the broad world, and shape the unique relations between a human being and other human beings, the society and the country. Karl Marx stated, “individuals are social existence” and human nature includes both natural and social attributes. Renowned sociologists and legal experts such as Niklas Luhmann and Rudolf Smend reflected



upon and criticized the traditional Western individualism and liberalism placing individuals in binary opposition to the society and country. They proposed that individuality and community are socially interlocked in dialectical correlation and that community is the structure of individuality (substantive social structure) and the necessary property of individuality. So, when understanding human beings, natural and social attributes of human beings and their relations with the society and country, different civilizations have contributed wisdom of different peoples; the diversity in civilizations, systems and paths and their mutual exchanges and learning can effectively power the progress in human society.

By historical logic, human rights are the common pursuit of mankind, and they are historical, specific and realistic, inseparable from the social and political conditions and historical and cultural traditions of different countries. The view of rights of modern China differs wildly from the Western transcendental view of “natural human rights” or “natural right”. First, we put people first, insist that the rights to subsistence and development are the primary basic human rights, and highlight that living a happy life is the primary human right. Second, with an active view of human rights, China regards development as the ultimate approach to improve the level and expand the scope of human rights protection and strives to promote all-round development of people and enhance people’s senses of fulfillment, happiness and security.

By practical logic, China is among the countries with the longest history in the world, and Chinese culture has always emphasized the respect and care for people. Since 1840, the course of China’s revolutions, development and reforms has been a process of making unremitting efforts for gaining, respecting, protecting and developing human rights and a process where Chinese people get to run its own country and society and decide on its own destiny and where their rights to subsistence and development as well as other basic rights are further protected. China’s view, practice and path of human rights are a model of integrating Marxist basic principles into outstanding traditional culture in light of Chinese realities. They have contributed wisdom to the world human rights cause, provided the program of adding diversity to the concept of human rights, and become an integral part of global human rights governance.

Worldwide, China’s series of valuable views in human rights and its significant achievements in the human rights cause are of great importance for enriching the

meanings and paving new paths of global human rights governance and steering the governance towards fairer and sounder development. For instance, in the face of the challenges such as resurging unilateralism and protectionism and impeded economic globalization amid the profound changes unseen in a century, China proposes to protect the rights to subsistence and development as priority, balance citizens' political rights and economic, social and cultural rights, promote human rights with development and end poverty in all forms, advance human rights in peace and protect people's right to peace, facilitate human rights in dialogue and cooperation, and oppose unilateral compulsory measures. These have produced major influence over global human rights theories and practice, and enhanced China's participation and right of speech in global human rights governance. China insists that human rights should not only include individual rights of each person and collective rights of a nation, but also take into account the collective rights of mankind and the balance between collective and individual rights. Thus, China puts forward the building of a community with a shared future for mankind and the Belt and Road Initiative and strives to create conditions and opportunities for all peoples, especially those in developing countries, to share the development fruits.

Looking forward, China's view of human rights is open and bound to change along with evolvement of people's needs over time. To promote the rights to subsistence and development as the primary basic human rights is particular to China's path of human rights, while the contents of the two rights can be divided into different layers and are evolving. The report to the 19th National Congress of the CPC soundly identified the principal contradiction facing Chinese society as that between unbalanced and inadequate development and the people's ever-growing needs for a better life. The "needs for a better life" here has surpassed the mere realization of the low-level right to subsistence with physical and cultural needs fulfilled, aiming to realize the high-level right to subsistence with the sense of happiness gained, and the value implied behind is people's right to pursue happiness. Development, as the key to people's happiness, includes both traditional economic, social and cultural development such as basic necessities of life, but also development in the people's needs for a better life in the new era such as democracy, rule of law, fairness, justice, security and environment. Correspondingly, new human rights concepts like right to security, digital human rights and environmental human rights have further enriched the meaning of the right to development. In this process, the right to development

would lead to a higher-level “right to happiness”. It should be noted that within a country, the right to happiness is the result of common development at national, society and individual levels, which makes it not a pure confrontational right, but a right about integration, harmony and benefits for all; in the international community, the paths towards happiness are varied and people in different countries enjoy the right to choose their own development paths and institutional modes. This is essential to people’s happiness, and we need to treasure our own distinct heritages, appreciate other cultures and promote shared prosperity.

In summary, world civilizations are diverse and rich, and human rights similarly should never have only one pattern or one path as in the West to follow. The views, systems and paths in human rights of all the countries should be respected equally, and all the countries should seek harmonious coexistence and win-win cooperation. In this sense, to unswervingly march along China’s path of human rights development itself is a vivid reflection of respecting and protecting civilization diversity as well as actively participating in and making contribution to global human rights governance.

(The author is Research Fellow of the Institute of International Law, Chinese Academy of Social Sciences.)

# China Actively Participating in and Promoting Global Human Rights Governance

Liu Huawen  
China

The United Nations Human Rights Council (UNHRC) held its 50th session in Geneva from June 13 to July 8 of 2022. Recalling its aspiration as it was created in 2006, the UNHRC fought against the politicization and the East-West confrontations of human rights in the period of the United Nations Commission on Human Rights (UNCHR, 1946-2006) with efforts to carry out universal, impartial, non-political, non-selective and non-confrontational dialogue and cooperation on human rights. However, there is a discrepancy between facts and the dream, even a large one. The shadow of the East-West political confrontations is easily found again in UNHRC's practices now. This is a microcosm of the problems and challenges facing global human rights governance today.

Today's China, following its concept of human rights, has made unprecedented achievements with more vigorous effort to develop human rights at home, while unswervingly contributing to the sound development of international human rights, actively participating in and promoting global human rights governance.

## I. Global Human Rights Governance Faces Deficit

Human rights are the common ideal of people all over the world. Throughout the ages, people of all countries have advocated and advanced the civilization and progress of human society with concrete actions on human rights. Stepping into the 21st century, the level and potential of human society safeguarding human rights are unparalleled, while the realization of human rights has never been easy or natural. Today, challenges and opportunities are entwined for respecting and protecting human rights, both at the global or a national level, in the vast number of developing countries what holds up their progress deserves more attention and should be resolved

through international cooperation.

The development of international human rights confronts traditional and new challenges, especially the uncertainties in politics, economy and science and technology to a considerable extent. People expect the hard-won progress of human rights can be irreversible, but world peace is not unbreakable. Local wars and armed conflicts have not been effectively prevented and stopped and even pose the risk of another world war; the achievement of UN SDGs to fuel prosperity and eradicate poverty have been arduous, and even doubly difficult in recent years; the problem of “refugee wave” around certain regions remain unsettled and growing; more efforts should be paid for addressing the social ills of terrorism, racism and gender discrimination, and issues are mounting; furthermore, international governance has just started working in multiple emerging fields (such as environmental protection, climate change, the Internet and medical technology) with complex impacts on human rights and is far from being on the right track.

The COVID-19 pandemic, the most grievous health challenge facing mankind after the World War II, has been a human rights crisis and challenge never happened before, and the different situations of protection of the right to life and the right to health highlight different social systems, development pathways and approaches as well as their results. The pandemic expansion has accelerated the changes unseen in a century of the international community and are producing extensive and profound social impacts.

Political, military and international relations factors are intertwined in the special military operations launched by Russia in Ukraine since February, bringing about critical impacts on the international landscape and the protection of human rights. The world experiences more turbulence; economic globalization is in retreat; and international trust and solidarity suffer hard setbacks. International confrontations in the field of human rights are on the rise and could shock the United Nations governance system.

## II. Human Rights in China Enter a New Stage of Development

A happy life for the people is the most important human right, as General Secretary Xi Jinping said. It illustrates the concept of human rights in China as well as the outstanding experience.

Respecting and protecting human rights is the symbol of good laws and

governance. The rule of law and the protection of human rights are linked and mutually reinforcing as the Party's leadership, the people's status as masters of the country and law-based governance are ensured. With an increasingly perfect legal system for recognizing and protecting human rights in China, a happy life for the people and the social harmony have been well safeguarded by the rule of law.

China has formulated and implemented four action plans on human rights since 2009, and it is one of the few countries with such persistent efforts.

The idea of the people as masters of the country is reflected in democratic elections. From the first half of 2021 to March 2022, elections for new people's congresses at the county and township levels have been largely completed across China, and over two million deputies have been directly elected by more than one billion voters, which is known as the largest grassroots elections in the world.

The average life expectancy of Chinese residents increased from 35 years in 1949 to 77.93 years in 2020. As the protection of the right to life and health for women and children was intensified substantially, China has been listed by the WHO as one of the 10 countries with high performance in maternal and child health. Against the cosmopolitan challenge led by the COVID-19 pandemic never known in a century, the safety and health of the people have been best fortified on a scientific basis and by operation of law, and it is how the Communist Party of China and the Chinese government have put the people and their lives above all else in practicing the concept of human rights.

China has completed the world's largest social security system covering old-age care, medical security and social assistance, and the coverage is expanding, and security situation continues to improve.

Free compulsory education in urban and rural areas has been realized across China. In 2020, the completion rate of compulsory education was 95.2%, and the availability of compulsory education reached the average level of high-income countries.

With long and unrelenting efforts, by the end of 2020, by China's current poverty threshold, all of the 98.99 million rural poor, as well as the 832 counties and 128,000 villages classified as poor, had emerged from poverty, and regional poverty was eliminated. The marvelous achievements in poverty reduction have rewritten the progress on human rights in China, and this was a new global miracle of protecting human rights. China realized its poverty reduction goal from the UN 2030 Agenda

for Sustainable Development 10 years ahead of schedule, significantly reducing the amount of poor population with a contribution of more than 70% to global poverty reduction.

On July 1, 2021, on the occasion of celebrating the 100th anniversary of the founding of the Communist Party of China, on the Tian'anmen Rostrum in Beijing, General Secretary Xi Jinping solemnly declared that China had built a moderately prosperous society in all respects and brought about a historic resolution to the problem of absolute poverty. It was a monument to the progress on human rights in China. The realization of moderate prosperity helped usher in a new era of comprehensive protection of human rights.

By combining the universality of human rights with domestic reality, China has worked for the progress on human rights in conformity with its national conditions and public demands and embarked on a human rights development path with Chinese characteristics. China regards the rights to subsistence and development as its primary and fundamental human rights, the essential and key issue for the development of China as a developing country with a large population. The right to subsistence comes first among all human rights and development is the key to all issues. Implementing the new development philosophy across the board in a complete and targeted manner, China has set out to a remarkable journey from securing adequate food and clothing to building a moderately prosperous society in all respects. With this said, it will enable the rights to subsistence and development to be better protected and embrace all human rights for all-round progress on human rights. The human rights in China have started a stage of better, faster and more comprehensive development.

All the practices, achievements and experience of human rights in China will serve as a solid foundation for it to actively participate in and promote global human rights governance.

### III. China Actively Participates in Global Human Rights Governance

On September 16, 2015, in his congratulatory letter to the 2015 Beijing Forum on Human Rights, General Secretary Xi Jinping noted that China would unswervingly stay on the path of peaceful development and steadfastly advance human rights development both in China and in the wider world.

The year of 2021 marked the 50th anniversary of restoration of People's Republic of China's lawful seat in the United Nations. Under the framework of the

United Nations, China has always been a participant, builder and contributor to global human rights governance for more than five decades.

China better integrated into the international community after the restoration of People's Republic of China's lawful seat in the United Nations in 1971. It has firmly safeguarded the international system with the United Nations at its core and the international order underpinned by international law. China has always participated in human rights events and work of the United Nations with an active and responsible spirit and worked hard for the healthy development of international human rights, as it plays an increasingly important role in global human rights affairs.

China actively engaged in the drafting and formulation of international rules for human rights. As a founding member of the United Nations, China has participated in the formulation of the UN Charter, the Universal Declaration of Human Rights and other international human rights instruments, making an important contribution to the development of international human rights rules. After restoring its lawful seat in the United Nations, it participated in formulating the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, the Convention on the Rights of Persons with Disabilities, etc. China played a constructive part in international climate change negotiations with the United Nations Framework Convention on Climate Change as the main channel and ensured the adoption of the Paris Agreement on climate change and its entry into force. China has ratified more than 20 international human rights treaties and protocols. For the human rights treaties that China ratified or acceded to, it has fulfilled its obligations, submitted its performance reports to relevant human rights treaty bodies and engaged in constructive dialogue with them.

Besides, China engaged in formulating the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the Declaration on the Right to Development, the Vienna Declaration and Programme of Action, the Declaration on the Right of Peoples to Peace, and so on. Based on the UN Charter, it has created the Belt and Road Initiative, and pressed forward with establishing international cooperation rules concerning the economy, environmental protection, healthcare, adolescents, the protection and development of children, cyberspace governance, anti-corruption and drug control.

Since the 18th National Congress of the CPC (NCCPC), China has taken a



more active part in the United Nations human rights affairs and bridged international human rights exchanges and cooperation with other countries, especially developing countries, to play a constructive role. In particular, much attention has been paid to the participation in the UNHRC's Universal Periodic Review. China was first reviewed in 2009 and engaged in the Universal Periodic Review for the third time in November 2018. In the recent Review process, over 120 countries acknowledged China's remarkable achievements in the promotion and protection of human rights and spoke highly of the concept and experience of human rights in China as well as how China's progress has contributed to global human rights cause.

In October 2020, China was successfully elected at the 75th session of the United Nations General Assembly that elected UNHRC's members for 2021-2023. The United Nations General Assembly re-elects about one third of the 47 seats in the UNHRC every year and the elected members serve for a term of three years and may be re-elected at most once, so after two consecutive terms, a new term must be sought after a gap of one year. China actively ran in elections and was elected to the UNHRC by a wide margin every time it was eligible. Its repeated successful election reveals the full recognition of China's exceptional work on human rights and its significance to international human rights exchanges and cooperation, as well as the international community's expectation that China, as a rising developing country, will play a more active part in the United Nations.

China held several rounds of dialogue with the US, the UK, Australia and other countries as well as with the EU on human rights issues, while inviting a number of human rights officials and experts from the United Nations and other countries to visit China and sending delegations abroad to exchange views on issues related to international human rights.

At the invitation of the Chinese government, the United Nations High Commissioner for Human Rights, Michelle Bachelet, paid a successful visit to China from May 23 to 28, 2022. It was the first visit to China by a United Nations High Commissioner for Human Rights in 17 years. The two sides fully exchanged views on global human rights governance, multilateral human rights, cooperation between China and the OHCHR and other issues of common concern.

#### IV. China Actively Promotes Global Human Rights Governance

For more than 70 years, the United Nations has served as the most important

intergovernmental international organization and multilateral diplomatic platform. The UN Charter's preamble reads: "We the peoples of the United Nations determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small." Promoting respect for and protection of human rights is one of the purposes and goals of the UN Charter. The UN Charter (1945), the Universal Declaration of Human Rights (1948) and a series of subsequent core international human rights treaties of the United Nations further established universal international human rights standards and United Nations human rights mechanisms. Especially since the late 1980s and early 1990s, multilateralism and economic globalization have developed more widely and in more depth, while the United Nations put more emphasis on its major issues—peace, development and human rights. The global human rights governance system represented by the United Nations is an important part of international governance.

In line with the United Nations' efforts on human rights as well as domestic economic growth, social progress and the development of the rule of law, China's participation in the United Nations human rights mechanisms has continued to deepen. For this reason, the fast-developing China's status and role in the United Nations are drawing more attention from the world.

When speaking about actively promoting global human rights governance on February 5, 2022, General Secretary Xi Jinping cited, "the heart of people goes where the greater good and righteousness lie", noting that we must carry forward the common values of all mankind, follow the principles of equality, mutual trust, inclusiveness, mutual learning, win-win cooperation and common development and make global human rights governance fairer, more equitable, reasonable and inclusive.

China was the first developing country to realize the UN Millennium Development Goals contributing to over 70% of the global poverty reduction. China has reflected on and participated in global governance as well as contributed to building a community with a shared future for mankind when concentrating on running its own affairs well. With great importance attached to the making and application of the United Nations development agendas, it has been an advocate and practitioner of the United Nations 2030 Agenda for Sustainable Development.

In the principles of equality and mutual respect, China has advanced development through cooperation while promoting human rights through development. It remains constructive on the position to fight for and promote human rights through dialogue and cooperation and by laying a solid foundation for development.

China has kept in contact and worked with the WHO in the selfless belief of internationalism when fighting COVID-19. The international cooperation developed by China has always been ongoing with uninterrupted efforts to offer the international community human resources and supplies as well as expertise and experience in scientific prevention and to encourage the use of vaccines as a global public good for health with concrete actions. COVID-19 is a huge challenge to human rights worldwide, and China is an active and key force in responding to this challenge, mitigating the pandemic threat and developing international coordination and cooperation.

The position and view of China promoting to build a community with a shared future for mankind have been practically proved to be scientific and forward-thinking in keeping with realities and developments of the international community. In the international community, besides the original challenges including wars and armed conflicts, natural disasters, epidemic diseases, etc., the international system with the United Nations at the core and international law itself are being neglected or destructed. US unilateralism and bullying are growing worse and even directly threaten the security, development and human rights of the international community. The world is experiencing COVID-19 and economic, political and cultural challenges caused by the pandemic as never before. Thanks to the efforts of China, the UNHRC has included the philosophy of building a community with a shared future for mankind into over a dozen resolutions, making it an increasingly important part of the international human rights discourse system.

Human rights are good but can easily become a tool for exerting diplomatic pressure and provoking political confrontations because of its abstractness and appeal. Some Western countries such as the US employ human rights as a political tool, apply double standard and disregard facts and international rules so frequently. This, to a considerable extent, has interfered with the United Nations human rights mechanisms (including the UNHRC) and the proper functioning of international human rights mechanisms. Along with the vast developing countries and those upholding fairness and justice, in the principles of sovereign equality and non-

intervention in the internal affairs of other States as written in the UN Charter, China has resolutely fought against acts of interfering in internal affairs, political smearing and suppression under the pretext of human rights and defended the UNHRC's principles and systems.

General Secretary Xi Jinping pointed out in his speech: “Developing human rights is the shared cause of all mankind. No one can claim to be perfect in human rights protection. Every country has the right to independently choose the path of human rights development. Different civilizations and countries are supposed to respect, accommodate, exchange with and learn from each other. We carry forward the common values of all mankind, practice real multilateralism, actively participate in the reform and development of global governance including human rights governance and work to build a community with a shared future for mankind.” Persistent and active engagement in global human rights governance is a feature of China's human rights development and valuable experience gained in the practice of advancing human rights.

As a conclusion, for global human rights governance, China advocates integrating the universality of human rights with national realities, respects the right of peoples to independently choose their paths of human rights development and promotes democracy and the rule of law in international relations. As China harvests well-rounded progress on human rights, it has actively participated in and promoted global human rights governance and exerted unique and significant influence with contributions and solutions to developing international human rights.

(The author is Deputy Director and Research Fellow of the Institute of International Law, Chinese Academy of Social Sciences.)

## Human Rights Are Not under the Ownership of the West

Rui Lourido  
Portugal

In my opinion, we need to proclaim to the world that the human rights in China are more inclusive than those respected in the West. The Observatory for China has dedicated itself in recent years to countering manipulative and slanderous arguments on the part of the West countries against China. Personally, I have written numerous articles in Western and Chinese newspapers trying to clarify the correct positions of the CPC and the Chinese government.

I would like to begin with saying that Chinese political regime is a representative democracy, respecting and following the Universal Declaration of Human Rights. China was among the first countries to ratify this document, having even been one of the drafters of its text.

As a researcher, I can say that in relation to democratic systems and human rights, no country can claim perfection and there will always be a need to improve. We note the existence in contemporary societies of different specific historical contexts, which explain the different paths of development and application of human rights in their respective countries.

We must also take into account that the Communist Party of China has sustained successive constitutional revisions, which have allowed the role of Chinese democratic institutions to be strengthened. In particular, the primacy of the Constitution and the law, which is expressed in local and regional assemblies in all provinces and confirmed in elections held at the annual sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC). This degree of civic participation by the Chinese people at various levels of political decision-making, which does not exist in neoliberal democracies, legitimizes the CPC's leadership. On the other

hand, the extraordinary concrete results achieved in improving the standard of living of the Chinese and in the development of China, reinforced the people's confidence in the legitimacy of Chinese democracy.

The experience of Chinese civic participation proves that the criterion used in the West—direct and universal voting—to consider that a given country is democratic, is clearly insufficient.

Human rights in China are not just theoretical but have a real translation in the lives of populations, namely through China's full coverage of urban and rural subsistence allowances and medical insurance, promoting equity in education, eradicating absolute poverty and access to decent housing and clothing. These are fundamental factors for the well-being of populations, which unfortunately we do not see in most Western countries.

China places the general interest of the people at the center of its policies, thus enabling China to be the first Asian country to eradicate extreme poverty in all of its territory. By doing so in a generalized way, not only concerned with the Han majority, it takes directed specific measures to benefit all its ethnic minorities and the five autonomous regions and improve the living conditions of them.

Another example, which illustrates the concerns of the government regarding the priority given to the well-being of the people, was clear at the time of the COVID-19 pandemic, during which, from the beginning, the protection of the lives of its citizens came before economic interests. China has consistently and persistently managed to be one of the most successful countries in combating and controlling the pandemic.

The CPC and the Chinese government take a holistic approach to different categories of human rights. Human rights are a rich and comprehensive concept and must be respected with integrated and systematic measures. For developing countries, the rights to adequate living standards, like full access to water, food, housing, health care and others, are priority human rights.

In this context, the attempt of China to avoid war on the basis of mutual respect, is extremely encouraging for democrats in the West. We agree with the Chinese position of calling for an end to the war, with fair negotiations between the warring parties and an end to US and NATO interference, which is artificially inciting and prolonging the war with offensive weapons.

The Communist Party of China recognizes that more efforts are needed to achieve the full development of human rights, with greater quality, efficiency, equity, sustainability and security.

Among the different democratic systems around the world, we believe that Chinese government has created advantageous opportunities and real benefits for China's people.

(The author is President of the "Observatory for China", Portugal.)

## Building a “Community with a Shared Future for Mankind” as a Human Rights Governance

Maria Francesca Staiano  
Argentina

The community with a shared future for mankind is a key expression not only of Chinese foreign policy, but also of the evolution of the rule of international law.

For many years I have been dealing with this expression, its philosophical origins and the common foundations that link this new idea of global governance of China with Europe and Latin America.

Today, due to the limited time we have available, I will try to limit my investigation to the link of the “community with a shared future” to human rights in an idea of global governance.

The term “community”, in Western languages, is intrinsic in various meanings especially in the field of political philosophy (Hobbes, Rousseau, Kant, Heidegger, Bataille, Nietzsche, Freud, Bauer, Morin, etc.) and is often associated with an idea of *res publica* in common, which means “public good” and can be reduced to a “common property”. Many intellectuals have therefore used this term to speak of something of “their own”, in “common”, leading the discourse towards an “own State identity”. However, thanks to a semantic deconstruction reading of the term carried out by Prof. Roberto Esposito (1998-2006), we can reinterpret this term in the light of its authentic etymological root, from the Latin *communitas*. Esposito tells us that “the common is characterized by the not own, the other”, “the *communitas* is the group of people brought together not by a property, but by a debt (*munus*)”. The *munus*, in fact, was a gift that one had the duty to give as a benefit had been received. Therefore, the community is a set of subjects who find themselves united by a duty, *cum munus*, but who in reality are perfectly alien to each other, “given to otherness”.

In Chinese, community is rendered with “共同体 (Gòngtóngtǐ)”, in which “共” means “to share”, but it is extremely interesting to note that, even in Chinese,



we have the equivalent of “public”: “公 (Gōng)” and “贡 (Gòng)”, which means “tribute” or “offering”, a concept that is very similar to *munus*. In a certain sense, therefore, it is as if ancient thought preserved within itself this double origin of the sense of community, as a “sharing of a due gift”, and as a “common responsibility” towards the very idea of humanity. Furthermore, the same “共” of “共同体” is used in another key term of Chinese international relations, the theory of international relations of symbiosis, namely “共生 (Gòngshēng)”, which precisely aims to promote an awareness of the “necessary interdependence” between nations, through a “coexistence” and a “common effort” as a necessary “tribute” to solve the global human rights issues for all peoples (wars, climate change, poverty, etc.).

I start from the word because now the reductionist rhetoric in which we are immersed delegitimizes many possibilities for profound reflection and therefore I take this very important opportunity, among colleagues that I highly respect, precisely to raise the toll we owe to the social sciences.

Today I will take as an example what is happening thanks to the development of this term in China: since 1997, the system of rule of law with Chinese characteristics has undergone a very strong development leading to various revisions of the Constitution (that of 2004 on human rights in Article 33 of the Constitution being certainly the most relevant for this discussion), the formulation of various laws in application of international covenants on human rights, up to the new Civil Code of the PRC, in which the complete statement of “personality rights”, the so-called “green principle”, protecting environment, has been inserted.

But the most relevant innovation is certainly the growing interaction between international law and domestic law. According to Professor Liu Huawen, the progressive development of international human rights law has pioneered the development of Chinese domestic law, which functions as a “legal culture tool”. According to Liu: “Human rights law and concepts have their own humanistic and moral foundations, therefore, they produce not only general legal obligations, but also humanitarian repercussions on public opinion and the moral evaluation of their implementation process, so their importance goes beyond the legal sense. In this regard, the Easterners tend to add an internal moral obligation to the legal obligation”. The Chinese “humanist” turn, as a result of the people-centered approach, therefore, is not a novelty, but a modernization of legal culture.

Today the osmotic interaction between international law and Chinese

domestic law has generated “feedback” of Chinese law towards international law, which functions as a “organic connection between the national rule of law and the international rule of law”. China therefore promoted the generation of a political-juridical concordance between the national rule of law and the international rule of law, through China’s current foreign policy. This new paradigm aims to build a new type of international relations, a people-centered global governance, and a community with a shared future for mankind.

The vision of a “community with a shared future for mankind” has been gaining presence in the official documents and speeches of the Communist Party of China. Currently, there is practically no public document where this idea is not cited. The white paper published by China titled “Poverty Alleviation: China’s Experience and Contribution” has a specific chapter called “A Global Community of Shared Future Free from Poverty”. The white paper “China’s International Development Cooperation in the New Era” published in 2020, has its first chapter titled “International Development Cooperation in the New Era and a Global Community of Shared Future”.

Then, the community with a shared future for mankind represents “a new global governance solution proposed by China”, which provides for the creation of “a five-sphere integrated global community” including “politics, security, economy, culture and ecology”. All these elements are key points of United Nations human rights protections and in line with the Agenda 2030.

In other words, the “community with a shared future for mankind” is a notion that transcends relations between States, and incorporates the links between multiple peoples, civilizations and religions that extend throughout the world, in line with our “common *munus*”.

In conclusion, in China viewing the internal and international vision of a “people-centered approach” from a global governance perspective through a “comprehensive rule of law” is fundamental to understand the new global order that is trying to merge human civilizations at a basic level of fundamental rights and build a community with a shared future for mankind.

(The author is Director of the Center for China Studies of International Relations Institute, National University of La Plata, Argentina.)



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## Part 5 :

# Open and Inclusive Development and Human Rights Protection

# Human Rights in China and in Argentina: A Historical Approach

Jorge Castro  
Argentina

## I. Human Rights in China

Chinese Foreign Minister Wang Yi exposed in a speech delivered on February 22, 2021, at the 46th session of the United Nations Human Rights Council (HRC), his vision on this crucial issue for the People's Republic of China and the world.

He argued that human rights are characterized in the 21st century by being centered on the people and their needs, which can be summed up in two essential criteria: happiness (a happy life) and security (in your life, at work, in your family), in the sense of personal and social achievements.

According to this conception, economic prosperity is an essential component of human rights, and “happiness” is assimilated—this is a central point of the Chinese vision—to the deployment of the full potential of human beings, while “security” is the creation of a social and human environment that guarantees the realization of this potential.

Minister Wang Yi made a careful list of the “common values shared by all humanity and recognized by all countries”: peace, development, equity, justice, democracy, and freedom, which, are also the prior human rights for China.

Therefore, the fact that the People's Republic of China has achieved the eradication of extreme poverty in 2020 constitutes an extraordinary achievement in its development of human rights.

Since 1978, more than 700 million Chinese poor rural residents submerged in extreme poverty have left that condition. For the first time in history, a country has managed to end poverty and marginalization, and it has done so 10 years before the deadline set by the 2030 Agenda for Sustainable Development established by the United Nations.

China has, in short, a vision centered on the people as a collective actor, and not on individuals, and considers the rights to existence and development as primary and basic human rights.

The Chinese vision of human rights, is not an individualistic and abstract concept (referring to “the Enlightenment” in Western terms), but a social, concrete and historical action guide.

That was why Minister Wang Yi said that the PRC’s conception of human rights had emerged from its own historical conditions and from the realities of its country and its practical needs. China keeps taking coordinated, integrated and multi-pronged steps to advance all aspects of human rights.

For China, in conclusion, the development of a fully successful human rights system is a long-term historical task that requires continuous improvement and reinforcement, based on a thorough awareness of the limits and possibilities of what has been achieved.

## II. Western Vision of Human Rights, Which Is also That of Argentina

Human rights conception that emerged from the French Revolution and the German Enlightenment is based on the principle that human rights are inalienable and innate to all human beings without exception. It considered human beings as individuals with the rights to life, liberty and citizenship, and not as groups or social collectives, and these rights have been recognized internationally.

There is ample historical evidence that human rights have been massively violated in every country in the world without exception, including the most advanced ones in the West, as has happened with the slavery in the US and the systematic elimination of the Jews, the gypsies, and the homosexuals realized in the Third Reich, in Europe.

The Western vision of human rights, of which Argentina is unequivocally a part, mainly comes from the Enlightenment, and therefore it is essentially ahistorical and rooted in individualism, a true ideology in the strict sense of the term.

Under these conditions, lacking a concrete and embodied historical criterion, Western human rights are part of the fundamental belief of civic culture.

Argentina faces an essential difficulty for the full deployment of its “Enlightenment”, individualistic, and ahistorical conception of human rights, which

is that 42% of its population—some 17 million people—makes up the group of structural poverty of the country for more than three generations. And at the same time, it is the country in Latin America with the highest level of individual savings, possessing one of the three main and most advanced agri-food systems in the world, capable of feeding more than 400 million people.

The specific feature of poverty in Argentina is that it is not the consequence of a situation of historically existing structural dualism, but the product of the growing marginalization of the sectors in which the population has previously integrated into its economy and its society before, and that has occurred in the last 40 years.

Until the end of the 1960s, Argentina had been one of the most socially integrated countries in Latin America, with only 6% of its population being structurally poor, while it was practically devoid of indigence.

Poverty in Argentina has been, in short, a process of economic and social marginalization, although the cultural and political ties, being typical of an advanced civic culture, remain fully in force.

Hence, the need that Argentina has in terms of human rights is to overcome a merely “Enlightenment” and individualistic vision that is typical of the West. So it would be very useful to learn from the experience and the structural historical vision of the People’s Republic of China.

### III. Human Rights in China and the Search for “Shared Prosperity”

Human rights in China not only are about feeding the masses and ending extreme poverty, but also include constantly improving the living conditions of its 1.4 billion-plus inhabitants.

Hence, the current stage of development of the People’s Republic is called “common prosperity” by President Xi Jinping.

It must be added that this does not imply a return to the past egalitarianism based on poverty in any way.

Quite the contrary, what China is dealing with now is the systematic expansion of the opportunities for personal and economic development of all Chinese social sectors without exception towards more higher levels of productivity and per capita income, in a context of an economy in continuous and advanced expansion.

Starting in 2004, China officially included the protection of human rights in the framework of the Constitution; and since 2007, “respect and safeguard human rights”

was also incorporated into the Constitution of the Communist Party of China.

Especially after the 18th National Congress of the CPC held in 2012, the CPC central collective leadership with Xi Jinping at the core led the progress of human rights in China, both in the fields of practice and theory, has been extraordinary.

The reason for this is that the respect and protection of human rights has become the essential guideline of the political work of the CPC, on the premise repeatedly formulated by President Xi Jinping that “living a happy life is the primary human right” in the People’s Republic of China.

(The author is President of the Institute of Strategic Planning [IPE], Argentina.)

# On the Status of the Right to Participate in the Human Rights System and the Human Rights Development Strategy

Chang Jian  
China

According to the development-based theory of human rights, the right to participate has a unique position in the human rights system. On one hand, its realization provides a means and condition needed for the realization of the goal—the right to development. On the other hand, its realization is based on the right to subsistence and constrained by the rights to autonomy and equality. By achieving moderate prosperity in all respects, China has laid a solid foundation for guaranteeing its people's right to subsistence and created favorable conditions for realizing their right to participate. After accomplishing all the objectives and tasks for building a moderately prosperous society in all respects, China faces new demands for human rights protection in this new stage of human rights development and should further consolidate the protection of the right to subsistence. Based on that, it should give more weight to the right to participate in the human rights development when and as necessary, so as to facilitate the autonomous and equal participation of all people in economic, political, social and cultural affairs, and to provide greater support for the realization of the purpose—the free, all-rounded and coordinated development for all people.

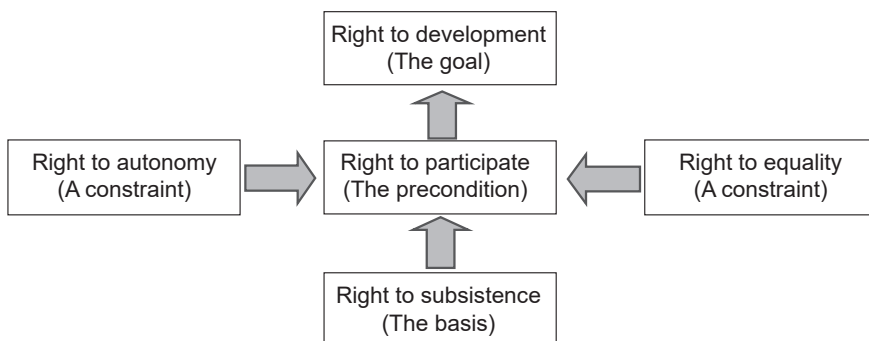
## I. The Right to Participate and Its Status in the Development-Based Human Rights System

As to the human rights system, different human rights theories have different understandings. The liberal theory which is based on the human rights practices in modern West regards the individual right to freedom as the core right or the purpose in the human rights system, and other human rights as the support for the



realization of the former. In contrast, the development-based theory which is based on China's human rights protection practices considers the right to development as the goal of the human rights system. Here development does not mean economic or social development, but human development; it is not the development of separate individuals, but the free, well-rounded, coordinated development of all people. According to the white paper titled "Seeking Happiness for People: 70 Years of Progress on Human Rights in China" issued by the State Council Information Office in 2019, "The free and well-rounded development of every person is the ultimate goal of human rights. The free development of each individual is the precondition for the free development of all people. Human rights are people's rights; human rights development means people's development. We must create the conditions for people's self-actualization."

The realization of the right to development, which is the goal, needs the support of many other rights. The first is the right to subsistence as the basis, because if human subsistence cannot be guaranteed, there is no prerequisite for a person to develop. The second is the right to participate as a precondition, because if one cannot participate in the economic, political, social and cultural affairs, he/she will lack the realistic conditions for development. The third is the rights to autonomy and equality as constraints. Only participation with autonomy can guarantee the development of freedom, and only equal participation can guarantee the coordinated development of all people.



**Figure 1 Status of the Right to Participate in the Human Rights System**

As shown in Figure 1, the right to participate has a unique place in the development-based human rights system. First, its realization is a condition and a means for realizing the right to development. To achieve the overriding goal of all-

rounded human development, people need to fully participate in economic, political, social and cultural affairs. In this sense, there is no development without participation. At the same time, the realization of the right to development will in turn facilitate that of the right to participate: development enables a person to have a stronger ability to participate in economic, political, social and cultural affairs. Secondly, the realization of the right to participate is based on that of the right to subsistence. If subsistence cannot be guaranteed, there might be no one left to participate in public affairs. In this sense, there is no participation without subsistence. Thirdly, the realization of the right to participate should be constrained by the rights to autonomy and equality, and the former should guarantee autonomous and equal participation of all people in all aspects of society. Last but not least, the realization of the right to participate can in turn help protect the rights to subsistence, autonomy and equality. For example, the realization of the right to economic participation can provide necessary materials for the protection of the right to subsistence; that of the right to political participation can provide necessary institutional guarantee for that of the rights to subsistence, autonomy and equality; that of the right to social and cultural participation can provide adequate social support and appropriate cultural environment for the protection of the rights to subsistence, autonomy and equality.

Based on the above analysis, the right to participate can be defined as the right to participate autonomously and equally in all aspects of society. In this sense, it is a bundle of rights: related to the rights to work and employment in the economic sphere; the rights to know, to express, to participate, to supervise, to hold public office, to vote and to be elected in the political sphere; the rights to participate in social work and social governance in the social sphere; and the rights to education, participation in cultural life and the enjoyment of the fruits of cultural development in the fields of education and culture.

States and governments are obliged to protect citizens' right to participate. Specifically, they are obliged to (1) respect each person's autonomous decision about participation in society; (2) protect each person's right to autonomous and equal participation in society, and when this right is violated, offer timely remedy to the victim and punish the offender in accordance with the law; and (3) provide necessary conditions for all members of society to fully participate in all aspects of society. In addition, for-profit and non-profit institutions or organizations are also obliged, to a certain degree, to advance and protect the right to participate.

## II. Completion of the Building of a Moderately Prosperous Society in All Respects Has Created Favorable Conditions for Promoting the Realization of the Right to Participate

The completion of the building of a moderately prosperous society in all respects has created favorable conditions for the realization of the right to participate in China. It fully guarantees the right to subsistence, a basis for public participation. By opening up channels for participation in various fields, it has provided conditions for the full public participation, by removing institutional obstacles for autonomous and equal participation, and by providing special protection for vulnerable groups, it provides the institutional guarantee for realizing autonomous and equal participation.

1. By achieving moderate prosperity in all respects, China fully guarantees the right to subsistence, the basis for the realization of the right to participate

The realization of the right to participate is based on the guarantee of the right to subsistence. The right to subsistence is also a bundle of rights, involving the guarantee of the most basic conditions on which people depend for their subsistence, including the right to a basic standard of living, the right to basic medical care and public health services, the right to social security, the right to a healthy living environment, and so on.

Guaranteeing the right to subsistence was a key goal and task in China's building of a moderately prosperous society in all respects. Among its specific objectives and tasks, those related to the right to subsistence included promoting economic development, so as to lay a material foundation needed; promoting targeted poverty alleviation, so as to guarantee the poor people's right to subsistence; improving the support system for the basic standard of living, so as to protect the right of low-income populations to the basic standard of living; improving the public health system, to safeguard the people's right to health; improving the social security system, to guarantee the right to social security; and strengthening environmental governance, to protect the right to a healthy living environment. These measures combined to provide a solid basis for guaranteeing all the rights related to subsistence.

With moderate prosperity achieved in all respects, the Chinese people have a reliable and stable guarantee for realizing their right to subsistence. After years of steady and rapid economic growth, China has basically established a community-level healthcare system covering both urban and rural areas and a universal and sustainable social security system, and improved the environment on the whole. The

improved protection of the right to subsistence provides a solid foundation for people to realize the right to participate.

2. By achieving moderate prosperity in all respects, we have created the necessary conditions for safeguarding the right to full participation

Achieving full participation requires necessary conditions for the effective participation of members of society in all fields. While working to build a moderately prosperous society in all respects, the government adopted a series of policies and measures to ensure and promote people's full participation in all aspects of society. They included implementing the strategy of giving top priority to employment and a more active employment policy to ensure the people's participation in economic life; promoting the institutionalization, standardization and routinization of socialist democracy, expanding citizens' orderly political participation, and strengthening the system of consultative democracy; promoting social organizations' orderly participation in social governance, improving the system of community-level self-government; promoting the standardization and equalization of basic public cultural services, and improving the network of public cultural facilities; prioritizing the development of education, providing free compulsory education in urban and rural areas, developing quality education and promoting educational equity; improving the modern comprehensive transportation system, and the travel conditions for urban and rural residents; building an efficient and ubiquitous information network, and providing convenient access to the Internet for people to participate in all aspects of society.

The above-mentioned efforts have created more suitable conditions for the realization of the right to full participation. China's registered urban unemployment rate has long remained low, and the surveyed urban unemployment rate is lower than the world average. The system of people's congresses has been constantly improved, and consultative democracy has been developed in a broad, multi-tiered and institutionalized way. Community-level democracy has been developing in an orderly manner in both urban and rural areas. The system of community-level autonomy in urban and rural areas with self-governance at the center and featuring democratic elections, consultation, decision-making, management and oversight has basically been in place. Free compulsory education is available to all school-age children in urban and rural areas. A public cultural service system is basically completed. China also boasts a modern comprehensive transport system and a ubiquitous and efficient information network.

### 3. By achieving moderate prosperity in all respects, we provide the basic institutional guarantee for the right to autonomous participation

In order to realize free human development, people should have autonomy in social participation. In this sense, the realization of the right to participate is constrained by that of the right to autonomy. In other words, the right to participate should be about autonomous participation. The right to autonomous participation guarantees that all people can choose with autonomy their goals of life and the way of social participation, involving the protection of freedom of person, freedom of movement, freedom of property, freedom of expression, freedom of belief, freedom of association, freedom of innovation, etc.

In the process of building a moderately prosperous society in all respects, China prioritized the protection of the right to autonomous participation in its reform, and took a series of measures to break down institutional obstacles to it. These measures included continuously deepening the reform of the household registration system to remove obstacles to the free movement of populations; building a modern market system to remove obstacles to the free participation and competition of all market entities; reforming the administrative system, to reduce unnecessary administrative interference and give enterprises, individuals and social organizations bigger autonomy; deepening the reform of the scientific and technological system to expand the autonomy of scientists and researchers, protecting innovators' intellectual property rights, and removing institutional barriers to independent innovation.

These measures have created conditions for autonomous participation in society and promoted the realization of the right to autonomous participation. The government also abolished many regulations and practices that hindered the formation of a unified market and fair competition, moved faster to build a unified, open, competitive and orderly market system, established a fair-competition support mechanism, overcame regional segmentation and market monopolies, and strove to remove market barriers and promote the free and orderly flows and equal exchanges of goods and factors. China has introduced a system of listing government powers. Governments at all levels and ministries and departments of the State Council have published their respective lists of powers and lists of responsibilities to the public.

### 4. By achieving moderate prosperity in all respects, we provide an institutional guarantee for the right to equal participation

In order to coordinate the development of all persons, it is necessary to

guarantee the equal participation of all in economic, political, social and cultural affairs. In this sense, the realization of the right to equality is a restraint for that of the right to development. In other words, the right to participation should be about equal participation. It ensures that all people have equal opportunities and conditions to participate in economic, political, social and cultural affairs and equally share the fruits of development. It concerns the equality of all before the law and the equal enjoyment of all human rights, and also relates to special rights protection for vulnerable groups.

China also considered protecting the right to equal participation an important task in building a moderately prosperous society in all respects, and adopted a series of measures in this regard, including providing special protection to vulnerable groups such as ethnic minorities, women, children, the elderly and persons with disabilities; breaking the urban-rural dual structure, and ensuring rural residents' equal participation in development and equal enjoyment of development outcomes; reforming the income distribution pattern, narrowing the income gap and ensuring equal sharing of economic development outcomes; implementing the coordinated development strategy to solve the imbalance of regional development, promote the development of the underdeveloped central and western regions and raise the living standards of the people; accelerating the efforts to build an eco-civilization to create conditions for the development of future generations, and guarantee the intergenerational enjoyment of the right to development; improving the rule of law in the protection of human rights, and fairly guaranteeing the parties' and other litigants' right to know, to make statements, to defend and debate, to apply, and to appeal in the litigation process; and strictly governing the Party, opposing the exercise of privileges and punishing acts of torts and corruption.

The above measures have effectively promoted people's equal participation in society and ensured the realization of the right to equal participation. China has torn down the urban-rural dual structure formed during the planned economy period, abolished the division of agricultural and non-agricultural *hukou*, and accelerated the building of rural infrastructure under the rural revitalization initiative, to steadily improve the equalization of basic public services between urban and rural areas. The coordinated regional development strategy has narrowed the regional development gap. The income gap is also shrinking. The government encourages people to make money through hard work and legal means, expands the size of the middle-income

group, increases income for low-income groups, adjusts excessive incomes, and prohibits illicit income. The lawful rights of ethnic minorities, women, children, the elderly and persons with disabilities are effectively safeguarded, so that they can fully participate in society and share the fruits of development on an equal footing and with equal opportunities.

### III. Protection of the Right to Participate Enjoys a Higher Status in the Human Rights Development

With moderate prosperity in all respects achieved, China has reached a new high in advancing human right and provided a solid foundation and favorable conditions for the free, all-rounded and coordinated development of all people. For one thing, the protection of the right to subsistence is greatly boosted, which lays a solid foundation for the realization of the right to development. For another, the government has made great efforts to remove institutional barriers to people's free, full and equal participation in society, thus providing a strong institutional guarantee for the realization of the right to participate, and favorable conditions for the free, all-rounded and coordinated development of all.

Moderate prosperity in all respects marks only a stage in the history of human rights development in China. It is not the end, but a new starting point. Standing on this new starting line, we need to consider the new historical conditions and the new demands for human rights protection in this new stage and uphold fundamental principles and break new ground. First, we should continue to regard the right to subsistence as the primary fundamental human right and the right to development as the ultimate purpose and consolidate the foundation for guaranteeing the right to subsistence, so as to achieve the goal of free, all-rounded and coordinated development of all individuals. Second, it is necessary to adjust the focus of the human rights development in due course, and gradually increase the weight of the right to participation in the process, so that while continuing to strengthen the guarantee of the right to subsistence, we can enhance the protection of the right to participate, and more effectively achieve the ultimate goal of free, all-rounded and coordinated development of all.

Although by achieving moderate prosperity in all respects, China has consolidated the foundation for the protection of the right to subsistence and cleared many institutional obstacles, in the new journey toward building a modern socialist

country in all respects, we still face series of practical problems and challenges in the protection of the right to participation.

First, in terms of demand, with the development of information technology represented by the Internet, people have rapidly enhanced their ability to access and disseminate information and make judgments and statements. This has not only greatly enhanced their ability, but also raised their demands to participate in all aspects of society. Thus, the protection of the right to participate has become a more prominent and stronger demand for human rights protection after that of the right to subsistence.

Secondly, in terms of content, the right to participate requires that all persons should be guaranteed autonomous, full and equal participation in society. In terms of autonomous participation, China needs to expand its scope in an orderly manner; in terms of full participation, China needs to further open up the scope of public participation; and in terms of equal participation, institutional guarantees are needed for all vulnerable groups to participate in all aspects of society equally.

Third, in terms of form, China needs to further strengthen the regular protection for the right to participate on the basis of the previous protection campaigns, and to establish a stable and sustainable legal system on top of short-term policy measures.

As to the challenges ahead, first, in terms of the demand for participation and institutional supply, more autonomous and broader social participation will lead to more social conflicts and greater risks to social stability in a society with a small middle class. Therefore, although more people are calling for guaranteeing the right to participate, it can only be achieved in a gradual and progressive way. This will put the public sector under huge pressure for a considerable period of time. Secondly, in terms of the areas of participation, participation in the economic and cultural fields has been expanding rapidly, while participation in the political and social fields is lagging. This gap can put a heavy strain on expanding participation in the political and social affairs.

In the face of the above challenges, China should size up the situation before adjusting its human rights development path, make step-by-step and active attempts, and take a balanced approach so as to advance human rights steadily and continuously in the right direction.

(The author is Professor and Director of the Center for the Study of Human Rights, Nankai University.)



## It Is Our Obligation to Share China's Experience in Human Rights Protection with the World

Li Junru  
China

It is a common pursuit of mankind to steer global human rights governance towards greater fairness, equity, rationality and inclusiveness. This is also the theme of this year's Beijing Forum on Human Rights, highlighting the shared aspiration of people all over the world.

Several days ago, on July 15, 2022, I came across an article on the website of The Sydney Morning Herald. It says that opposite the AUD 100 million Australian-built Blackrock Camp in Fiji, a farm is using grass funded by China to grow its fortunes and local farmers are grateful for such assistance from China. I had read about this grass, *juncao*, before. It replaces trees as the substrate for mushroom cultivation, lowering the cost and increasing the profit, while avoiding tree felling, which helps protect the ecosystem. This *juncao* project was initiated by Fujian Province of China for poverty alleviation in Fiji. The news report prompted me to think about a fundamental question about human rights: What does *juncao* mean to human rights? When we work towards greater fairness, equity, rationality and inclusiveness in global human rights governance, what kind of help shall we offer to developing nations?

In today's world, unilateralism, protectionism, hegemonism and power politics are posing growing threats to peace and development; the COVID-19 pandemic never seen in a century, climate change and many other global concerns are increasingly threatening the environment for human existence. All these constitute challenges to the fundamental rights to subsistence and development of people, especially those from the developing world. Inexplicably, some countries have been active in interfering in other countries' domestic affairs in the name of "human rights". Yet these self-proclaimed "human rights defenders" would either act slow or be

unavailable at all when people in other countries are truly in need of help, like vaccines, to address challenges to subsistence and development. We have to think about this: Why did these countries' human rights preached worldwide bring nothing but political turmoil, social split and disaster for the people? What kinds of human rights exchanges and cooperation does the world truly need?

China as the most populous developing country in the world, has learned from its history and past endeavors that it is the sacred duty of the State to respect and protect human rights, that the primary fundamental human right is the right to subsistence and development and the most important human right is people's right to a happy life, and that it is our obligation to share China's experience in protecting human rights and steer global human rights governance towards greater fairness, equity, rationality and inclusiveness. What China offered to Fiji was *juncao* grass, not cannonballs, and what it shared with Fiji people is its experience in human rights protection. All these have been done out of the purpose of helping local people achieve their rights to subsistence and development. People all over the world have noticed the huge contribution that China has made over the past years to human rights development in the world, especially in developing countries, against the backdrop of cultural diversity.

We are ready to share our experience in protecting human rights with all, the developing world in particular, because China is a very typical case in terms of how developing countries can make progress in human rights. Today, 80% of the world population live in developing countries. Underdeveloped economy and a huge population, the two attributes that characterize many of these countries, are also obstacles to their efforts to promote human rights. China is the largest developing country in the world with a population of over 1.4 billion. To ensure human rights for such a huge population, China faces incredible difficulties and challenges. Yet still, China has made it. In less than 10 years, China helped nearly 100 million people out of poverty. This is an enormous feat in protecting human rights. In addition to poverty alleviation, similar achievements have also been made in employment, education, medical services, old-age care, as well as in democracy, rule of law, security and ecological conservation, all of which ensure human rights are respected and protected. As such, China may share with the world, developing countries in particular, its experience of upholding human rights in so many spheres for such a huge population, and by so doing, China will make a great contribution to human

rights development in the world.

So, what exactly is China's experience to share with the world, especially developing countries?

Looking back on what the Communist Party of China has done in struggling for, respecting, protecting, and promoting human rights for Chinese people since its founding in 1921, and the remarkable changes in the realm of human rights since the founding of the People's Republic of China in 1949, we can summarize the following eight principles as our most important experience.

First, China has always combined human rights for all with the specific conditions of the country and moved along the path of human rights development that suits its national conditions.

Second, China has always been people-centered in its efforts to protect human rights, ensuring the people are the major contributors, promoters and beneficiaries of human rights development.

Third, China has always advocated the rights to subsistence and development as the primary fundamental human rights and fully ensured economic, social and cultural rights.

Fourth, China has been orderly promoting civil rights and political rights so that the people can enjoy whole-process people's democracy as progress is continuously made in democracy and the rule of law.

Fifth, China has always respected and protected the rights of people such as the elderly, women, minors and people with disabilities, so as to ensure fairness and justice for all.

Sixth, China believes a happy life for its people is the most important human right and keeps working to meet the people's ever-growing needs for a better life.

Seventh, China stays committed to the principles of respecting and protecting human rights and at the same time safeguarding the country's sovereignty. While opposing hegemonism and power politics, China goes all out to safeguard its sovereignty, which is a human right for the entirety of the Chinese people.

Eighth, China has adhered to the principle of fairness, equity, rationality and inclusiveness in its efforts to promote human rights exchanges and cooperation between China and the world, advancing global human rights governance.

These eight principles come from the Chinese nation's ceaseless fight for more than 180 years since the Opium War, the strenuous explorations for over a hundred

years since the founding of the Communist Party of China, all the ups and downs that China have gone through since its founding more than 70 years ago, and the successes in innovation-driven development over the past 40-plus years since the launch of the reform and opening-up policy. For the Chinese people, the experience is hard-won, and the human rights principles derived from such experience are precious. For the developing world, China's experience is undoubtedly valuable.

As Chinese President Xi Jinping once noted, the development of human rights worldwide cannot be achieved without the joint efforts of developing countries, and human rights must and can only be promoted in light of specific national conditions and people's needs. Developing countries should uphold both the universality and particularity of human rights and steadily raise the level of human rights protection. It is important for the international community to respect and reflect the will of the people in developing countries in the spirit of fairness, equity, rationality and inclusiveness. The Chinese people would like to work in concert with people in other countries, including the developing ones, to advance development through cooperation, promote human rights through development, and build a community with a shared future for mankind.

As an old saying goes, "All roads lead to Rome." Westernization is not the only path towards modernization, nor is it the only way to respect and protect human rights. In both modernization and human rights protection, China has taken a path that is different from the Western one, a path that may benefit the world as well, representing the Chinese people's contribution to the world.

Here I must point out: We do value the experiences of other countries, but we will never copy them or expect any other country to copy ours.

Human rights, the rights one enjoys as a human being, dawned on the people after the long dark years of the Middle Ages and began to be embraced as shared values of mankind after the two world wars. They represent humanity, or the human conscience awakened. However, human rights should be respected as they are, and should never be used as disguise for any infringement of the human rights of other peoples. Clearly, such despicable attempts are bound to fail in front of the awakened people of China and the world.

(The author is Former Vice President of the Party School of the Central Committee of the Communist Party of China.)

# A Possible Kind of Smart Human Rights

Liao Yi  
China

## I. Behind the “Digital Human Rights” Discourse

Nowadays China and the West, and even the whole world, are crazy about some sort of “digital” discourse. This craze is reflected in the increase in the number of discussions, and moreover, it seems to have formed specific discourse reproduction mechanism in the rise. The general logic is as below. First, there was a widespread perception about virtualizing and actualizing the way of life, the so-called “being digital”; then this flat perception was translated into a new institutional initiative that sought to bridge the cultural and political divide, mainly by elite discourse organizations, the most representative of which was “digital democracy”<sup>[1]</sup>. Then chimeric discourse followed, and a new “digital human rights” discourse emerged.<sup>[2]</sup> The discourse of science, democracy and human rights not only chimes in the logic of Western modernity, but also has a market in the mainstream knowledge discourse of modern China. Science enlightens the minds, democracy guarantees the status of the people, and both warmly welcome and attach great importance to human rights.<sup>[3]</sup> As such, the discourse of “digital human rights” cannot stand on its own in theory; it is derived from the transformation of life styles and shaped by the media of the

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- [1] The theoretical logic of the discourse of digital democracy is based on the concept of democracy itself, and focuses on the integration of democratic government and emerging digital infrastructure. Against the background of global development of digital government, the model of localized digital democracy is not only possible, but also necessary. Empirical studies in many cases have shown that even elite democracy has different implementation models. This means that local actors have a lot of influence, so digital democracy is not definite; it can take many shapes. See Barry N. Hague & Brian Loader. (1999). *Digital Democracy: Discourse and Decision Making in the Information Age*. London: Routledge.
- [2] See Dafna Dror-Shpoliansky & Yuval Shany. (2021). It's the End of the (Offline) World as We Know It: From Human Rights to Digital Human Rights—A Proposed Typology. *European Journal of International Law*, 32(4), 1249-1282.
- [3] See Xia Yong. (1999). Democracy, Science and Human Rights—In Honor of the 80th Anniversary of the May Fourth Movement. In *Public Law* (Vol. 1). Beijing: Law Press.

discourse of science and democracy.

But the derived discourse is not necessarily in a secondary position in reality. As Herbert Hart put it, the “secondary rule” is particularly important in practice, especially for modern law, and it may be more in line with the original meaning of the primary rule. Why can a derived discourse occupy the “primary” position in practice? The modern human rights theory is comprehensive at the practical level. It can not only accommodate the demands for democracy in the realization mechanism (through the discourse of civil and political rights), but also respond in a timely manner to institutional/cultural gaps that cannot be addressed by democracy through vision-building (e.g., the theory of intergenerational human rights). The modern discourse of human rights also has the theoretical function of solving social and economic problems, as evidenced by the development of the discourse of the right to development. Moreover, modern human rights discourse, by constructing its own genealogy, intends to walk out of the shadow of democracy discourse and provide a “universal” solution for non-Western countries. When this ambition is projected into theoretical construction, modern human rights discourse is becoming more and more philosophical. Indeed, it is constructing a general philosophy of practice through repeated regression, integration and transcendence. Modern philosophy is human-centered, and its basic model belongs to what philosophers (i.e., Heidegger) call “anthropology”. Building a universal, realistic, ordinary and extraordinary image of “man” is the theoretical key for modern human rights discourse to exert great influence in practice. No matter how the effect is, as far as the kernel is concerned, the discourse of “digital human rights” must imply an assumption of man.

Then the question that follows is: What image of man does the “digital human rights” discourse paint? Is it “rational man”? From the point of view of the fusion of thoughts, the image of “rational man” created by modernism has always been under the threat of suspicion, criticism and deconstruction. In order to defend the classical image of “rational man”, philosophers constantly reflect on various “rationality” discourses, which profoundly affects the construction of human rights philosophy. The transformation from the standard image of man to diverse images can be regarded as a kind of compromise that modern human rights philosophy has to make. Likewise, legal pluralism is only the strategic retreat of modern rule of law and does not mean the fundamental disintegration of the image of “rational man”. But in this new era of so-called digital society, of being digital, facing the ubiquitous

rules for information generation and systems, the “rational man” has little room to retreat, because of the emergence of a threat of its own disintegration; man has the greatest technological adversary of his own making. For example, the “virtual man” may be more powerful than natural man in many ways, and may even one day solve the ultimate mystery of human life through machine learning, and finally replace human beings without doubt. By then, the master of yesterday will become a slave, and the made will become a maker. Although these scenes may still look too sci-fi, the trend, judged based on all kinds of signs, has caused strong worries among elites from all walks of life, a deep, subconscious fear of future technological advancement. Driven by the fear, people at the higher end of virtual technology development have joined hands to defend the rights of real people in the name of justice, development, cooperation, human rights, etc., give the future generations the privilege of resisting technological abuse, and integrate it into the legislation and law enforcement agenda of various regimes and political forces in advance. Thus, the discourse of “digital human rights” and “digital rule of law” which has strong appeal and real-life influence is gaining momentum. In essence, this desire to regulate the uncertain consequences of future technological development and the logic of technological instrumentalism behind it are the extension of “master-slave dialectic”. Human beings are worried about the products and processes they have created, but they are not willing to give up their instrumental value, so the strategy of “precautionary use” is adopted in order to seek a tentative, even if superficial, “equilibrium” between the present and the future.

It is a matter of regret to point out that the man who makes such a rational strategy is far away from the classical image of a just legislator. It would be unfair to claim that there is no rational lawmaker in today’s world, but the gap between modern lawmakers and the classical justice theory is difficult to be bridged as various factors have superimposed and piled up on each other, combined with each other and alienated over time. Even if we borrow or copy the whole classical theory, the modern human rights theory will not, and certainly need not be the same as the old one. The real question is: Is it possible for the discourse of “digital human rights” to reveal the true essence of smart human rights in the future possible world? The question may sound to repeat itself, but it reminds us that “digital human rights” is just a popular expression, because digital technology itself does not imply human rights, and what matters the most is human intelligence embodied in digital technology. Therefore, the

“smart human rights” discussed in this paper is based on and transcends the technical sense of digital human rights. It can help to pop the bubble of digital human rights discourse, return to the constant nature of human being, and find a possible way out for the struggling human rights theory.

## II. The Possible World and Human Rights as Credit Rights

No philosophical discourse can bypass the assumed image of “man” and will more or less produce some thinking about the rights and obligations of man. Compared with the original meaning of “rights”, the criterion of personhood is a more fundamental issue. In the natural sense, people are not born free or equal, and any real freedom and equality is framed in the context of “relationship” and must be conditioned on interaction with others.

For instance, a newborn baby is entitled to the freedom of loud cry, but if the mother is neurasthenic, she may feel irritated by the sound, and even suffer a nervous breakdown after failing to soothe the baby, regardless how strong her maternal instinct is. As the baby grows, the so-called “equality”, even formal, is hard to realize throughout his/her childhood, because the law-stipulated “parental rights” are everywhere and will restrict the child as appropriate. After he reaches the adulthood and becomes a person entitled to full and abundant rights, he still needs to be mindful of his public image all the time. Otherwise, he may be disliked, hated or rejected by collectives, and eventually become the victim of a nihilistic life caused by unrestrained exercise of rights. In theory, what kind of “rational” man can lead a stable and free life in reality? This has always been a topic of great interest to philosophers. In relation to the philosophy of human rights, the question can be reframed as: What are the preconditions of human rights? Obviously, discussing human rights in terms of human rights is unconvincing and only in terms of criteria of personhood can the discussion be regarded as a path acceptable to both Eastern and Western thought.

It is perhaps for this reason that the contemporary Chinese philosopher Zhao Tingyang keenly realized in the 1990s that the greatest problem of the Western theory of natural human rights was that the universal assumption of “rational man” did not respond to the criteria of personhood; instead, the assumption could even lead to a series of problems, including a divide between “what it ought to be” and “what is” that is so big that it cannot be bridged. Therefore, it’s common in modern society



that the unitarism is replaced by pluralism, the whole is partly encroached, people's life is more and more fragmented, and the holistic view to life is getting lost. Zhao put forward the theory of "possible world" from the perspective of ethics, trying to open up a new philosophical thinking path for the principles of happiness and justice. Amid the current research upsurge of "digital human rights", it is necessary to think about the fundamental issues of human rights from the philosophical perspective of "possible world" which is different from the philosophy on human rights in the West, or the legal science (or doctrinal analysis) of human rights. It not only points to the ontological basis of understanding what a good life is, but also concerns the methodology of reassessing the intelligent technology. It is anti-metaphysics and reconstructing the "first philosophy". From Zhao Tingyang's discourse of "human rights as credit rights", we can see that this kind of thinking has already existed but has not produced enough influence in the human rights theory and law studies. For the development of the discourse of "digital human rights", it's necessary and not yet too late to catch up.

Specifically, Zhao's criticism of the theory of justice has been comprehensive, covering the thoughts of Hobbes and John Bordley Rawls, but he did not directly target the Western human rights theory at first. In the book *On Possible Lives: A Theory of Happiness and Justice*, he does not counter Plato head-on, because it is hard to refute the latter's idea that happiness comes from justice, and failure to refute it can be fatal. On the whole, Zhao insists on filling in the lack of premise of Western justice theory with Chinese people's causality, and limits its function and significance to institutional design.<sup>[1]</sup> Although he also states, "the principle of justice in the philosophical sense that we are discussing here is not the institution itself, but a meta-theorem on the legitimacy of various institutions"<sup>[2]</sup>, in his arguments, he exclude justice from the philosophy of life, and thus is trapped in the jungle of terms such as formal equivalence and benefit swap. His interpretation of the value of justice does not have a definite target, such as Aristotle's justice theory or other classical theories. Moreover, in constructing its own system, it is in a dilemma caused by the context of institutional design and orientation toward rationality. Comparatively speaking, his discussion on retributive justice which breaks through formal rationality is very original, and its value and contribution to the philosophy of law should not be

[1] See Zhao Tingyang. (2004). *On Possible Lives: A Theory of Happiness and Justice* (Rev. ed.) (pp. 71-72). Beijing: China Renmin University Press.

[2] Zhao Tingyang. (2004). *op. cit.* 172.

underestimated. His criticism of extreme or “exaggerated” humanitarianism leads to the questioning of the “natural right” discourse, and thus to the establishment of the theory of credit/paid human rights. In his opinion, the reason why this theory of human rights holds lies in the fact that punishment not only reflects the correction of and compensation for the damage caused by crime, but also implies the prerequisite for personhood. By reading the symbol of extreme punishment—the death penalty, he believes that some people (such as murderers) have caused irreversible damage, so certain extreme punishments are justified:

Apparently, the murderer has (1) destroyed someone’s life for no reason, so the right way to maintain the equality of justice is either death (to pay for it with life) or some other extreme punishment (to take away the meaning of life as compensation), such as no commutation of sentence, no pardon, a life of no pleasure, and life imprisonment with hard labour; and (2) the murder also destroyed the happiness of the victim’s families, which is also irreparable, so deserves the death penalty. We must note that a person lives not only in the material world, but also in the psychological world, so causing psychological loss is also a huge crime, because “the happiness of a lifetime” is even more important than “life”.<sup>[1]</sup>

Here, although Zhao Tingyang does not describe the psychological damage caused by the crime in detail, it is not difficult to see that the destruction of abstract but important emotion is an important reason why he thinks extreme punishment is justifiable. This reason has something to do with formal equivalence, but it’s not absolute “equivalence”. For crimes other than murder, the authorities may also resort to certain extreme penalties. Even such penalties destroy the formal equivalence on the surface, they are in fact correcting the deviation and playing the role of “balancing” and adjusting. Of course, this idea of formal justice is an old one. Although today’s justice theory pays more attention to the psychological treatment and allows the offender to live and retain some of his rights and freedoms, the law can still deprive him of part of his personhood in the name of justice. While basic human rights provisions will continue to guarantee their subsistence, the law has “frozen” his real inalienable human rights, and continuous evaluation is needed to decide whether to use the original means, or to partially unfreeze his qualifications as humans. As correction, or reform, advances, if a serious offender show such light of humanity that the public generally condones his original crime, legal justice might give him

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[1] Zhao Tingyang. (2004). *op. cit.* 189.

another chance. So, even a heinous “bad man” can change from bad to good—no contradiction to the theory of natural human rights, which emphasizes fundamental dignity for all. But most serious offenders are not so lucky. The theory of credit/paid human rights, which seems more stringent, is in fact not less humane than the theory of natural human rights in practice. Similar to the logic of the latter, it distinguishes the person who exists naturally from the person who exists freely, and emphasizes more on the real premise and abilities needed for the rights. The common discourse about natural human rights, however, ignores the fact that many people do not have the ability, will or opportunity needed for free living, and are likely to fall into the “banality of evil”.<sup>[1]</sup> As per the strictest logic of rational man, these people cannot be called “human”, and should disappear as appropriate according to the law of justice.

Through continuous improvement in understanding, Zhao Tingyang regards human rights as a kind of moral contract for mankind, which unconditionally grants the “credit” of equal human rights to everyone, but each person must fulfill the corresponding obligations to repay the credit granted, and human rights can only be retained on the condition of human obligations. “In short, human rights are unconditionally prepaid, but can only continuously enjoyed on conditions.”<sup>[2]</sup> The key question is how to understand “human”. According to Zhao Tingyang, the “individual” in Western human rights theory has deep theological origin and is not a universally valid concept of human beings; the “man” in the theory of natural human rights exists in the physiological sense, not in the moral sense.<sup>[3]</sup> Be it physiological or moral, with reason or desires, the person is only part of theoretical construction. In the real world, most people live a pendulum life between reason and desire. This is a basic fact that probably no philosopher, statesman or jurist can oppose. It reminds us that we should place necessary limits on man’s rational intelligence, and pay special attention to emotional intelligence, too.

Let’s go back to the theoretical basis of the theory of human rights as credit rights. When discussing “choice and moral emotions”, Zhao puts forward the “relatively rational” technique in the case of choice dilemma, which sounds even more like the philosophy of law, when associated with the theory of “relative

[1] Judith Nisse Shklar. (2018). *Ordinary Vices* (p. 3). Qian Yidong (Trans.). Shanghai: Shanghai People’s Publishing House.

[2] Zhao Tingyang. (2010). Credit Human Rights. In *Beijing International Symposium on Human Rights* (pp. 312-327).

[3] See Zhao Tingyang. (2006). Credit Human Rights: A Non-Western Theory of Universal Human Rights. *Social Sciences in China*, 4, 17-30 & 205.

rationality” advocated by some contemporary Chinese jurists. Zhao, taking the discussions of life vs. death and emotion vs. reason as examples, points out some principles to avoid technical errors. In essence, these principles are extensions of contemporary theory of justice, and are related to emotional justice more or less, explicitly or implicitly. At this point, Zhao is fully aware of the theme that he tried in vain to obscure, the one of great significance to constructing a new theory of human rights:

Although moral emotions are a very important concept in ethics, most modern ethicists lack serious interest in them which are higher than natural emotions. Moral emotions are spiritual, more connected with one’s spirit or ideal, with little to do with the physical emotions. They are not inferior to reason. On the contrary, moral emotions are equal to reason, if not superior to it. It is a basic assumption held by Western philosophy that reason is higher than sensibility, but this basic analytical framework is not enough to analyze and explain many problems, and as we look deeper, the limitations of the “reason-dominating” framework are becoming increasingly apparent. We can see that, in fact, a problem often has very complex determinants besides reason; especially at a deeper level beneath it, the ultimate determinant might even be a high level of “sensibility”. Therefore, we need to establish a broader analytical framework, and traditional Chinese philosophy is our biggest asset. Chinese philosophy focuses on “heart” rather than “mind” in its basic analytical framework, and here “heart” refers to sensibility that is equal to reason. Although heart is part of the body, it is as superior to the body as reason. It can be said that it is equal to reason in material aspects except for its close relation with perceptual experience (just as reason is closely related to logic). They are both universal, constant and humane, and cannot be reduced to ordinary perceptual experience. Then the great sensibility which exists in the form of “heart” is the universal sensibility of humanity. The problems and the principles of happiness discussed above fall within the scope of “heart” or the great sensibility.<sup>[1]</sup>

This argument is very important because it shows an outline of ideas that has not been developed but needs to be developed urgently. As for the new ethical philosophy oriented to the possible life, how to overcome the constraints of the mainstream framework of Western rationalism, return to the heart ontology of traditional Chinese philosophy, and lead to the grand universal emotion of humanity, is indeed

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[1] See Zhao Tingyang. (2004). *op. cit.* 197.

a very tempting and challenging question for us to answer to advance the theory of human rights. Although we cannot easily agree with him that Western religions have “depraved thoughts”<sup>[1]</sup>, relatively speaking, we do find that the advantages and characteristics of Chinese civilization in this regard, such as the universalist tradition of “having no depraved thoughts” which have indeed been neglected for a long time.

### III. Reconsideration of “Smart Human Rights”

Extending the theoretical logic of “human rights as credit rights”, Zhao Tingyang raises a series of issues about the discourse of digital human rights. First, digital technology does not create a separate ontology. Even in the metaverse, the actors are still people in the real world, and political, capital and ideological problems that cannot be transcended in the human life still occur recursively.<sup>[2]</sup> Second, the trend toward an ontology centered on digital technology<sup>[3]</sup> is not compatible with the “ontology of human beings”<sup>[4]</sup>. The latter is the guide and foundation of the new human rights theory. Third, as far as core competencies are concerned, it is difficult for the heart and wisdom that is the source of human rights to be fully grasped by a digitally empowered subject (e.g., the TURIN robot). “It can be predicted from the AI ‘subtraction’ that no matter how powerful AI’s algorithmic capabilities are, it lacks several mystical abilities unique to humans: the ability to reflect, the ability to actively explore, and the ability to create.”<sup>[5]</sup> To seriously treat digital human rights discourse, we must return to the origin of human wisdom in the fog of Western human rights theory. We need to gain a new understanding about “human wisdom” and “wise man”, from the perspective of transcending technology, to construct a “possible” smart human right that connect the past, present and future.

First, human wisdom often originates from the inner spirits in the conflict of desires. In Chinese culture, “inner spirits” are the opposite to “external objects”, as mentioned in Liu Xie’s *The Literary Mind and the Carving of Dragons*, a fifth-century work on Chinese literary aesthetics. Since the Ming dynasty, poems describing

[1] See Zhao Tingyang. (2004). *op. cit.* 197-200.

[2] See Zhao Tingyang. (2022). If the Metaverse Becomes an Ontological Event. *Jianghai Academic Journal*, 1, 27-37.

[3] See Ma Changshan. (2022). Theoretical Expression of Digital Law. *China Legal Science*, 3, 119-144.

[4] See Zhao Tingyang. (2021). Ontological Events Forming the Origin Problem. *Philosophical Research*, 12, 78-89 & 124.

[5] Zhao Tingyang. (2020). What Are the Philosophical Questions Posed by AI? *Beijing Cultural Review*, 1, 43-57.

“inner spirits” had begun to gain popularity. Wang Shizhen, a writer and historian of Ming dynasty, noted that poems were records of inner spirits and what happened in life. Yuan Hongdao, another writer of Ming dynasty, appreciated the originality of “expressing one’s spirit”, and believed that the language full of emotions would naturally touch people.<sup>[1]</sup> From the philosophical point of view, the human spirit is always there, but rarely surface. When one has inner conflict of desires, or the conflict of desires with others, in order to solve these conflicts, one must carefully consider their relationship between oneself and others and external objects, and then make the choice of unilateral concession, peaceful acquisition or fierce competition. The reflection on oneself when conflicts arise is the possible origin of wisdom. In both China and the West, wisdom has always been a virtue associated with emotion, not knowledge of desires. The moral virtue of justice in ethics is reflected in the wise judgment of man. Based on one’s intellectual power, his inward reflection and outward exploration can be integrated into a complete knowledge system. It is a great change from a man in the sense of material anthropology to a man in the sense of philosophical wisdom.

Second, in order to maintain wisdom and keep the spirit alive, people need to constantly make judgements amid all kinds of disturbance and weigh different choices. In the cultivation of this practical rational thinking ability lies the origin of the thought of “human rights”. For example, the earliest thought of human rights in the West can be traced back to the tragic writers’ doubts and questions about fate, and from their reflection on people’s non-autonomy grew the demand for autonomy. This demand is embodied in people’s desire for wisdom represented by prudence. This kind of wisdom naturally has the property of legal principle and is the closest emotional ability to reason. It can control the common desire and keep it in moderation. In traditional Chinese culture, although “wisdom” does not represent the highest *Tao*, and “being wise or clever” could even sometimes be derogatory, with the introduction of the theory of “wise mind”, the metaphysical *Tao* has a good intermediary to regulate the physical “externalities”. It’s wisdom that prevents one’s practices in the external world from falling into deviant, inhumane behavior. The “rights” in Chinese culture literally means “balancing” and “weighing”, indicating a decision-making process with human control. In this sense, human rights are the

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[1] See Xiao Ying. (2013). The Spiritual Track of the Theory of Inner Spirits: From Li Zhi to Yuan Hongdao. *Journal of Renmin University of China*, 5, 112-119.

hub of wisdom and always have two key functions: desire regulation and rational justification. But reason is too abstract, and often implicit in the reality, while desire is too concrete, and hard to express in the concept. This makes the trade-offs or weighing very difficult, with many practical and theoretical patterns.

Third, the image of the so-called “rational man” in modern times represents the utilitarian logic of human rights dominated by desire and conceals and even dissimulates the wisdom virtue and the law of affect balance contained in human rights. The utilitarian mode of human rights is not difficult to generalize. Jeremy Bentham and his followers have already constructed theories for it. The demand for maximum benefit is mostly materialistic and has never reached the essence of one’s inner spirits and is thus difficult to enter the world of human emotions. The extermination of theological spiritualism by Western science inadvertently created the void in the studies of the spirit of law. In almost poetic language, Giordano Bruno preached the unrestrained power of human reason. Gottfried Wilhelm Leibniz advocated using the mathematical tools of calculus to observe the world and the human mind. Baruch de Spinoza initiated the creation of mathematical theories of the ethical world to describe the nature of the “new man”. Hippolyte Adolphe Taine believed that philosophy of art was also a matter of mechanics, and in the preface to *Les Origines de la France Contemporaine (The Origins of Contemporary France)*, he claimed to study the French Revolution as he did in the study of “the changes in an insect”. These sages and their explorations are proving the existence of the “arrogant scientists”. Although jurists intend to restore the intellectual origin of human rights, it’s difficult for them to make a breakthrough under the shadow of the theory of political sovereignty. Philosophers have the privilege of “causing trouble in thought”, which gives the hope of salvation to theoretical analysis. The theory of practical reason of law alleviates this problem, but it still does not give up the necessity of modern virtual reason, and finally leads to the ambiguous expression of “the technique of law”. The emotional shift in modern human rights theory, more or less shows such a change. But even for renowned scholars like Martha C. Nussbaum, who place paramount emphasis on human rights capabilities and great importance to moral emotions, what they can do now is make some additions under existing mainstream human rights discourse.

Fourth, the contemporary liberation movement of human nature puts human rights utilitarianism under moral disputes again. As we all know, things will

develop in the opposite direction when they become extreme. When the arrogance of scientists reaches a certain threshold, “perplexity” will inevitably dominate the conscious world of modern man, and the comeback of irrationalism has put the image of “arrogant scientists” on the verge of collapse. According to Schopenhauer, man is always in pain for his essence is in the hands of pain. Nietzsche, in the uninhibited spirit of Dionysus, brought modern irrational emotions to the extreme. The “superman” he conceived was a man who was transcended, an idealized man, a perfect man. Superman is a “subhuman”, a “blonde beast”. Sartre directly defined human existence as “absurdity”. Everything is absurd, birth is absurd, death is absurd, and existence is absurd. Because of the absurdity of life, modern people will know no end of “anxiety” and “confusion”.<sup>[1]</sup> A series of emotional conflicts and troubles facing modern people have created a widening gap between expression and practice. If we do not solve the problem of affect balance, the rights discourse and system justified in the name of human wisdom may no longer be “legitimate” and might lose their due credibility. This requires us to rediscover and bring out the “wise man” again. The new elite groups of the times need to adopt a new path of revolution, get rid of the old dregs of life philosophy, and re-balance the relationship between human beings and the world with the wisdom of affect balance. The contemporary human nature liberation movement is essentially a return to the original meaning of human beings, is a reflection on and improvement in the modern utilitarian theory of human rights and has a strong flavor of post-modernity.

Therefore, the united “wise man” in the future will enable human beings to regain the possibility of approaching rationality and balance the conflict of desires through emotion until the traditional desires are extinguished. It’s alright to feel lost sometimes, but not all the time. From the standpoint of smart human rights, we can make a bold assumption about the “new man” who is not a pre-existent transcendental intelligent rational subject, or a geometric, scientific structure based on logic and experience, or a mysterious, nihilistic image of God or absurd existence. Instead, the “new man” has the capacity of legal judgment, sense of justice and skills of reasoning, can effectively remove the contradictions between body and heart, collective and self, existence and consciousness, and cleverly utilize the explanation ability after the paradox arises, to pursue the purpose of a just life, and is thus a “wise man” who lives in accordance with law and justice. This assumption draws

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[1] See Liao Yi. (2008). *On Judicial Balance* (p. 97). Wuhan, China: Wuhan University Press.



on both the essence of Eastern and Western philosophy, under which, smart human rights represent the process of achieving a new human nature. Based on that, the national legal system centered on the demand and desire may be replaced by the smart legal system of universal empathy. Such possible smart human rights might give birth to the man representing the highest reason (the last man), with the ability of self-revolution, and the historical finality. Through this kind of possible smart human rights, Zhao Tingyang's conception of "the *Tianxia* system", which depends on the people's heart, is formed to protect the universal human nature that is beyond technology and close to the truth.<sup>[1]</sup>

#### IV. Possible Improvements to the Theory of Smart Democracy

Zhao Tingyang has recently constructed a theory about possible smart democracy, which is a theoretical mirroring of "smart human rights".<sup>[2]</sup> He starts from the popular support of the system, a variable that is most difficult to determine, in the face of which, the modern democratic theory is unable to explain the practical difficulties encountered. He wants to discuss the possibility of a better democracy, known as "smart democracy". In his view, the unique strength of Western electoral democracy may be its greatest weakness. "It is this advantage of democracy that creates its vulnerability to be exploited. When powerful political forces control finance, media, information dissemination and even operating institutions, they can use democracy to gain real power without being held accountable."<sup>[3]</sup> This has always been the greatest danger to the rule of law in democracies, and an important reason why philosophers and thinkers don't like democracy very much. In order to rectify the impacts of the crisis of democracy, "rule of law" has always been tasked with the obligation of controlling superior power, but due to the close relationship between government and law, such control often only exists in name, and can even become the institutional trigger of intense conflicts between the great majority without real power and the very few who hold the core power. If the modern theory of democracy doesn't work, how good can its accompanying theory of rule of law be? The corresponding theory of universal human rights would become either a utopia or a standard-bearer in the revolutions and would be turned into another political ideology after the

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[1] See Zhao Tingyang. (2021). *The Tianxia System: An Introduction to the Philosophy of a World Institution* (p. 19). Beijing: China Renmin University Press.

[2] See Zhao Tingyang. (2021). A Possible Smart Democracy. *Social Sciences in China*, 4, 4-23 & 204.

[3] Ibid.

revolution accomplished its goals. The true meaning of rule of law is human rights, but the institutional form of rule of law is mainly shaped by democratic politics. This results in the continuous tension between values and norms of human rights, making it difficult for people to truly follow their heart by judging and weighing. In the age of being digital, the public opinion on the Internet is controlled by the elites, which aggravates the tension and exacerbates people's worries and fear.

This is implied in the idea of “publicracy” proposed by Zhao Tingyang. This “Trojan horse” hidden in democracy shows: “There is some kind of overwhelming public opinion production system in society, and this powerful system dominates the values and ways of thinking of the public with psychological knowhow and market-oriented means, thereby producing pseudo-public opinion that is inconsistent with or even contrary to the common interests or public interests, and replaces the genuine public opinion that should faithfully reflect the common interests or public interests.”<sup>[1]</sup> The resulting “anti-democracy in a democratic way” makes the rule of law, a firewall for democracy, useless, and sometimes the latter cannot even identify it. This is a real threat facing today's digital democracy. But the mainstream opinion of digital human rights and digital rule of law still insists on embracing new technology with the old system or transforming the old system with the new technology, while neglecting that digital technology may be in and of itself threatening democracy and rule of law. Because digital technology is not only a “technology”; it may also represent an arbitrary universal law, a new divine law intending to replace the traditional gods and Christian God. As shown in Franz Kafka's parable “Before the Law”, the law is omnipresent in people's lives and thoughts, but no one sees its essence or gets through its gate. Kafka ever said: “Our laws are not generally known; they are kept secret by the small group of nobles who rule us.” This can be equally applied to some of today's “nobles” empowered by digital technology. This mysterious group of “creators” are trying to mold the ways of life and thinking with the help of super-powerful networks, to create a new type of universal new digital human rights which, however, might eventually disenable people's right and ability to independent judgment. Everything will be subject to the power of algorithms, the best resources will be firmly in the hand of these inhuman forces which looks plain and pleasant outside, but deep and arbitrary inside.

Zhao Tingyang finds that the “publicracy” gene, inherent in Western democracy,

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[1] See Zhao Tingyang. (2021). A Possible Smart Democracy. *Social Sciences in China*, 4, 4-23 & 204.

is becoming increasingly powerful in the conditions of being digital; technology has only one manipulator. “This new type of political power with contemporary characteristics is a political power disguised as a commercial service, transcends the traditional political concepts and therefore cannot be analyzed with the political concepts of modernity.” “People are willing to accept the considerate service of the system power, while manipulated and controlled by it, and even accept the opinions that the system power has prepared for all people in lieu of painstaking thinking on their own.”<sup>[1]</sup> Modern democracy has produced its own grave-diggers via digital technology, and when the new absolutism is born and the Maginot Line of democracy collapses, the so-called savior—“smart democracy”—won’t probably come to rescue. It is because smart democracy is no longer democracy in nature, but a new human rights movement that calls for a return to true wisdom. The shift from “opinion-based” democracy to “knowledge-based” democracy, proposed by Zhao Tingyang, has obvious theoretical foresight and limitations. There is a qualitative difference between knowledge and wisdom: the former is a product of elite reason, even more subjective than “opinion”, while the latter is a virtue and emotion beyond knowledge, can reconcile the desires and opinions of the public as necessary, while refuses to formalize and regularize the process, thus producing a modular system suitable for similar situations in the future. As a result, the making of elites will always be fluid, and one has to be always in the state of “cogito”, or he will disappear in the ocean of opinions, unable to achieve proper guidance and regulation. The idea of “elite masses” is not an illusion, nor is it possible only in the age of the so-called open-source knowledge with the help of digital technology. On the contrary, the knowledge ocean created by digital technology has been disintegrating the “elite masses”, resulting in a false phenomenon of “mass elites”. A democracy with true human wisdom may be possible, but it is by no means a fundament or a prerequisite. The truth of values is not the most important or indispensable condition for human’s existence. The key question about smart human rights is how human desires and instincts can move in the direction of truth under the control of emotion.

In comparison, Zhao’s conception of “smart democracy” and his understanding on good are still obsessed with elitism. He always coldly rejects, rather than understand with sympathy the public life. The mechanism of “one person, two votes” he invented is smart, but useless in justifying true wisdom, and can be easily refuted

[1] See Zhao Tingyang. (2021). A Possible Smart Democracy. *Social Sciences in China*, 4, 4-23 & 204.

by people with a little practical rationality. The bigger problem is that the prejudiced obsession with electoral democracy will give the elite intellectuals the privilege of censoring from top down and one-vote veto and is a manifestation of an anti-democratic aristocracy. Since democracy is complex and difficult to solve, why not just give up on the delusion of seeking a purely scientific solution to it? Why can't we simply introduce the philosophy of law of moral emotions to construct a concept of human rights that is more in line with the human nature and the wisdom derived from it? One can see the "heart of others" through self-reflection and then judging others by oneself. This classical wisdom of "being human" is perhaps the most lacking in the era of one-sided emphasis on technology.

Although Zhao Tingyang is aware that "rebuilding consensus for the hearts and minds of the people is something beyond the capacity of democracy", the "reset point of democracy" should not be democracy itself, but rather a new kind of possible smart human rights. In the theory of human rights as credit rights, he already called attention to the importance of moral emotions, but later forgot it amid the turn of political philosophy. It is theoretically possible to regard emotions as the key medium between reason and desire, and to enable universal development of smart human rights through the balance between justice and emotions. Last but not least, we can reasonably imagine the practice of "smart human rights" through the following simulated episode of future life.

In 2050, someone called L, who no longer has a definite name, has not slept for a whole month and has been taking physiological hormone to keep himself going in compensation for the lack of sleep. More importantly, in the past sleepless month, he has, through the intensive use of time, completed a very important emotional correction project. L is the local emotion correction officer. What he does is identifying people in need for treatment according to the early warnings issued by the big data technology, and offer them statutory emotional therapy. He needs to keep a journal in handwriting and does not need to report to anyone. His journal will not be digitized but archived and kept secret by law. Recently, he has noticed a trend: local people seem to be significantly more hyperactive than before. The reason may vary from person to person, but it may have something to do with the preaching of "inner spirits" by a visiting scholar. It has become the only talk among people in the virtual public square. People talk about it all the time. Even their sleep is broadcast live, and on the screen the audience are commenting on what one said in his dream. The

preaching lasted half a month and has caused collective effervescence which increase L's workload, which is a direct reason for his lack of sleep. Correction officers like L work in shift because one's emotional load is limited. So, after his shift ends, L will receive therapy from another correction officer—his own projection in the metaverse. And through this endless cycle of interaction, this place has been maintaining a relatively sound governance ecosystem without any written laws and specialized judicial systems.

(The author is Professor of the School of Law, Wuhan University.)

# Governance of Cyber Violence: Practices in China and Inspiration from It

Qing Na  
China

## I. Introduction

China first accessed the World Wide Web in 1994, and it has become a network society (Deng Rong, 2015). Statistics of the China Internet Network Information Center show that by June 2021, the country had 1,011 million Internet users and the Internet penetration rate was 71.6%, up 1.2 percentage points from December 2020. Internet applications and service have constituted a new way of life in digital society, and the Internet has become a necessity and an important carrier of life. According to the statistics of 2021, among the Internet users, the age group of 10-19 years accounted for 12.3%, the 20-29 years, 17.4%, and the 30-39 years, 20.8%, which was the biggest group of all; the age group of 10-19 years was frequent users of online education; that of 20-29 years was the biggest users of online music, online video and live streaming services, accounting for 84.1%, 97.0% and 73.5% of the users, respectively; and Internet users aged 30-39 years were the biggest users of online news applications, accounting for 83.4%.

With the flourishing development of the Internet, there is a large number of violations of social mores and even the law, and cyber violence is one of them. On October 11, 2021, the campus edition of the *China Youth Daily* published a survey report titled “Report on Insights into Post-00s (the generation born in the 2000s)” based on 2,397 valid copies of questionnaire collected from 107 colleges and universities. The survey results show that 88.44% of the respondents believe that cyber violence is an irrational behavior caused by a group of people following the crowd. In addition, 20.82% of the respondents believe that they would be affected by cyber violence to a large extent, emotionally and verbally. And 56.70% say that they would be partially affected, for example, in how they see the incident in question.

There are also 22.48% of the respondents saying they would not be affected by cyber violence. And 86.07% of the surveyed hope that there is education on media literacy for children to enhance their abilities of independent thinking and rational expression.

The Internet, while enables instant, convenient, interactive and virtual communication and facilitates the expression of the public, expands the scope of cyber moral sanctions. By instigating an unspecified majority of people to trace, collect and disseminate personal information and even privacy of the target victim on the Internet, the offenders obtain more access to information and increase the probability of access to information. The victims of online moral sanctions are harmed and threatened by some individual's or group's verbal abuse, rumor mongering, sharing of personal information, "human flesh search", online personal assault, etc. Such behaviors are termed as "cyber violence" by the academia in China.

Nowadays, the cyberspace is a part of the actual society. Various group phenomena such as public opinion aggregating and collective action on the Internet, to a certain extent, are signs of citizens' participation in co-governance and exercise of the right to freedom of speech. With the help of network technology, the space for people to participate in political discourse and governance discussion is greatly expanded: people can participate whenever they want, in an increasing range of types of discussions, and with the deepening of degree. The participants involve different social classes. Continuous study on cyber violence, including related theories and emerging problems related to it, is helpful to strike a balance between citizen's freedom of speech and social governance.

## II. Governance of Cyber Violence in China

Violence has always had the connotation of bullying and assault in the traditional understanding. The study on cyber violence began with the development and extension of violence in the cyberspace. A view was expressed that, while we enjoy the convenience brought by the Internet, we must bear the negative behaviors brought by it. There is no standardized or systematic definition for "cyber violence" yet. Some scholars use "online abuse" and "cyber abuse" to refer to phenomena of Internet addiction, mainly addiction to online games, sexual exposure and online dating (Velezmoro et al., 2010; Lindsay & Judy Krysik, 2011; Gamal et al., 2015; Vakhitova et al., 2020). In countries such as the United States, Spain, Portugal, Australia, Turkey and Republic of Korea (ROK), scholars use the term "cyber

rioting” or “cyber bullying” to describe the phenomena where the perpetrator intentionally uses computers or smart devices to repeatedly assault the victim directly or indirectly, through some acts of interpersonal violence, including sharing texts, pictures and videos on social media to insult, online verbal abuse, libeling or stalking (Smith, 2010; Nocentini et al., 2010; Bauman et al., 2012; Pyzalski, 2012; Kowalski, 2014; Mateus et al., 2015; Abaido, 2019; Peker et al., 2021; Turan et al., 2011; Akbulut & Eristi, 2011; Bae, 2021).

### 1. Clarifying the concept of cyber violence

Cyber violence evolves from violence in the traditional sense, and shares the hallmarks of violence: violent attitude, violent tendency and extreme aggressiveness. Some studies suggest that cyber violence is similar to traditional violence in nature, has the same consequences, and is easy to copycat (Kowalski, Giumetti & Schroeder, 2014). Some studies argue that cyber violence is more complex, and that unlike traditional violence, which is dominated by physical attacks, it is mainly manifested in attacks on social relationships or psychological attacks (Olweus, 2013).

Chinese scholars categorize cyber violence into three types. First, cyber violence is the conscious use of electronic information by individuals or groups, such as e-mail, forum announcements, text messages, social media messages and instant messaging apps, to commit repeated and persistent violations of the law such as name-calling, assault, harassment, threats, intimidation, social isolation, and “human flesh search”. The main cause is the negative moral judgment of others by an individual or a group. Second, cyber violence is “alienation of freedom of speech and expression” and “violence based on moral constraints” (Jiang Fangbing, 2011). It is easy to be triggered by opaque information and issues of moral controversies. The motive behind the irrational acts of cyber violence is the emotional catharsis to collectively “punish” the victims through moral judgement and attack, in order to express the offenders’ dissatisfaction, anger and even resistance to social reality or diseases. Third, in the course of social transformation in China, with the pervasiveness of the Internet, there is a binary opposition: “the wisdom of the mob” and “the lost group”. Coupled with such phenomena as group polarization, collective unconsciousness, the spiral of silence and the anonymity of the Internet, information interaction between netizens and the exposure, overlapping and resonance of online and offline risks lead to Internet-based social behaviors of great social risks.



## 2. Identifying the chain network path for cyber violence development in terms of the subjects and space

Cyber violence spreads from individuals to groups, escalates from name-calling and information tracking online to attacks on person and property offline, and snowballs a geometric rate through the chain network-shaped information transmission structure. In addition, each netizen only provides partial information at each node of the information transmission and thinks that what he/she did is trivial and not against the law or codes of conduct, and that he/she was doing the right thing merely based on his/her own position.

However, an individual's cyber violence is an infringement on the freedom of others in the name of information freedom and freedom of speech, while mass cyber violence, even in the form of behavior intention and tendency, will produce multiplied damages to the victims. It is a serious deviation between the goals and results of network development and application, a misreading of the value of the social system, and a one-sided violation of others' rights to achieve self-perceived justice, which overrides and tramples the interests of society as a whole. While committing cyber violence, the offenders are not exercising their freedom of expression, but wantonly disclosing other people's privacy and turning them into victims, which is a complete departure from the principle of "fairness and justice". They consciously carry out cyber violence, and seriously violate the principle of justice. Their original intention of pursuing justice only ends up in destroying justice. This kind of "cyber lynching" is "returning violence for violence" in essence. It originates from the critique of certain immoral phenomena, which is often magnified into a blind and radical public trial on the Internet. In this process, due to the lack of reliable verification and rational thinking, it could lead to the social death in the real life of the victims, or disrupts their normal life and work. In serious circumstances, their employer, superiors, families, relatives and friends will also be implicated, harassed and condemned to varying degrees.

## 3. Judicial treatment of individual cases preceding legislation in practice

At the annual sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC)—collectively known as the annual "two sessions", the Supreme People's Court clearly stated in its work report: "Anyone who violates personal information or incites online violence to insult or defame others shall be investigated for criminal responsibilities according

to law.” “The criminal acts of online defamation, insult, infringement upon personal information of others that seriously endanger social order and violate civil rights shall be prosecuted strictly.” China’s current laws concerning the regulation of cyberspace include eight special laws, such as the Cyber Security Law, the Data Security Law, and the Personal Information Protection Law, 21 laws related to Internet behavior and 10 related judicial interpretations, such as the Civil Code, the Criminal Law, and the Law on Penalties for Administration of Public Security. The legal provisions regulating cyber violence are increasingly improved but scattered. Since the “Chen Ziyao Incident” of 2001 on mop.com, the trial of more than a hundred typical cases of online violence have relied on the above-mentioned laws. The judicial treatment of individual cases has created conditions for targeted legislation in the next step, and enriched theoretical research and supported legislation through judicial practices.

#### 4. Diversifying the governance means of the network platforms

At present, China’s governance of cyber violence has shifted from the management of domain names and websites to indirectly manage the behavior of netizens through the regulation of major network platforms. The major network platforms assume their responsibility by means of self-empowerment, including real-name user account management in the backstage, restricting, suspending or banning the use of accounts in violation of regulations. As the network service provider, the platform, in addition to necessary measures such as deletion, screening and disconnection as required by laws, adopts data technology to fetch and analyze online contents, improves content regulation, diverts traffic and takes other methods to prevent online deviance. Some scholars say that the cyberspace is like a public parlor, and the platform, as the host of the parlor, has the responsibility and obligation to stop illegal and infringing speech.

#### 5. Exploring the early warning mechanism for online deviant behavior

Due to information asymmetry and excess trust in others, most netizens, curious but unaware of the possible consequences, will make some ungrounded comments just to follow the trend. And these comments should not be classified as online violence, but should be included in the early warning mechanism for the management of risky behavior. Some scholars once suggested online deviant behavior be governed by administrative organs, such as cyber police, which would produce only a very limited effect. In the face of the huge number of users and activities on social networks, no matter how much an administrative organ throws in, manpower,

materials and resources, it would be like a drop in the ocean, and comprehensive oversight is impossible; otherwise, it would cause a huge waste of State resources and the expansion of power. But social networking platforms have the unique advantage of possessing information systems and data, grasping what netizens want, who rely on those platforms, so it's easier for them to understand the psychology of users, raise topics that might interest the users, and guide the direction of public opinion. They can suspend the direct-message function of accounts making extremist speech, activate the comment firewall to protect privacy, filter online violent speech and screen users, to send early warnings and respond to emergencies.

### III. Inspiration from China's Governance of Cyber Violence

Faced with the phenomenon of cyber violence and its unique characteristics in China, China's cyberspace regulators have responded rapidly and developed a governance model with an initial framework. Entering the Web 3.0 era, we still need to explore and make the top-level design on the basis of interdisciplinary theories, so as to ensure the coordination and integration of various governance institutions and means.

#### 1. Continuing to pay attention to and prevent the man-made cyber violence

Through long periods of extensive research and practices, we find that the harm acts of cyber violence are mainly organized, planned, targeted emotional vent against some individuals or groups. This kind of orchestrated antagonism is not for seeking the truth of the facts, or gathering evidence and clearing doubts, or defending morality and justice. People behind it are judging based on one-sided information and fragmented descriptions. Some are even deliberately creating chaos to gain traffic and profit from it. Especially there are "paid posters" who profit from making specific comments to induce online deviance. They are the source and booster of cyber violence. The key to governance lies in educating the public on the logic of such behaviors, helping them raise their awareness of it, judge whether they are contributing to cyber violence or not, and actively avoid their participation.

#### 2. Promoting legislation and improving the legal system

The academia should consider the specialized and systematic legislation to deal with cyber violence, similar to the establishment of the Anti-Domestic Violence Law. First of all, we should define the connotation and extension of cyber violence; know its types, judgment standards, contents and forms; define the boundaries between the legislation on cyber violence and other laws such as criminal law, civil law and

economic law. Secondly, it is necessary to regulate the granting of law enforcement power against cyber violence, and the form, exercise procedure and application scope of the platforms' self-assigned rights. Thirdly, we should also specify the conditions for public authority to intervene in jurisdiction, the standards and scope for transferring from civil to criminal procedures when cyber violence spreads from online to offline through "human flesh search" and causes damage to the victim's personal and property relations in real life. Fourthly, we should set up an emergency relief module for extreme online deviance for which is not yet legislated due to lack of laws. For example, we can set up an independent non-profit institution to judge and handle online deviant behavior. Fifthly, we should unify the standards of different platforms, avoid the vicious competition between platforms because of the conflict of interests, prevent the stimulation of "paid posters"—the source of violence, and improve the cyberspace governance.

### 3. Guiding platforms to help counter cyber violence

Looking back on all the cyber violence that caused vicious results, the network platforms involved were often guilty of dereliction of duty. The amount of energy needed to gather evidence against cyber violence is an order of magnitude bigger than that needed to produce it. The victim needs to keep the evidence immediately about the perpetrators spreading information, and then provide the identities of the perpetrators and infringers in accordance with the provisions of the Civil Procedure Law—the cost of doing so poses a real obstacle to the protection of the victim's rights. Take the suicide case of a doctor surnamed An in the city of Deyang in 2018 and another suicide case of Liu Xuezhou, a boy who took his own life after a reunion with his birth parents, in 2022. If the major platforms could have handled the sensitive information first when they found the personal information of the person concerned had been disclosed, cut off the transmission route, called the police and other specialized agencies to deal with the situation, and informed the platform users that continuing to forward sensitive information would violate the law and be held accountable legally, then the result might not be as we know it now.

Some scholars suggest that platforms introduce mandatory modes, such as filtering violent speech with keywords or screening users and banning to post or canceling accounts if those users have committed online violence. But social platforms are a field of free expression, which is their biggest appeal to users, who value the possibility to publish and share comments freely and efficiently on them

and have fun of online socializing. Therefore, user screening or prior restraint runs counter to the operating logic of the network platforms. There is a contract between users and network platforms: As the service provider, the platforms have the right to define, investigate and deal with the violations reported by the users who are victims of online violence, and the accused user has the obligation to cooperate in and tolerate the investigation. The platforms can use technology to help supervise the offenders and protect the victims, conduct investigations and provide relevant materials for the subsequent handling of administrative and judicial organs. Cyber violence comes along with the development of information technology which in turn can be used to identify, handle and prevent cyber violence more accurately and efficiently, and eliminate its impact to the maximum extent.

#### IV. Conclusion

In the open, public, autonomous and anonymous cyberspace, a seemingly trivial discussion might snowball by an order of magnitude in no time to the tipping point and spread from individuals to groups. Given the size of the participants, their diversity and differences in conditions and cognition, the conflict between the rational self and opinion convergence in expression and discussion will lead to irrational performance, deviance or violence in the virtual world. If we can eradicate the violent, deviant behavior online, we can improve the irrational and disorderly state to some extent and provide a governance path for public governance institutions in the framework of social equality and multi-governance theory.

In governing online deviant behaviors such as cyber violence, China adheres to the principle of governing the cyberspace according to law, takes a multi-level approach, and actively integrates into the governance to handle the real-life problems arising from national conditions, public opinions on the Internet and the structural characteristics of Internet users. Under the premise of respect for cyber sovereignty, China maintains that all countries should discard differences, seek common ground while shelving differences, and cooperate on common Internet issues, including cybercrime, cyber pornography, cyber terrorism, etc. The cyberspace governance of China is of great reference value and significance to all the developing countries in Asia, Africa and Latin America.

(The author is Associate Professor of Dianchi College, Yunnan University.)

# Rethinking Human Rights in a Multiplex World Order

Sanja Arežina  
Serbia

## I. Introduction

During the last two decades, the world is in the process of power shift from a unipolar world order toward a much more pluralistic and decentered world. International relations are becoming more complex because on the international scene, in addition to national States, the non-State actors play an active role in formulating responses to transnational challenges such as climate change, human trafficking, drugs and pandemics, which do not respect national boundaries and are magnified by interdependence and globalization.

A century ago, we would say that the world in which several actors played a leading role was multipolar, but today this kind of complex, interconnected and interdependent world is called a multiplex world by some theorists of international relations.<sup>[1]</sup> In such a multiplex world, which is politically and culturally diverse but economically and functionally interconnected, it is very difficult to achieve effective protection of universal human rights that developed in the period after the World War II. This is supported by the annual report of the Office of the High Commissioner for Human Rights (OHCHR) of the United Nations published in March 2022, which indicates a significant deterioration in the situation regarding respect for human rights and the decreasing interest of countries in multilateral cooperation.<sup>[2]</sup>

Although the human rights framework has been significantly developed and standardized in the previous decades, they are often instrumentalized, politicized and abused. Therefore, the basic hypothesis of this research is that human rights under the

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[1] Professor Amitav Acharya, UNESCO Chair in Transnational Challenges and Governance and Distinguished Professor at the School of International Service, American University, Washington DC, was the first to coin this term.

[2] United Nations Human Rights Council. (2022, April 26). *Annual Report of the United Nations High Commissioner for Human Rights*. United Nations. Reviewed from: <https://reliefweb.int/attachments/442ec24d-3707-427b-8fc8-fc618e3df82c/EN.pdf>.

pretext of effective protection will be increasingly instrumentalized and politicized in a multiplex world unless more different actors are involved in making sustainable solutions and make reform of existing multilateral institutions.

In the past period, researches on human rights have focused mainly on the theoretical and practical application of human rights in various fields. This research focuses on factors that influence the reduction of the effective protection of human rights and lists the ways of their politicization and instrumentalization. To be able to prove the basic hypothesis, the author uses the structural-functionalist analysis, comparative analysis, induction and deduction. The structural-functional analysis is used to explain the development of human rights and how they were politicized and instrumentalized in the previous period. In parallel, the comparative analysis is used to compare the degree of difference in the politicization and instrumentalization of human rights in the bipolar, unipolar and multiplex world; for the comparison of human rights protection in developed, developing and less developed countries; for the comparison of the impact of cultural differences on the effective protection of human rights in Western and non-Western societies, as well as for nuanced differences in the response to the COVID-19 pandemic of traditional, progressive and those societies that are somewhere in the middle. The research will use relevant academic and policy documentation, official statements and news from the international media.

The article has five parts. In the introduction, the author gives the context for the research, explains the crux of the problem and sets out the hypotheses. In the second part, the author explains the development of human rights after the adoption of Declaration of Human Rights in 1948. The third part indicates the factors that influence the reduction of the effective protection of human rights in the multiplex world. In the fourth part, the author outlines the ways in which human rights are instrumentalized and politicized in the multiplex world. The concluding remarks will summarize the research, after which the author draws a conclusion, provides a projection of the direction of human rights development in a multiplex world, and makes recommendations for overcoming their increasing politicization and instrumentalization.

## II. Development of Human Rights

After the horrors that befell the world during the World War II, it was believed that the war could have been avoided if there had been effective mechanisms to

identify violations of human rights in Nazi Germany. Therefore, the United Nations General Assembly adopted the Declaration of Human Rights on December 10, 1948, which represented the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone, regardless of their nationality, place of residence, gender, national or ethnic origin, color, religion, language, or any other status.<sup>[1]</sup> Although it is not legally binding, the Declaration strongly appealed to member countries to make an effort to recognize human, civil, economic and social rights, arguing that these rights represent “the foundations of freedom, justice and peace in the world”<sup>[2]</sup>. The essence of this appeal was to put pressure on the countries to accept their obligations towards their own citizens and take responsibility for the effective protection of human rights. Consequently, many UN member countries have incorporated the principles set forth in the Declaration in their national Constitutions and legislation.

During the Cold War, many countries wanted to go one step further and adopt the new agreements (pacts) that would put more pressure on countries to accept human rights norms. Therefore, two international covenants on human rights were adopted: the International Covenant on Civil and Political Rights in 1966 and the International Covenant on Economic, Social and Cultural Rights in 1976. These two covenants, together with the Universal Declaration of Human Rights, constitute the International Bill of Human Rights. Since then, several other significant legal documents have been adopted at the international level that regulate the issue of preventing and punishing the crimes of genocide (1951), torture (1984), racial discrimination (1969), discrimination against women (1981), etc., and the United Nations High Commissioner for Human Rights whose mandate is to promote and protect all human rights established by the UN Charter, international laws and treaties on human rights (since 1993).<sup>[3]</sup> However, Posner points out that the high number of ratifications of international human rights law is not directly equivalent to the effectiveness of human rights protection at the domestic level.<sup>[4]</sup>

The true reflection of the scope of the Universal Declaration of Human Rights

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- [1] Kalra, M. (2022). Exploring the Development of Human Rights and the Role and Success of the United Nations in Upholding Them. *International Journal of Social Science and Economic Research*, 7(4), 1097.
- [2] *Universal Declaration of Human Rights*. (1948, December 10). United Nations. Retrieved from: <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
- [3] United Nations Human Rights Office of the High Commissioner. *High Commissioner*. United Nations. Retrieved from <https://www.ohchr.org/en/about-us/high-commissioner>.
- [4] Posner, E. (2013). Human Rights, the Laws of War, and Reciprocity. *The Law & Ethics of Human Rights*, 6(2), 147-171.



can be found in the human rights instruments of the smaller regional international groupings, such as the European Union (EU), the Council of Europe, the Association of Southeast Asian Nations (ASEAN), Organization of Islamic Cooperation (OIC), the African Union, the Organization of American States (OAS), the League of Arab States (LAS), the South Asian Association for Regional Cooperation (SAARC), and the Group of Twenty (G20), among others. These regional human rights systems mainly are comprised of one or more multilateral legal instruments focused on specific themes, a mechanism for monitoring the compliance of States Parties or quasi-judicial body authorized to resolve individual claims for the violation of rights guaranteed under these instruments.<sup>[1]</sup>

At the same time, it was noticed that regional groupings whose members are developing countries and less developed countries were often more progressive in setting standards when it comes to specific human rights themes. Latin American countries, for example, were in the vanguard of efforts to adopt a new UN convention against enforced disappearances, with many taking positions that favored stricter treaty protections than those of some Western countries. African nations played a key role in securing the adoption of the Rome Statute establishing the International Criminal Court (although some of them are now very critical of the Court). The UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is championed by countries like Mexico and the Philippines, while Western countries refuse to sign or ratify it. South Africa has played a prominent role in securing greater attention to and protection of the rights of lesbian, gay, bisexual and transgendered people.<sup>[2]</sup>

And yet, despite the mechanisms for monitoring and judicial bodies that have been developed within the regional human rights system, practice has shown that there are significant differences in member countries' effective protection of human rights. Thus, for example, some ASEAN countries like Indonesia have, at least on occasion, championed stricter human rights criteria, whereas others have not. In the OAS, some South American countries have sought to weaken the role of the Inter-American Commission on Human Rights (IACHR).<sup>[3]</sup>

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[1] *Regional Human Rights Systems*. Georgetown Law Library. Retrieved from: <https://guides.ll.georgetown.edu/c.php?g=273364&p=6025368>.

[2] Petrasek, D. (2013). New Powers, New Approaches? Human Rights Diplomacy in the 21st Century. *Sur*, 10(19), 7-14.

[3] *Ibid.*

### III. Factors Influencing the Reduction of the Effective Protection of Human Rights in the Multiplex World

In a multiplex world, where the countries are politically and culturally diverse but economically and functionally interconnected, it is difficult to achieve effective protection of universal human rights that developed in the period after the World War II, because several different factors have been acting simultaneously.

One of the key factors influencing the effective protection of human rights is the growing number of the non-State actors (international institutions, multinational corporations, transnational non-governmental organizations, transnational movements, transnational criminal and terrorist groups, individuals and other non-State actors), that, in addition to national States, play an active role in formulating responses to the transnational challenges such as climate change, human trafficking, drugs and pandemics which do not respect national boundaries and are magnified by interdependence and globalization.<sup>[1]</sup> The Westphalian paradigm of State responsibility has traditionally limited international law to hold only countries responsible for the protection of human rights. As the obligation to protect human rights increasingly extends to the non-State actors governing territory, if it wants to maintain its relevance, the human rights framework must adapt, taking into account the role of the non-State actors and ensuring a certain degree of their responsibility.

The second key factor influencing the effective protection of human rights is the growing differences in development between developed countries on one side and developing and less developed countries on the other side<sup>[2]</sup>, as a result of which the differences in their needs (interests) become increasingly visible. On the one hand, developed Western countries believe the interests of individuals should have priority over the interests of the group, so the focus should be on political and civil rights because without them there is no possibility of checking whether the government has ensured a fair distribution of economic goods. On the other hand, there are developing countries and less developed countries (in Africa, Asia, South America, etc.) that advocate the “right to development” and give priority to economic

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[1] Acharya, A. (2019, July 1). *Understanding the Emerging Multiplex World Order*. Global Governance Institute. Retrieved from <https://www.ucl.ac.uk/global-governance/news/2019/jul/understanding-emerging-multiplex-world-order>.

[2] The World Bank. (2022, January 11). *Global Growth to Slow Through 2013, Adding to Risk of ‘Hard Landing’ in Developing Economies*. Website of the World Bank. Retrieved from: <https://www.worldbank.org/en/news/press-release/2022/01/11/global-recovery-economics-debt-commodity-inequality>.

development because they believe that only when satisfactory economic development is achieved and all people are fed (the Full-Belly Thesis) the State's priorities can shift to the protection of individual political and civil rights and the building of institutions. In support of this, at 2022 Annual Appeal the UN High Commissioner for Human Rights Michelle Bachelet spoke: "No matter how free individuals are to speak out and protest, they are not truly free if they lack food, education or adequate housing. And when people have access to fundamental social protections, decent work and economic opportunities, societies are less vulnerable to fracture. The protection and promotion of economic, cultural and social rights will continue to be another core focus of our work this year."<sup>[1]</sup>

With the power shift from the West to the East, the cultural differences of non-Western countries in relation to Western societies are increasingly coming to the fore. These cultural differences are the cause of different conceptualization of human rights, because each society interprets human rights in accordance with its local traditions, practices, values and morality norms. Thus, unlike Western society where individualism is dominant, non-Western traditional cultures do not view the individual as an autonomous being whose individual rights are above the needs of the entire society. In them, an individual represents an integral component of a group, family, clan, tribe or local community, which is considered the basic unit of society. Differences also come to the fore if you compare the belief of Western societies that those who rule will try to increase their power at the expense of ordinary citizens with non-Western traditions in which citizens believe in the virtue of a leader who is given absolute power in order to take care of the well-being of the people.<sup>[2]</sup> Therefore, it is clear that effective protection of human rights in any society is possible only if it is in accordance with the cultural environment in which they are applied.

The multiplex world is increasingly characterized by the transnational global challenges that cause transboundary crises that cannot be solved only at the national level because the new global challenges know no borders and produce multidimensional consequences for the entire world, especially when it comes to the

[1] United Nations Human Rights Office of the High Commissioner. (2022, January 1). *United Nations Human Rights Appeal 2022*. United Nations. Retrieved from: <https://www.ohchr.org/en/publications/annual-appeal/un-human-rights-appeal-2022>.

[2] Hurights Osaka. (1997). Human Rights and Cultural Values. In Plantilla, J. R., Raj, S. L., & Hurights Osaka. (Eds.). *Human Rights in Asian Cultures—Continuity and Change: A Regional Report in Support of the UN Decade for Human Rights Education*. Osaka : Hurights Osaka.

protection of human rights.

The climate shocks destroy lives, crops, livelihoods, and undermine people's ability to feed themselves. As countries have an obligation to prevent the foreseeable adverse effects of climate change and ensure that those affected by it, particularly the most vulnerable groups, have access to effective means of adaptation to enjoy a dignified life, the joint activities in the fight against climate change have been intensified in the last few years. Since 1995, the United Nations has been holding the conferences on climate change, where they have unsuccessfully tried to reach a common agreement on the fight against climate change. In November 2021, the 26th UN Climate Change Conference (COP26) was held in Glasgow where countries managed to achieve some progress when it comes to limiting global warming and the use of fossil fuels, as well as financing for adaptation to climate change for less developed countries.<sup>[1]</sup>

Health challenges, such as SARS, Mers, Ebola and the COVID-19 pandemic, have caused great changes globally and created a "new reality". Under such circumstances, the goal of preserving public health has clashed with the goal of preserving human freedom, dignity and equality, thus the countries have chosen different approaches to fight the pandemic tailored to their domestic needs. More conservative societies, that want to keep their traditions, safeguard social stability and safety, and maintain the existing social and economic hierarchy, have emphasized the importance of the community at the expense of individuals in the fight against the pandemic. On the other hand, societies that are more progressive and advocate for more equality have given individuals more freedom and control over their own lives at the expense of the community. Somewhere in the middle, there are those societies that identify with both and tried to balance these two approaches to ensure that their population gets through the pandemic with as few negative consequences as possible.<sup>[2]</sup>

After the 2008 global financial crisis, the COVID-19 pandemic and the Ukrainian crisis are expected to trigger a new global financial crisis. More and more countries are suffering from a reduction in economic growth, an increase

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[1] Guterres, A. (2021, November 13). *Statement on the Conclusion of the UN Climate Change Conference COP26*. United Nations Secretary-General. Retrieved from: <https://www.un.org/sg/en/content/sg/speeches/2021-11-13/statement-conclusion-of-un-climate-change-conference-cop26>.

[2] Arežina, S. (2020, November 18). *Post-Pandemic World and Western Balkans: Transformative Resilience as the Response to the Consequences of the COVID-19 Pandemic*. China-CEE Institute. Reviewed from: [https://china-cee.eu/wp-content/uploads/2020/11/Working\\_paper-202041-Sanja-Arez%CC%8Cina.pdf](https://china-cee.eu/wp-content/uploads/2020/11/Working_paper-202041-Sanja-Arez%CC%8Cina.pdf).

in public debt, problems with fiscal constraints, inflation, disruptions in supply chains and delivery deadlines. These problems threaten the full range of human rights, economic, social, cultural, but also civil and political rights. For example, the dramatic decline in aggregate demand globally resulted in extensive unemployment and destruction of livelihoods, which consequently also affects declining social and health protection.<sup>[1]</sup>

The rise in energy prices, fueled by the sanctions imposed to the Russian Federation for the supply of oil and gas due to the Ukrainian crisis, caused the energy crisis, which spilled over to other sectors and affected the outflow of investments from certain countries and an increase in the number of unemployed.<sup>[2]</sup> These problems affect the life, health and living standards of human beings, as well as the means of subsistence of people, especially those who are already marginalized.

The food crisis has been caused. Climate change, supply chain disruptions, lack of workers, increased transportation and fertilizer costs have caused that the global food prices have soared. The COVID-19 pandemic had an additional negative impact, as a result of which food prices jumped by 60% compared to the pre-pandemic period, while the Ukrainian crisis brought them to dizzying heights (prices jumping by 23% in 2022 compared to the previous year). Many countries have introduced protectionist measures when it comes to the export of certain products. Argentina banned beef exports in May 2021, while over 20 countries-imposed food export bans at the beginning of 2022. In April, Indonesia banned the export of palm oil (it reversed the decision in May 2022), Kazakhstan restricted wheat and wheat flour exports, Malaysia suspended the export of live chickens, and India reduced wheat and sugar exports. Due to the Ukrainian crisis, the export of wheat, corn, sunflower oil and artificial fertilizers from Russia and Ukraine has decreased. Net importers of food, countries burdened with the high public debt and countries with low and middle incomes are the most affected by this food crisis, which according to the UN data will abridge the right to food of almost two billion people.<sup>[3]</sup>

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[1] Ibid.

[2] Birol, F. (2022, May 13). *What Does the Current Global Energy Crisis Mean for Energy Investment?* IEA. Reviewed from: <https://www.iea.org/commentaries/what-does-the-current-global-energy-crisis-mean-for-energy-investment>.

[3] Betz, B. (2022, July 7). *United Nations Says Billions Facing Food Insecurity Levels: 'World Is Moving Backwards'*. Fox Business. Reviewed from: <https://www.foxbusiness.com/economy/united-nations-billions-facing-food-insecurity.amp>.

The social crisis has been generated. The strengthening of the opposition parties and the civil protests, due to the measures of freedom of movement restriction during the COVID-19 pandemic, but also problems with the food and energy security (Kenya, Panama, etc.), have led to the growing global geopolitical fragmentation and the rising tide of negative public opinion towards the governments, as a result of which leaders become more populist, many governments have changed (some even violently, for example in Pakistan, Sri Lanka and Peru), and “narrative warfare” is increasingly present.<sup>[1]</sup>

Conflicts between nations and increasingly numerous conflicts within nations cause huge economic and humanitarian costs, and create broad and enduring harm, including migrant and refugee crisis. In the previous two decades, we could see a lot of devastating conflicts in Afghanistan, Iraq, Libya, Syria, Yemen, Myanmar, Armenia, etc. In 2022, the Ukrainian crisis additionally shook the geopolitical chessboard, deepening the already existing divisions, reconfiguring the existing alliances, and intensifying polarization in the various multilateral institutions. The pandemic was forgotten as if it never existed while pro-Western populist leaders, introducing sanctions to Russia’s energy exports, forgot the rational interests of their countries while telling their population to take short showers and buy thick sweaters for the coming winter. Unfortunately, all this will lead to an increase in social tensions, especially among net importers of energy and food, which may lead to violent changes of ruling regimes and violations of human rights.

The change in the balance of power was not accompanied by a change in the voting structure in the multilateral institutions that were established after the World War II. Due to the legitimacy-efficacy paradox which has always been a cause of concern in global governance, these institutions are becoming “impotent” in a multiplex world where effective solutions to global challenges are needed, as a result of which they are increasingly losing their importance.<sup>[2]</sup> Traditionally, it has been thought that if you have more legitimacy—more representation, diversity and inclusion—you risk undermining efficacy because the group of actors involved becomes too big, making it difficult to reach any kind of consensus. On the other

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[1] Horowitz, J. (2022, April 9). *From Pakistan to Peru, Soaring Food and Fuel Prices Are Tipping Countries over the Edge*. CNN Business. Reviewed from: <https://edition.cnn.com/2022/04/09/business/food-fuel-prices-political-instability/index.html>.

[2] Mares, C. (2022, April 6). *Pope Francis: We Are Witnessing the ‘Impotence’ of the UN in the Ukraine War*. Reviewed from: <https://www.catholicnewsagency.com/news/250898/pope-francis-we-are-witnessing-the-impotence-of-the-un-in-the-ukraine-war>.

hand, if you have only a small group of actors, as in the G7/G8 model, the outcome might not be acceptable to those who were not involved in the decision-making process. Whether the issue is human rights, peace and security, finance or trade, it becomes clear that legitimacy (diversity and inclusion of the Global North and the Global South) is the key to efficacy that will deliver better and more sustainable solutions.<sup>[1]</sup>

#### IV. Human Rights as the Politic Instruments

For the first four decades, countries worked on the process of codification and standardization of human rights. State sovereignty was privileged almost absolutely over human rights, with one significant exception of the apartheid in South Africa.<sup>[2]</sup> In the mid-1970s, one could already sense that certain Western countries and multilateral institutions would increasingly use human rights as a means of pressure, but only with the decline of the power of the Soviet Union and the strengthening of Western influence they began to put concrete pressure on the countries regarding effective protection of human rights. Most of the developing and less developed countries withstood the pressure or changed their policies to the extent that they could establish or maintain trade and military relations with the Western countries that exerted the pressure.

After the end of the Cold War and the collapse of the Soviet Union, the confrontation between East and West has disappeared. The US is becoming the dominant global power, and human rights are beginning to be increasingly politicized and instrumentalized. In such conditions when political frontiers have become less important both for intervening organizations, whose powers can extend beyond borders, and for target countries, whose responsibilities within borders can be held to international scrutiny, countries have tried much more to move forwards within the framework of respect for human rights and the implementation of economic and political reforms because the veto-wielding powers generally abstained from the use and misuse of that power.<sup>[3]</sup>

Although globalization and the accelerated economic growth of certain

[1] Acharya, A. *op. cit.*

[2] Thakur, R., & Schnabel, A. (2000) Unbridled Humanitarianism: Between Justice, Power, and Authority. In Thakur, R., & Schnabel, A (Eds.), *Kosovo and the Challenge of Humanitarian Intervention: Selective indignation, Collective Action, and International Citizenship* (p. 497). Tokyo: United Nations University Press.

[3] Thakur, R., & Schnabel, A. *op. cit.* 498.

developing countries are beginning to change the geopolitical and geoeconomic scene in the first two decades of the 21st century, the pressure from the West regarding respect for human rights still remains, and their politicization and instrumentalization is multiplying.

### 1. Human rights as a diplomatic means

For decades, human rights have been used as a diplomatic tool of pressure at the bilateral and multilateral levels by the Western countries. For this purpose, the “name and shame” tactic is mostly used, which exerts public pressure on the governments of the targeted countries. In order to avoid being publicly “marked” as the “violators of human rights”, most governments are trying to improve the situation in their country. However, some of them believe that they have been unfairly accused by other countries of violating human rights, as a result of which they responded to public accusations with their lists and reports on human rights violations in the world (Russian Federation, China and Iran).<sup>[1]</sup>

At the multilateral level, respect for human rights is a condition for membership in most pro-Western international organizations. Thus, after the Cold War, the desire to join the European Union and the North Atlantic Treaty Organization (NATO) motivated the countries of Eastern, Central and Southeastern Europe to improve the state of human rights. These conditions for membership of these organizations are still in force because respect for human rights is an important part of their identity. At the same time as they work to promote human rights, these organizations try to actively react if there is a violation of them. Thus, at the G20 multilateral forum, pressure was exerted on members to express condemnation and take measures against Saudi Arabia for human rights violations, in order to prevent it from assuming the presidency of this forum in November 2019.<sup>[2]</sup> Three years later, in July 2022, due to the strengthening of oil prices in the world and the growing threat from Iran, the US President Joe Biden went to visit Crown Prince Mohammed bin Salman to revive US-Saudi relations, despite saying previously that the US would treat Saudi Arabia as a “pariah” for “ordering the murder of journalist Jamal Khashoggi”. This example shows that striking the right balance between helping and condemning a nation, either singly or in consortium with other nations, is what constitutes human rights

[1] *China Issues Report on US Human Rights Violations*. (2022, February 28). Xinhuanet. Reviewed from: <https://english.news.cn/20220228/b7efbe95710249f2ad049fb0b613e3a8/c.html>.

[2] Ghosal, A., & Pal, S. (2021). The Politics of Human Rights Diplomacy. *Jadavpur Journal of International Relations*, 25(1), 101-123.



diplomacy.

## 2. Human rights as an economic means

Human rights are used as an economic means of pressure at the bilateral and multilateral level. Most often it is about economic sanctions and the provision of development assistance, which will be presented in more detail here.

### (1) Economic sanctions

In the post-Cold War world, respect for human rights is often used by the Western countries as a reason for imposing bilateral or multilateral economic sanctions on many “recalcitrant” countries. In this way, pressure is put on the governments of the target countries in order to improve the protection of specific human rights or increase flexibility in negotiations on other important issues. Economic sanctions are most often used as a tool by developed Western countries, such as the US, Great Britain, Germany and the countries of Northern Europe, which are known for their commitment to respect for human rights. Thus, according to the initiative of American conservatives, the US has linked the granting of the status of the most favored nation to certain developing and less developed countries for decades with the issue of respect for human rights. During his election to the position of the US Secretary of State, Colin Powell spoke before the US Senate about the failure of the sanction, saying that history had shown that ultimatums are not good and that sanctions are counterproductive because they punish the people more than the leaders.<sup>[1]</sup> Because of this and the growing economic interdependence in the multiplex world, sanctions aimed exclusively at individuals responsible for human rights violations (Magnitsky Sanctions) are increasingly being used. The essence is that a focused response helps avoid jeopardizing other interests and the entire bilateral relationship with the targeted subject.

### (2) Development assistance

For decades, pro-Western financial institutions (IMF, World Bank, etc.) and the governments of creditor countries have used human rights as a means to maintain influence and their hierarchical position in the post-colonial world. They did this by setting the need for macroeconomic structural adjustment and social transformation of the assistance-recipient countries as a condition for granting development assistance, which was supposed to lead to faster globalization based

[1] Powell, C. L. (2001, January 17). *Confirmation Hearing by Secretary-Designate Colin L. Powell*. US Department of State Archive. Reviewed from: <https://2001-2009.state.gov/secretary/former/powell/remarks/2001/443.htm>.

on liberalization, deregulation and diminution of the State's role in the national development.<sup>[1]</sup>

They were followed in those requests by regional organizations, such as the European Union, the African Union, the Organization of American States, the League of Arab States, the Organization of Islamic Cooperation, and the Association of Southeast Asian Nations, which also set respect for human rights as a condition for their members to receiving development assistance.

In 1999, the United Nations Commission on Human Rights gave an opinion on the bad results of this policy of conditioning the granting of development assistance, which pointed out that structural adjustment policies have serious repercussions on the ability of developing countries to implement national development policies whose prime objective is to respect human rights, and particularly economic, social and cultural rights, through improved living standards for local populations.<sup>[2]</sup>

With the accelerated economic rise of developing countries, there was the formation of new financial institutions in which developing countries dominate (New Development Bank, Asian Infrastructure Investment Bank, Silk Road Fund, etc.). These institutions adopted a diametrically opposite approach more favorable to ruling regimes in developing countries and less developed countries, because they do not interfere in their internal affairs and are primarily focused on economic and infrastructure objectives, without any political strings attached. Despite this, pro-Western financial institutions continued to condition access to development assistance with political demands in terms of promoting democracy and human rights and implementing economic reforms (the so-called "carrot and stick" policy). The basis for their demands is mainly negative reports of non-governmental organizations located in developing countries.<sup>[3]</sup>

In order to maintain their sphere of influence, in the last few years some politicians and officials of pro-Western financial institutions are increasingly forcing the division into the politically acceptable development assistance and the assistance which is not acceptable because the providers of the latter do not belong to the Western value system.

[1] Toussaint, E. (2020, October 25). *The World Bank, the IMF and the Respect of Human Rights*. CADTM. Reviewed from: <https://www.cadtm.org/The-World-Bank-the-IMF-and-the-respect-of-human-rights>.

[2] United Nations Commission on Human Rights. (1999). *Report on the Fifty-Fifth Session*. United Nations. Reviewed from: <https://www.un.org/esa/documents/ecosoc/docs/1999/e1999-23.pdf>.

[3] Arežina, S. (2014). Chinese 'Going out' Policy and Its Impact on Relations with Serbia. *Review of International Affairs*, 65(1153-1154), 5-23.

### 3. Human rights as a military mean

Human rights are often used as an excuse for interfering in the internal affairs of developing and less developed countries, as well as for the military intervention, in order to achieve democratic principles and “protect the population” if the national government cannot guarantee them protection from genocide, war crimes, ethnic cleansing and crimes against humanity.<sup>[1]</sup> For this purpose, intervention for humanitarian purposes was initially used, which was quickly replaced by the Responsibility to Protect principle, which has been invoked by more than 80 UN Security Council resolutions on crises, as well as thematic resolutions concerning the prevention of genocide, armed conflicts and restrictions on trade in small arms and light weapons, but also over 50 UN Human Rights Council resolutions and 13 UN General Assembly resolutions.

Although many developing and less developed countries are against it because they advocate the respect for sovereignty and territorial integrity and non-interference in the internal affairs of other countries, developed Western countries believe that it is justified to intervene without the approval of the government of that country and the UN Security Council in the case of massive violations of human rights, in order to provide the domestic population with adequate protection.<sup>[2]</sup>

With the appearance of populist politicians, human rights are beginning to be even more politicized, primarily for the sake of creating a favorable political scene for winning elections, while mobilizing the international community to resist “human rights violators” in order to create conflicts within nations, for which international human rights non-government organizations, such as Amnesty International or Human Rights Watch, are often used.

## V. Conclusion

The starting point of this research was the development of human rights after the adoption of the Universal Declaration of Human Rights by the United Nations General Assembly in 1948. After the Declaration, the countries adopted two more pacts and several important legal documents at the international level, with the aim of exerting greater pressure on countries in order to enable effective protection of human rights. However, the author points out that the true reflection

[1] Haass, R. (2017). *A World in Disarray: American Foreign Policy and the Crisis of the Old Order* (p. 111). New York: Penguin Press.

[2] Thakur, R., & Schnabel, A. *op. cit.* 497.

of the scope of the Universal Declaration of Human Rights can be found in the human rights instruments, the mechanism for monitoring and the judicial bodies of the smaller regional and international groupings, whose member countries are differently committed to the protection of human rights, but collectively they were often more progressive in setting standards when it comes to specific human rights themes.

In the continuation of the research, the author explains that during the last two decades, the world is in the process of power shifting from a unipolar world order towards a multiplex world order which is much more pluralistic and decentered. Due to its complexity and multiplicity, the author claims that it is difficult to achieve effective protection of human rights that developed in the period after the World War II and avoid them from being even more instrumentalized and politicized in diplomatic, economic or military terms.

As it is very important to investigate the possibility of effective protection of human rights in a multiplex world, in order to prove the hypothesis, the author identified six factors, some of which were extremely dominant only in a certain period, but later their influence would weaken, and the influence of other factors would strengthen, while some of them were constant all the time. Summarizing the results of the research, the author concludes that all the mentioned factors together prevent the effective protection of human rights because they simultaneously operate in a multiplex world.

In the continuation of the research, the author cites diplomatic, economic and military ways of using human rights as a means of pressure at the bilateral and multilateral level. Based on the data obtained in the research, she concludes that the politicization and instrumentalization of human rights is multiplying in the multiplex world under the pretext of effective protection of human rights.

Therefore, the author suggests that the effective responses to global challenges are needed more than ever in the coming period. The need for diversity and inclusion has become a normative imperative because legitimacy and effectiveness cannot be achieved without it. Consulting with a wider range of actors is likely to lead to better and more sustainable solutions, which will take into account the level of development of individual societies, their local traditions, practices, values and moral norms. It is necessary for the reform of the existing international institutions

to include equally the participants of the Global North and the Global South because the legitimacy and the efficacy cannot be achieved without the respect for diversity and inclusion. Only through collective engagement and involvement of developed, developing and less developed countries can be possible to achieve a practical and non-ideological cooperation to uphold international stability, prevent politicization and instrumentalization of human rights under the pretext of effective protection, and turn sources of power into successful smart-power strategies, and thus achieve individual national interests and goals.

(The author is Counsellor with the Government of the Republic of Serbia.)

# Boosting Human Rights Development Through Consultative Democracy

Xiao Junyong  
China

In September 2021, the State Council Information Office issued the Human Rights Action Plan of China (2021-2025) (hereinafter referred to as the Plan). One of the goals of implementing the Plan is to effectively protect civil and political rights, and promote people's effective social participation. Part II of the Plan explicitly calls for promoting the universal, multi-layered and institutionalized development of consultative democracy. Therefore, the consultative democracy system is closely related to the development of human rights in China.

## I. Concept of Consultative Democracy

The Western society has been advocating deliberative democracy for over a century, and since its founding in 1949, the People's Republic of China has been exploring the development of a political consultation and community-level consultative democracy system with Chinese characteristics. "Consultative democracy" in China approximately corresponds to "deliberative democracy" in English. While the English word "deliberation" include such meanings as collaboration and discussion, it should be noted that deliberative democracy cannot be simply understood as equivalent to the political consultation system in China.<sup>[1]</sup> "Deliberative" in English, and "*deliberativer*" in German, means to prudently consider or discuss a matter or a problem, to gather many people to consider or debate on a matter (problem), advocating citizen participation and opposing elitism, with an emphasis that members of a community are the main body of public affairs, who hold dialogues, exchanges, debates and deliberations on public affairs on the

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[1] Sun Cunliang. (2008). *Research on Democratic Consultation in Contemporary China* (Doctoral dissertation) (p. 1). Renmin University of China.

basis of rationality. Their political participation in public affairs is not limited to regular voting and irregular demonstrations, but they should also be free and equal to openly discuss public policies according to certain procedures and the given open and transparent information, in efforts to give legitimacy to decision making through public deliberation, thereby enhancing the quality of democracy and realizing the democratic ideal of good governance and co-governance. Some scholars believe: “Deliberative democracy is the revival of the traditional democratic paradigm. On the basis of citizens’ exercise of rationality, deliberative democracy has inspired the ideals of rational legislation, political participation and civil autonomy.” Deliberative democracy can fall into three categories: deliberative democracy as a form of decision-making, deliberative democracy as a form of governance, and deliberative democracy as a form of community or government.<sup>[1]</sup>

Deliberative democracy includes a whole set of organic systems or mechanisms. Just like the computer network, its normal operation requires a series of participating elements, without which it could hardly operate. Functionally, subjects of deliberative democracy can be classified into subject, organization, mechanism, place, rules and so on. In terms of existing forms, it can be divided into hardware and software elements, or tangible and intangible elements. Among them, hardware (tangible) elements include deliberation subjects, venues, etc., while software (intangible) elements include deliberation issues (public affairs), deliberation rules, member preferences, public interests and deliberation results (consensus, voting results, decisions, etc.). Deliberative democracy can thus be defined as public activities in which certain community members attempt to draw their personalized preferences close to community public interests and transform their personalized preferences to community public interests through deliberative activities, so as to realize such results as reaching consensus, solving problems or making decisions.

## II. Characteristics and Human Rights Attributes of Consultative Democracy

### 1. Characteristics of consultative democracy

Based on the value of law, consultative democracy presents such characteristics as freedom, regularity, timeliness, universality, affinity to the masses and promoting

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[1] Chen Jiagang. (2005). Deliberative Democracy: Concepts, Elements and Values. *Journal of Tianjin Municipal Party School*, 3, 54.

commonweal, among which the most important ones are universality, affinity to the masses and promoting commonweal.

#### (1) Universality

From the perspective of elements, subjects, venues, public affairs, member preferences and deliberation activities are all universal. In terms of the subjects, members participating in deliberation are diversified in scope and types. Citizens, to some extent, can all enjoy the right to deliberation, except those deprived of political rights or unable to express their will normally according to law. Meanwhile, in addition to citizens participating as individuals, organizations can also participate in deliberation. Non-profit organizations, such as environmental protection organizations participate in deliberation on many occasions. In terms of the venues, they can be either fixed, such as conference rooms, council room or meeting squares, or they can be flexible, like temporary meeting places. Meanwhile, convenient transportation has brought venue freedom of on-site participation and discussion, and the Internet has made online communication and deliberation possible. In terms of public affairs and deliberation activities, consultative democracy has achieved universal coverage of economic, social, political, cultural, life and other public affairs. In terms of members' preferences, based on the influence of the universality and diversity of deliberation subjects, members show different preferences, discard the dross and select the essential, seek common ground while reserving differences.

#### (2) Affinity to the masses

Consultative democracy is consistently people-centered, which, while improving people's orderly political participation, also strengthens the close ties between the Party and the people, and facilitates scientific, democratic and legal decision-making. Affinity to the people is the most essential feature of consultative democracy. From the perspective of ontology, consultative democracy is people's democracy. From the perspective of methodology, consultative democracy is a kind of direct and substantive democracy, different from voting democracy and electoral democracy which simply stress the principle that the minority is subordinate to the majority. Consultative democracy with Chinese characteristics features the combination of decision and deliberation. Before the final promulgation of national laws or major decisions, public opinions and wishes are solicited through extensive deliberation to reach the maximum consensus, which is an argumentation and persuasion process conducive to respecting the opinions of the majority while taking into account the



opinions of the minority, so as to minimize the differences of opinions and maximize the protection of right.

The process of deliberation is the process of democracy, while the purpose of deliberation is the realization of democracy. Consultative democracy embodies the characteristic of affinity to the people, seeks common ground between diversity and unanimity, and allows the opinions of the minority to be expressed. Consultative democracy not only embodies the idea of deliberation, but also adheres to the basic principle of democratic centralism, adhering to both the democratic principle of seeking common ground while reserving differences and the scientific principle of seeking truth from facts. Only in this way will a democratic mechanism be developed, in which all voices are heard, and all good advice is taken. This is also the difference between consultative democracy and voting democracy and adversary democracy.

### (3) Promoting commonweal

Consultative democracy promotes commonweal. It is necessary to implement consultative democracy to benefit all people. Public interest refers to the organic integration of individual interests of members in a certain community, not only reflecting the overall and long-term interests of the collective, but also closely relating to the interests of each member. Consultative democracy respects members' various interests, recognizes the objective and inevitable conflicts and differences among multiple interests, and supports the free and full expressions of these interests. Consultative democracy promotes the transformation of members' preference into public interests. In particular, consultative democracy emphasizes fully listening to the voices of minorities and vulnerable groups and ensuring that their interests are maximized as much as possible.

### 2. The human rights attributes of consultative democracy

Community members meet to discuss public affairs, which is interaction among members, involving the concentration, dispersion, integration, increase or decrease of rights, interests, obligations, responsibilities and risks. Consultative democracy also involves substantive human rights, requiring countries and other communities to provide confirmation, guarantee and implementation support in the form of legislation, law enforcement and justice, or do their best to provide and improve conditions to promote or realize such outcomes. Therefore, consultative democracy is closely related to basic human rights. Consultative democracy requires participants to have equal membership for deliberation and requires fair and rational treatment to

all participants in the process of deliberation. After careful analysis, it is not difficult to see that from the perspective of democratic, including the rights to equality, autonomy, delegation and the right to be treated fairly and rationally.

First, the right to equality. Consultative democracy first involves the exercise of membership human rights, requiring a community to treat its members equally as masters, and not deprive or restrict their membership rights for no reason. The right to equality includes equality in membership or identity, equality in participation, equality in expression and equality in response. That is, all members of the community should enjoy equal membership and identity to participate in the deliberation of related affairs, equally expressing their opinions. Equality is the purpose of democratic politics and the premise of democratic political activities, and so is consultative democracy.

Second, autonomy. Autonomy means that a community or stakeholders can decide their own affairs without being influenced or controlled by others or external forces. First of all, autonomy means people's state of being free. Freedom is the foundation of autonomy. Without freedom, there will be no autonomy. Without autonomy, there would be no authentic expression of meaning, and deliberation conducted this way would be puppet show, instead of democratic deliberation. Freedom is also the goal pursued by political democracy, especially democratic deliberation. Members or stakeholders of the community participate in the deliberation, the purpose of which is to enhance their own political, economic and cultural interests, develop their own individuality, enhance their personal value, and thus realize greater freedom directly or indirectly.

Third, the right to delegate. Ancient democracy was mostly direct democracy, mainly because ancient social and political communities were small, with simple division of labour. People did not enjoy much mobility, and the technical means of communication and transportation were simple and backward. In modern society, however, the political community is large in scale, the division of labour is meticulous, people are more mobile, communication and transportation technologies are convenient and advanced. Consequently, direct democracy becomes more and more unreasonable, hence the rise of the representative system. "People should transact by their representatives what they cannot transact by themselves."<sup>[1]</sup> Members

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[1] Baron de Montesquieu. (1961). *On the Spirit of Law* (Vol. 1, p. 158). Zhang Yanshen (Trans.). Beijing: The Commercial Press.

who have the right to participate in deliberation naturally have the right to entrust others to deliberate on their behalf. However, this is essentially different from the representative system. Under the representative system, the delegation is mandatory and unified in advance, but the agency in the deliberation is implemented on a case-by-case basis in civil sense. Accordingly, consultative democracy has some natures of the indirect democracy and the representative system in certain degree.

Fourth, the right to be treated rationally. The core requirements of this right are reasoning, interaction, reality and responsibility. This requires participants to: reason with facts on the basis of mutually recognized arguments, put forward facts, data or reasons to demonstrate and support their own views and opinions, and strive to convince others; respect each other, without prejudice or prior conclusion, and do not abuse, attack or insult others' personality; listen to others, and reflect and reevaluate one's own viewpoints to see if they are proper; when responding to and refuting other people's views and opinions, we should think in others' position; be unbiased, be pragmatic, and seek common interests. That is, deliberation cannot be done as a mere formality, and participants should express opinions rationally, and take responsibility for the facts and views about themselves or other members in the deliberation activities in which they participate.

### III. Consultative Democracy Helps Safeguard and Develop Human Rights

#### 1. Consultative democracy guarantees the progress of human rights

The development of consultative democracy guarantees the realization of human rights. The more meticulously deliberation is conducted, the more sufficient the contents of human rights are, and the more diversified the approaches are.

Practice has proved that consultative democratic activities in China mostly involves the promotion and realization of human rights. For example, on September 27, 2005, the related departments of the National People's Congress of China held a hearing on the standard of personal income tax deduction, which was broadcast live on the website of the National People's Congress.<sup>[1]</sup> Primary-level organizations hold democratic deliberation activities such as community residents' meetings, community forums, community hearings and democratic talks, most of which

[1] Standing Committee of the National People's Congress Held a Legislative Hearing to Decide Personal Income Tax Deduction. (2005, September 27). China.com.cn. Reviewed from: [http://www.china.com.cn/zhibo/2005-09/27/content\\_8784768.htm](http://www.china.com.cn/zhibo/2005-09/27/content_8784768.htm).

address the economic rights and interests of community-level public affairs or public economic welfare. In the judicial field, vigorously promoting the public case hearing system, inviting deputies to the National People's Congress, members of the Chinese People's Political Consultative Conference, and hearing officers, making timely announcements before hearing, and exploring the open form of live broadcast, all powerfully reflect the security role of consultative democracy in the judicial field.

## 2. Promoting human rights is a pursuit of value of consultative democracy

One of the important functions of consultative democracy is to promote the progress of human rights. First of all, the development of human rights means the orderly public participation of more and more people. Only with the continuous development of human rights can people fully know and participate, and then participate in other fields of social governance in an orderly manner. Secondly, the development of human rights, in turn, has formed a virtuous cycle with consultative democracy. In recent years, for example, the State has attached great importance to environmental protection, setting up an environmental public interest litigation system, which enables interested parties to participate in judicial procedures and environmental governance and fully express their demands, and embodies the integration of consultative democracy and human rights protection. The development of human rights leads to the continuous institutionalization of consultative democracy. Finally, the development of human rights has fulfilled the pursuit of value of consultative democracy. Consultative democracy is originally intended to enable people to realize democracy and fully enjoy their rights and interests. Since 2009, China has successively formulated and implemented four national action plans for human rights, with stress more on the realization of people's rights by way of consultative democracy.

## 3. Measures to promote the development of human rights through consultative democracy

First, we should strengthen the Party's leadership in consultative democracy. The most important about consultative democracy is deliberation, and the process of deliberation needs to be presided over by "people". Besides being objective and fair, the "moderators" should also be versed in the concept of human rights. The Communist Party of China (CPC) is the most suitable to play the role of "moderator" in consultative democracy. On March 4, 2018, at a joint meeting of the first session of the 13th National Committee of the Chinese People's Political Consultative

Conference, Xi Jinping pointed out that the system of CPC-led multiparty cooperation and political consultation emphasized the leadership of the CPC and the promotion of socialist democracy, which could be embodied by political consultation, democratic supervision, and participation in the deliberation. In October 2020, the Communiqué of the Fifth Plenary Session of the 19th CPC Central Committee established “taking a people-centered approach” as an important principle that must be followed in the economic and social development during the period of the 14th Five-Year Plan, with a stress on leveraging the unique advantages of socialist consultative democracy, and improving the level of making proposals on State affair and building consensus, which provided a profound interpretation of the Party’s thought of consultative democracy.

Second, we should strengthen the legal protection of freedom of speech and thought, which provides the premise and foundation for consultative democracy and is also the most basic content and embodiment of human rights. President Xi Jinping has pointed out that the Communist Party of China should be open to sharp criticism and that Party committees at all levels should take the initiative to accept and sincerely welcome the supervision of members of non-Communist parties and personages without party affiliation, earnestly improve their work style and constantly improve their work.<sup>[1]</sup> At present, the space for freedom of speech and thought has not met the demands for the institutional development of consultative democracy, so it’s necessary to strengthen the legal protection.

Third, we should promote the disclosure of government information and protect citizens’ right to know. According to statistics, “the government has mastered 80% of the information of the whole society, implying that the right to know is increasingly becoming an important prerequisite for citizens to realize other related rights”<sup>[2]</sup>. Guiding the public to pay attention to, participate in and discuss public affairs, and leading the public into the field of consultative democracy provide the prerequisite for the effective implementation of consultative democracy. Whether the public can put forward targeted, realistic and operable opinions and suggestions, in turn, depends on whether they grasp related information. Therefore, government information

[1] Guo Junkui. (2013, February 6). *What Does Xi Jinping’s Remark that ‘the Communist Party Must Be Open to Sharp Criticism’ Enlightens us?* Chinese Communist Party News Network, quoted from People.cn. Reviewed from: <http://cpc.people.com.cn/pinglun/n/2013/0216/c241220-20493723.html>.

[2] Chen Qiong & Nie Jinshan. (2002). The Legal Analysis of Open Government. *Jiangxi Social Sciences*, 5, 170.

disclosure is very important and fundamental. The Regulations on Government Information Disclosure, implemented as of 2008, undoubtedly play a very positive role in promoting the protection of citizens' right to know and participate.

## V. The Future of Consultative Democracy under the Concept of Community with a Shared Future for Mankind

In today's international community, the most desirable approach to conflicts and crises is the peaceful settlement of disputes. Part VI of the Plan mentions that to participate in global human rights governance we should actively conduct constructive dialogues and cooperation on human rights. This demonstrates the important role of equal deliberation in handling international relations and global human rights governance.

Although consultative democracy is now mainly based on a country's domestic politics and policies, in view of today's economic globalization, in the face of global common problems related to the environment, energy, climate and COVID-19 pandemic, crises of all kinds emerge frequently, and it is therefore imperative to communicate the two concepts of building a community with a shared future for mankind and consultative democracy to the international community. The author suggests that we should combine the concept of consultative democracy with the concept of the community with a shared future for mankind, and actively advocate in the international arena a global governance concept of dialogue and deliberation, joint contribution for shared benefits, win-win cooperation, exchanges and mutual learning, and green and low-carbon development.

(The author is Professor and Executive Director of Center for Sci&Tech and Human Rights Studies, Beijing Institute of Technology.)

## Uphold Open and Inclusive Development and Build a Community of Human Rights Development

Zhang Guobin  
China

The development of human rights is not just a matter of a country or a region, but a common ideal and goal of the whole mankind. The concept of human rights also comes to have growing connotations with the continuous progress of society. The Universal Declaration of Human Rights adopted by the third United Nations General Assembly on December 10, 1948, is the first universal declaration about human rights made by the international community. It has played an extremely important role in guiding and promoting the cause of human rights for all mankind. China, a populous country, was liberated with the overthrow of the three mountains of imperialism, feudalism, and bureaucrat-capitalism after nearly a century of turmoil. Since the founding of the People's Republic of China, the human rights situation in China has been fundamentally changed. It is a long-term and arduous task for the Chinese government and people to respect and protect human rights and promote the all-round development of the cause of human rights. Over the past 70-plus years, under the leadership of the Communist Party of China (CPC), the Chinese people's basic human rights, including the rights to life, freedom and development, have been fully respected and guaranteed. At the same time, China has made active contributions to the development of human rights in the international community. As recorded in the white paper entitled "China's Human Rights Situation", China advocates strengthening international cooperation in the field of human rights on the basis of mutual understanding and seeking common ground while shelving differences. However, the path of realizing and safeguarding human rights in any country cannot be divorced from the specific historical and economic, political and cultural conditions of the country, and the sovereign States should confirm and protect the human rights system through domestic legislation. To achieve human

rights development for all mankind, we need to adhere to openness, inclusiveness and development, deepen international exchanges and cooperation, maintain mutual respect and support, and jointly build a community of human rights development.

Take the fight against the COVID-19 pandemic for example. The Chinese government has always adhered to the principles of openness, inclusiveness and development, and fully protected the human rights of Chinese people, with the protection of their life safety and health at the core. At the same time, it has made great contributions to the development of human rights protection in the world.

### I. An Open and Cooperative Attitude to Help Fight the Global Pandemic

The outbreak of the COVID-19 pandemic in early 2020 is a major public health emergency that has occurred in China since the founding of the country, registering the fastest transmission speed, causing the widest range of infections and posing the greatest difficulty in the disease prevention and control. After the outbreak of the COVID-19, the CPC and the Chinese government have attached great importance to it, always put people's life safety and health first, and react quickly at the critical moment despite the adverse conditions where there is no precedent and no experience to draw on. The people's soldiers acted quickly; the written requests for assignment to help Wuhan fight against the COVID-19 poured in; the Huoshenshan (Fire God Mountain) and Leishenshan (Thunder God Mountain) makeshift hospitals were rapidly built and put into use for treating the patients with severe symptoms; nearly 30 million members of the CPC were engaged in epidemic prevention and control at the front line, serving as the vanguards for winning the battle of COVID-19 prevention and control; across China the number of registered volunteers participating in COVID-19 prevention and control reached 8.81 million, the number of volunteer service programs exceeded 460,000, more than 290 million hours of voluntary services were recorded; all Chinese people vigorously responded to the call of the State and took appropriate measure to prevent and control the COVID-19. In this life-and-death combat against the virus, the Chinese government and the people have made concerted efforts, and finally managed to bring the virus under control within two months at the expense of huge economic benefits. We have achieved a phased victory in fighting the COVID-19 and accumulated rich experience and achievements in the combat.



All the time China adheres to an open and cooperative attitude. After the outbreak of the COVID-19, China has communicated the virus information with the international community in an open, transparent and timely manner. On January 3, 2020, China began to regularly communicate information with the World Health Organization, the United States and other countries and regions; on January 7, 2020, Chinese Center for Disease Control and Prevention and other scientific research institutions isolated the novel coronavirus' virus strains; and on January 9, 2020, China submitted to the WHO the results of the etiological identification; on January 12, 2020, China registered and reported the COVID-19 gene sequence information to the Global Initiative on Sharing Avian Influenza Data. The Ministry of Foreign Affairs of China held numerous regular press conferences on the COVID-19 to brief the domestic and foreign media on China's response to the COVID-19, including medical assistance and vaccine development. The National Health Commission of China has compiled and translated the diagnosis, treatment and control programs into three languages, to share with more than 180 countries as well as over 10 international and regional organizations worldwide. By holding news conferences, providing tele-consultation, and sending medical teams, China has communicated important information with the international community, including the pandemic data and diagnostic and therapeutic plans, in an open and transparent fashion, and has strengthened cooperation with and help the international community carry out research on the epidemic prevention and control. These measures provide a significant basis for the formulation and implementation of global epidemic prevention and control policies, and in fact make important contributions to strengthening global epidemic prevention and control and safeguarding the lives and health of the people in all countries.

## II. Strengthening Understanding and Tolerance to Ensure Human Rights Development

Since the start of the 21st century, populism, nationalism and statism have come against the trend, and globalization has made difficult progress in the tide of anti-globalization, which accentuates the essence and vitality of global cooperation all the more. However, the virus knows no borders and the pandemic respects no races. Only by strengthening understanding and tolerance, and abandoning unilateralism and isolationism, can the prevention and control of the pandemic be more effective

to protect the right to life and health of all peoples and promote the development of human rights globally. So after the outbreak of the COVID-19, the international community responded quickly.

On January 30, 2020, the WHO officially declared that the COVID-19 disease had constituted a public health emergency of international concern. On February 22, 2020, the ministers of health and disease control centers' personnel of the Member States of the African Union (AU) gathered at the AU headquarters for a ministerial meeting on the response to the outbreak of the COVID-19, calling on African countries to do a good job in the disease prevention. Chinese President Xi Jinping attended the summit of G20 leaders on COVID-19 on March 26 of the same year in Beijing, where he delivered an important speech entitled "Working Together to Defeat the COVID-19 Outbreak", indicating that solidarity and cooperation are the most powerful weapons for the international community to overcome the epidemic. "The unprecedented COVID-19 pandemic is a powerful reminder of our interconnectedness and vulnerability", the leaders stressed in a statement. The statement also noted that the epidemic "requires a transparent, robust, coordinated, large-scale and science-based global response in a spirit of solidarity". To fight the epidemic, all the State leaders pledged to "seek to secure adequate funding to contain the epidemic and protect people, especially the most vulnerable". On April 9, 2020, the United Nations Security Council held its first ever videoconference on the COVID-19 pandemic, where the UN Secretary-General Guterres issued a global ceasefire appeal and a global humanitarian response plan, and delivered the report titled "Shared Responsibility, Global Solidarity: Responding to the Socio-economic Impacts of COVID-19". After the outbreak of the pandemic, various international organizations ranging from professional organizations to non-governmental organizations and from regional organizations to global organizations, are overcoming various differences and difficulties and making progress towards the right path of multilateral cooperation in the fight against the pandemic. The eighth issue of *Qiushi* magazine which came out on April 16, 2020, carried President Xi Jinping's important article "Solidarity and Cooperation Are the Most Powerful Weapons for the International Community to Defeat COVID-19". The article emphasizes that mankind is a community with a shared future. Solidarity and cooperation are the most powerful weapons in defeating the pandemic which concerns the safety and security of people in all countries. At present, the COVID-19

pandemic is spreading all over the world, posing a grave threat to people's lives and health and constituting a great challenge to global public health security. What the international community needs most is firm confidence, concerted efforts, united response and comprehensively strengthened international cooperation so that we can join hands to win the fight against the major infectious disease in human history.

After the outbreak of the COVID-19 pandemic, China has carried out the largest-scale emergency humanitarian operation since the founding of the People's Republic of China. So far, China has provided more than 120 countries and international organizations with about 2.2 billion doses of COVID-19 vaccine. A relevant leader of China International Development Cooperation Agency said that in international cooperation on vaccine development and use, China has always implemented the concept of "teaching how to fish", not only providing vaccines, but also helping Egypt, Myanmar and other countries to build vaccine production lines with a view of enhancing their capabilities in responding to the epidemic independently.

### III. Building a Community of Human Rights Development and Establishing a Global System of Human Rights Governance

The outbreak of the COVID-19 pandemic has also triggered comparisons of and reflections on national governance models in the international community. The crisis management model represented by the Chinese way has been widely adopted by the countries around the world in the latter stage of the virus control. But in the West-centered discourse system, the Western media and politicians has placed the Chinese way under the framework of "freedom" and "human rights" defined by themselves; their evaluation criteria mingled with prejudices naturally lead to biased conclusions. However, with the worsening of the COVID-19 situation, the respective effects of "no human rights" and "no humans left" have gradually emerged. The strong anti-pandemic measures taken by China (including Hong Kong, Macao and Taiwan) and other East Asian countries, including Singapore, the ROK and Vietnam, have been recognized by more and more people of insight. Their response mechanism to the COVID-19 has now been taken by many countries, and some European countries have upheld the East Asian model as a standard to guide their fight against the pandemic. The discussions of the international public opinions during the pandemic have had a great impact on the "West-centered theory".

On March 16, 2022, Ambassador Chen Xu, Permanent Representative of China to the United Nations Office at Geneva and other International Organizations in Switzerland, under the topic of Promotion and Protection of All Human Rights, comprehensively elaborated China's proposition on human rights and illustrated the significance of the Global Development Initiative at the 49th session of the UN Human Rights Council. Chen Xu pointed out that the world was facing many severe challenges and there was still a long way to go to ensure human rights for all. To enjoy a happy life is the greatest human right for the people; all countries should adhere to the people-centered principle, coordinate the endeavor to enhance the economic, political, social, cultural and environmental rights of all people in accordance with their national conditions and people's needs, promote the all-round development of human beings, and continuously enhance people's sense of fulfillment, happiness and security.

To sum up, there is no one-size-fits-all human rights standard in the world, and the paths to human rights development in all countries cannot be uniform. Therefore, all countries should abandon double standard and politicization of human rights, and adhere to the principle of openness, inclusiveness and development, and build a community of human rights development on the basis of mutual respect, equality and mutual benefit, to jointly advance the establishment of a global human rights governance system that is fair, just, open and inclusive.

(The author is Executive Council Member of China Society for Human Rights Studies; Member of China Council for BRICS Think Tank Cooperation.)

# Contracting of the Business and Human Rights Convention from a Global Human Rights Governance Perspective

Zhang Wanhong  
China

## I. Introduction

In the context of economic globalization, the increasingly powerful transnational corporations and the increasingly complex global supply chain system, while improving the social development, are posing new challenges to international rule of law. The traditional approaches of State regulation are unlikely to keep the transnational corporations in line in their global expansion, and host and home countries unwilling or unable to regulate the corporations provide “lawless lands” for them to keep opening up “pollution heavens” and “sweatshops”.<sup>[1]</sup> Under such circumstances, “business and human rights”, primarily intending to enhance accountability of transnational corporations, improve protection of human rights and push for sustainable development, gradually becomes a global issue widely recognized by the international community.

Global issues require global governance, which demands global participation that makes global rule of law necessary.<sup>[2]</sup> Since the United Nations Guiding Principles on Business and Human Rights (hereinafter referred to as the Guiding Principles) was officially adopted in 2011<sup>[3]</sup>, more and more transnational corporations, international organizations, national governments and civil and social organizations took part in the practice of business and human rights governance,

[1] John Gerard Ruggie. (2015). *Just Business: Multinational Corporations and Human Rights* (pp. 39-120). Liu Liwei & Sun Jie (Trans.). Beijing: Social Sciences Academic Press.

[2] Laszlo Szombatfalvy. (2012). *The Greatest Challenges of Our Time* (pp. 93-96). Zhou Yamin (Trans.). Beijing: Central Compilation & Translation Press.

[3] United Nations Human Rights Council. (2011, March 21). *Guiding Principles for Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. A/HRC/17/31.

tightening corporate accountability by making codes of conduct, industrial standards, domestic laws and international rules. A structure of global governance in business and human rights is taking shape.

In 2014, advocated by Ecuador among other developing countries and international non-governmental organizations, United Nations Human Rights Council passed a resolution<sup>[1]</sup> and officially initiated the contracting process of the “treaty on Business and Human Rights”. The purpose was to “elaborate an international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises”<sup>[2]</sup> and construct a system of global governance rules for business and human rights through dialogue and consultation as well as global participation. At the same time, some European and American countries objected to the contracting process and enacted mandatory domestic laws in human rights due diligence with extraterritorial effect in a short period of time. The different practice of developing and developed countries reflected the divergency between the two in their stand and practice in global governance of business and human rights, which was manifested in essence by the contradiction between multilateralism and unilateralism.

## II. Overview and Trend of the “Treaty on Business and Human Rights”

Developing countries called for the conclusion of the “treaty on Business and Human Rights” because they were fully aware that to put into place a global regulation network geared to globalized development of transnational corporations is the key to remedying the gaps in business and human rights governance and only global governance can make up for the deficiencies in corporate voluntary actions or domestic law regulation.<sup>[3]</sup> So far, the treaty drafter Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights (hereinafter referred to as the Working Group) has released the Zero Draft, the Revised Draft, the Second Revised Draft and the Third Revised

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[1] United Nations Human Rights Council. (2014, July 14). *Elaboration of An International Legally Binding Instrument on Transnational Corporations and Other Business Enterprises with Respect to Human Rights*. A/HRC/RES/26/9.

[2] Ibid.

[3] Liang Xiaohui & Liu Ci. (2021). The Paradox in Choosing and Realizing the Normative Paths to Construct the United Nations Business and Human Rights Treaty. *Chinese Journal of Human Rights*, 3, 4-27.

Draft of the “treaty on Business and Human Rights” from 2018 to 2021.<sup>[1]</sup> The issued drafts all adopted the “protect, respect and remedy” framework of the Guiding Principles, indirectly requested enterprises to perform human rights responsibilities focused on human rights due diligence by directly enhancing the State responsibility to protect, and specified in details human rights due diligence obligations, legal responsibilities and international cooperation mechanisms.

The fact that the drafting and consultation proceeded in order through dialogue and cooperation embodied a multilateral idea of governance. First, the Working Group explicitly laid down the basic principles of transparency, inclusiveness and democracy for the treaty drafting and strived to ensure thorough and effective participation in the dialogue and consultation by national governments, regions, political groups, intergovernmental organizations, national human rights institutions, and civil and social organizations<sup>[2]</sup>, fulfilling the basic requirement of multilateralism. Second, the drafting and consultation were mainly driven forward by Asian, African and Latin American countries through equal dialogue and multilateral consultation, enabling participant countries to fully express reasonable concerns. Third, the drafted content also reflected the requirement of multilateralism. In addition to international norms in business and human rights applicable to States Parties to the treaty, the drafts also stipulated the States Parties’ obligation of international cooperation in tightening corporate accountability. For instance, Article 10-11 of the Revised Draft, the Second Revised Draft and Article 12-13 of the Third Revised Draft demanded States Parties to the treaty cooperate in international judicial collaboration and practice cooperative governance philosophy under the basic principles of international law.

Regarding the development trend, the treaty was mainly led by developing countries in the form of dialogue and consultation. The contracting is currently in orderly progress. Though there are fundamental differences between developing and developed countries on the path of the treaty and even among developing countries there are different opinions about the key issues, the “treaty on Business and

[1] Details on the “Business and Human Rights Convention” can be found at the website of the United Nations Human Rights Council open-ended intergovernmental working group (OEIGWG) on transnational corporations and other business enterprises with respect to human rights at <https://www.ohchr.org/zh/hr-bodies/hrc/wg-trans-corp/igwg-on-tnc>.

[2] United Nations Human Rights Council. (2016, February 5). *Report on the First Session of the Open-ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights, with the Mandate of Elaborating an International Legally Binding Instrument*. A/HRC/31/50.

Human Rights” is increasingly recognized by the international community for its role in filling in the blank in legal protection, promoting international cooperation, strengthening non-binding norms, creating a fair competition environment, improving legal certainty, and stepping up the protection for the affected.<sup>[1]</sup> In recent years, some developed countries have sat in on negotiation meetings and EU as a whole submitted opinions and comments repeatedly. However, the treaty contracting process was initiated and the four drafts were elaborated mainly by Asian, African and Latin American countries through multilateral consultation, while developed countries generally were opposed to contracting the “treaty on Business and Human Rights”.

After the Third Revised Draft was issued, the previous disputes of developing countries on the content of the Second Revised Draft remained to be addressed, as part of the content was excessively vague, failed to reflect differences in legal systems and covered excessively broad enterprises.<sup>[2]</sup> Nevertheless, the developing countries didn’t deny the necessity of the treaty, and many still pledged to constructively engage in the draft consultation and called on other countries and stakeholders to participate to propel the contracting.<sup>[3]</sup> For example, Chinese representatives used to point out “the current revised draft does not suffice as a matured basis for negotiation because of defects in its principle and direction” and future revisions should follow the principles of complementarity, legitimacy, predictability and fairness to respect State sovereignty and international rule of law and balance corporate development and human rights protection. It’s fair to say the course of the “treaty on Business and Human Rights”, based on inter-State dialogue and cooperation, which intend to make unified international rules, is “moving forward in twists and turns”.

### III. Overview and Trend of European and American Legislation in Human Rights Due Diligence

While the contracting of the “treaty on Business and Human Rights” is proceeding slowly, the US, the UK, France, Australia, the Netherlands, Germany,

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[1] United Nations Human Rights Council. (2021, December 29). *Report on the Seventh Session of the Open-Ended Intergovernmental Working Group on Transnational Corporations and Other Business Enterprises with Respect to Human Rights*. A/HRC/49/65.

[2] Ibid.

[3] Ibid.



Norway and EU have made laws in mandatory human rights due diligence, and increasingly more European and American countries are considering enacting laws or reviewing related legislation proposals. The legislation requests particular enterprises to carry out formal or substantial due diligence management in human rights, environment and labour on their overseas subsidiaries, subcontractors, contractor and suppliers and other supply chain partners, with the essential obligation being roughly identical to the “treaty on Business and Human Rights”. But in general, the domestic legislation in mandatory human rights due diligence predominated by European and American countries is noticeably “escalating” in the issues involved, scope of restraint, content of obligations and sanction mechanisms. The legislation can be categorized into two types by legal obligations, namely information disclosure-based legislation (or disclosure-based legislation) and substantial due diligence-based legislation (or due diligence-based legislation).

Disclosure-based legislation demands particular enterprises disclose information on modern slavery and “conflict minerals” within the scope of their own operation and certain supply chains and state their precautions and countermeasures. It mandates the obligation of “obedience or explanation”, regarding disclosure by particular enterprises or explanation of reasons for non-disclosure as fulfillment of legal obligations, without paying attention to whether the enterprises have acted effectively to prevent or cope with negative human rights impacts or putting in place valid sanctions against non-disclosure.<sup>[1]</sup> For instance, the EU Non-Financial Reporting Directive<sup>[2]</sup> requests that large public interest entities disclose in their annual reports information relating to environmental, social and labour matters and respect for human rights and to explain their actions taken to solve the matters or reasons for inaction (Article 1), while sanctions for non-compliant enterprises remain to be improved by Member States through legislation.<sup>[3]</sup> The UK Modern Slavery

[1] Tang Yingxia. (2022). Research on the Considerations and Typology of Mandatory Human Rights Due Diligence Legislation. *Chinese Journal of Human Rights*, 2, 49.

[2] European Union. (2014, November 15). *Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014*. Reviewed from: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014L0095&from=EN>.

[3] European Commission issued the Corporate Sustainability Reporting Directive (proposal) on April 21, 2021, which was intended to revise and strengthen the Non-Financial Reporting Directive and requested enterprises to disclose sustainable development reports on the basis of non-financial reports. As of press time, the proposal remains in deliberation, which is the reason that this paper still analyses the Non-financial Reporting Directive. For more information about the EU Corporate Sustainability Reporting Directive (proposal), please refer to [https://ec.europa.eu/info/publications/210421-sustainable-finance-communication\\_en#csrd](https://ec.europa.eu/info/publications/210421-sustainable-finance-communication_en#csrd).

Act 2015<sup>[1]</sup> requires certain commercial organizations to prepare an annual “slavery and human trafficking statement”, explaining their measures taken to solve modern slavery or stating no measure has been taken; the Home Secretary can request commercial organizations to perform the disclosure obligation, but non-compliant ones usually don’t get fined (Article 54). The Australian Modern Slavery Act 2018<sup>[2]</sup> similarly requests reporting entities to release annual “modern slavery statements” (Article 5); when an entity fails to comply, the Minister may give an written request to the entity to give an explanation or undertake remedial action; when the entity still fails to comply, the Minister may extend the period specified in the request or publish information on the register (Article 16A).

In comparison, due diligence-based legislation imposes stricter due diligence obligations on enterprises. It usually requires certain enterprises for substantial due diligence management in the scope of their own operation and supply chains and those failing to comply are subject to civil, administrative and/or criminal sanctions. For instance, the French Law on Duty of Care<sup>[3]</sup> requests that large enterprises and social stakeholders shall consult and establish a “Vigilance plan”, publish in annual reports the details and implementation status of the plan, and make sure the plan is effectively carried out (Article 1); enterprises that fail to perform the due diligence obligation may be subject to administrative penalty and disqualified for bidding for government procurement<sup>[4]</sup>; those that result in damages for not performing due diligence obligations or performing them in flawed manners may face civil actions (Article 2). According to the German Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains (Supply Chains

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[1] *UK Modern Slavery Act 2015*. Legislation.gov.uk. Reviewed from: <https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>.

[2] *Australia Modern Slavery Act 2018*. Federal Register of Legislation of Australia. Reviewed from: <https://www.legislation.gov.au/Details/C2018A00153>.

[3] *LOI n 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre*. Légifrance. Reviewed from: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626?r=AtVgPOmMom>.

[4] French Climate and Resilience Act passed on July 20, 2021 requested government departments to exclude companies that failed to perform the due diligence obligation according to the Law on Duty of Care from public procurement (Article 35), taking development and implementation of the plan de vigilance as a requirement of credentials for public procurement. *LOI no 2021-1104 du 22 août 2021 portant lutte contre le dérèglement climatique et renforcement de la résilience face à ses effets*. Légifrance. Reviewed from: <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043956924>.

Act)<sup>[1]</sup>, enterprises up to certain conditions should set up a due diligence management system that effectively identifies risks, regularly analyze risks and disclose the analysis results, take precautions and make action plans, undertake remedial action in time and put an end to behaviors in violation of the Act, establish a complaints procedure that is fair and transparent, and fully keep the performance records and disclose annual reports (Article 3-8). An enterprise that fails to fulfill due diligence obligations may be mandated by regulators to make remedial plans and take specific actions in time (Article 15), or punished with an administrative fine of up to 50,000 euros (Article 23), or excluded from public procurement (Article 22). The Norwegian Act Relating to Enterprises' Transparency and Work on Fundamental Human Rights and Decent Working Conditions (Transparency Act)<sup>[2]</sup> demands larger enterprises should perform the obligations of due diligence management (Article 4), due diligence reporting (Article 5) and information disclosure (Article 7); regulators can punish non-compliant enterprises with administrative penalties such as enforcement and fines (Article 11); in case of repeated infringements, the enterprise and its management personnel may be imposed an administrative fine (Article 14). The EU Directive on Corporate Sustainability Due Diligence (proposal)<sup>[3]</sup> practices the similar violation sanction mechanism to the French Law on Duty of Care. If the proposal is passed, large companies and high-risk small and medium-sized ones shall perform general due diligence obligations (Article 5-11); large ones shall additionally perform climate due diligence obligations and adopt an action plan in response to climate change (Article 15). The plan should ensure that the business mode and strategy of the company are compatible with the transition to a sustainable economy and with the limiting of global warming to 1.5 C in line with the Paris Agreement. In case climate is or should have been identified as a principal risk for or a principal impact of the company's operations, the company should include emissions reduction

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- [1] *Act on Corporate Due Diligence Obligations for the Prevention of Human Rights Violations in Supply Chains*. Federal Ministry of Labour and Social Affairs. Reviewed from: [https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligationssupply-chains.pdf;jsessionid=8A78B7FE05305D00012F7221744F8C49.delivery2-master?\\_\\_blob=publicationFile&v=3](https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligationssupply-chains.pdf;jsessionid=8A78B7FE05305D00012F7221744F8C49.delivery2-master?__blob=publicationFile&v=3).
- [2] *Act Relating to Enterprises' Transparency and Work on Fundamental Human Rights and Decent Working Conditions (Transparency Act)*. Lovdata. Reviewed from: <https://lovdata.no/dokument/NLE/lov/2021-06-18-99>.
- [3] European Commission. (2022, February 23). *Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937*. EUR-Lex. Reviewed from: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52022PC0071>.

objectives in its plan.

The Europe and US-predominated legislation in mandatory human rights due diligence shows a robust trend of evolution from being “formal” to “substantial” and from being “particular” to “general”. On the one hand, instead of requiring certain enterprises to disclose non-financial information relating to human rights due diligence as before, the legislation turns to demand enterprises for substantial human rights due diligence and impose civil, administrative or criminal penalties on non-compliant enterprises. The French Law on Duty of Care is regarded as a milestone in the legislation for substantial human rights due diligence<sup>[1]</sup>, and the acts promulgated or drafted afterwards all request substantial due diligence, such as the Dutch Child Labour Due Diligence Act and the German Supply Chains Act. On the other hand, the target and coverage of human rights due diligence legislation keep expanding, from individual industries and larger companies to all the companies and their supply chains and from specific human rights issues to general issues of the kind. From the California Transparency in Supply Chains Act to the EU Directive on Corporate Sustainability Due Diligence (proposal), issues covered have been extended from slavery and human trafficking to extensive human rights, environmental and climate issues; the target has expanded from domestic companies and limited supply chain companies to all the business companies within the legal jurisdiction or their supply chains and clients, therefore including the majority of business companies in the world into domestic legislation.

#### IV. Latent Threats from European and US Human Rights Due Diligence Legislation

As the development of globalized production network gives transnational corporations the “power to escape across States”<sup>[2]</sup>, global expansion of mandatory human rights due diligence might be necessary for remedying the governance gap. But such legislation, unilaterally pushed by European and American countries, is a domestic measure with extraterritorial effect, which directly restrains domestic large companies, but poses influence on global supply chain entities via the social

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[1] See Sandra Cossart, Jérôme Chaplier & Tiphaine Beau de Lomenie. (2017). The French Law on Duty of Care: A Historic Step Towards Making Globalization Work for All. *Business and Human Rights Journal*, 2(2), 317-323.

[2] Liu Zhiyun. (2015). On the Construction of the Inter-State Social Responsibility System of Transnational Corporations in the Post-crisis Era. *Journal of Political Science and Law*, 3, 120-128.

responsibility performance mechanism and conductivity of supply chains. The possible adverse consequences on non-European or non-American countries and companies and even global supply chain governance should not be overlooked. Many scholars in international law have critically analyzed the negative impact of European and American unilateral legislation and called for construction of a fairer and more reasonable international rule system for business and human rights.<sup>[1]</sup> A UN independent expert on human rights and international solidarity also pointed out in a report that such legislation would work to the detriment of global South States and peoples.<sup>[2]</sup>

To be specific, first, the human rights due diligence legislation in Europe and America tends to be based on their domestic human rights standards and might be reduced into an instrument for some countries to seek to consolidate the current unfair international economic order and impose unilateral human rights sanctions. Second, in the manner of directly applying “international human rights standards” among domestic companies, the legislation indirectly regulates overseas supply chain companies, especially those in developing countries, in the name of “international human rights standards”, thus directly granting domestic companies the “private power” to enforce public laws and the “legitimate power” to intervene in market and justifying sanctions against suppliers in the name of “human rights”. Third, corporate social responsibilities are highly conductive and risky in the global supply chain, and only by jointly performing the responsibilities can we ensure the proper fulfilment of rights. Domestic legislation in human rights due diligence, however, follows a model of “one-way power control” that focuses on certain companies, being both futile for solving the social responsibility governance dilemma in the global supply chain and likely to intensify the supply chain uncertainties. On such basis, the Europe and America-predominated domestic legislation in human rights due diligence adopts the unilateral pattern of institutionalized mandatory human rights due diligence and will probably produce negative consequences with more harm than benefit for global

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[1] Caroline Omari Lichuma. (2021). (Laws) Made in the ‘First World’: A TWAIL Critique of the Use of Domestic Legislation to Extraterritorially Regulate Global Value Chains. *Heidelberg Journal of International Law*, 81(2), 497-532.

Penelope Simons. (2012). International Law’s Invisible Hand and the Future of Corporate Accountability for Violations of Human Rights. *Journal of Human Rights and The Environment*, 3, 5-43.

[2] United Nations Human Rights Council. (2022, April 19). *International Solidarity and the Extraterritorial Application of Human Rights: Prospects and Challenges—Report of the Independent Expert on Human Rights and International Solidarity*, Obiora Chinedu Okafor. A/HRC/50/37.

governance of “business and human rights”.<sup>[1]</sup>

## V. Practicing Multilateralism to Push for the Treaty Contracting

The Guiding Principles promotes different countries, enterprises and social groups to reach consensus for the first time on some difficult issues<sup>[2]</sup> and as the result of multilateral practice, it indicates the multilateral direction for business and human rights governance. Both “treaty on Business and Human Rights” advocated by developing countries and domestic legislation in human rights due diligence predominated by Europe and America are specific practice of the Guiding Principles, but the two differ primarily in paths and basic stands. The treaty is a multilateral program which intends to develop unified international rules and is based on dialogue and cooperation among countries. It can help shape the human rights due diligence system widely applicable to States Parties to the treaty, fully reflect basic appeals of developing countries, thus preventing adverse consequences from inter-State legislation differences, and construct a fair and reasonable policy environment in business and human rights globally through collective action. Conversely, the domestic legislation manifests a unilateral stand and works against the requirement of multilateralism, which is helpful for European and American countries to maintain discourse hegemony in the international system and protect domestic interests.<sup>[3]</sup> Such unilateral practice without regard to the necessity of global participation for addressing global issues “would irresponsibly increase the risks of really serious catastrophes for mankind”<sup>[4]</sup>. As human rights due diligence turns into the mainstream, we should comprehensively and dialectically review the domestic legislation and reveal its unilateral nature. Meanwhile, China should continue to “act on the vision of a community with a shared future for mankind, uphold the common values of humanity, like peace, development, equity, justice, democracy and freedom, rise above ideological prejudice, make the mechanisms,

[1] Li Zhuolun. (2022). Operationalizing Corporate Human Rights Due Diligence: Models, Preferences and Insights. *Tribune of Social Sciences*, 3, 127-143.

[2] Radu Mares & Zhang Wanhong. (2018). Critical Issues in Business and Human Rights and Its Significance in a New Era: Focusing on the UN Guiding Principles on Business and Human Rights. *Journal of Southwest University of Political Science and Law*, 2, 43-51.

[3] Sun Meng & Feng Tingting. (2020). New Developments in the United Nations on the Human Rights Obligations of Transnational Corporations. *Human Rights*, 6, 78-94.

[4] Laszlo Szombatfalvy. (2012). *The Greatest Challenges of Our Time* (p. 93). Zhou Yamin (Trans.). Beijing: Central Compilation & Translation Press.

principles and policies of our cooperation as open and inclusive as possible”.<sup>[1]</sup> We should constructively engage in the course of “treaty on Business and Human Rights”, join hands with other countries to advance the rule system that embodies common values, and push for an economic globalization that is more open, inclusive, balanced and beneficial to all.

(The author is Professor and Executive Dean of Institute for Human Rights Studies, Wuhan University.)

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[1] *Special Address by Chinese President Xi Jinping at the World Economic Forum Virtual Event of the Davos Agenda.* (2021, January 25). Gov.cn. Reviewed from: [https://www.gov.cn/xinwen/2021-01/25/content\\_5582475.htm?ivk\\_sa=1023197a](https://www.gov.cn/xinwen/2021-01/25/content_5582475.htm?ivk_sa=1023197a).

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