

Theoretical Logic of the Right to Security

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Abstract: *The growing significance of security issues has expanded the necessity and possibility of recognizing and achieving the goal of security from the perspective of human rights. Combined with socio-cultural and historical dynamics, human rights can be construed as the needs of people to which social authorities should and can respond, and their mechanism depends on “the alignment between people’s intrinsic needs and the social resources available.” Security, as a significant part of people’s intrinsic needs, should be supported by social resources; social authorities at all levels have the duty and potential to support people’s security needs. Thus, security has the socio-cultural basis to be considered as a branch of human rights. Once the human rights attribution of security has been established, further consideration is required for its place in the human rights spectrum. When analyzing the existing set of human rights, we can classify them based on the subject, the object, or the goal. The right to security is more appropriately classified within the dimension of goals, thereby being placed alongside the right to subsistence and the right to development. Integrating security into human rights can resolve the relationship between the right to security and other human rights using the theoretical framework of rights conflict, rights hierarchy, and rights system ranking, thereby avoiding the tendency to curb the security needs of countries and individuals by ideologizing human rights.*

Keywords: human rights ♦ security ♦ the right to security ♦ human rights spectrum ♦ human rights classification ♦ targeted human rights

I. Subject Statement

Xi Jinping, General Secretary of the Communist Party of China (CPC) Central Committee has made important, far-sighted, and macro-level expositions on the general laws and importance of human rights as well as the basic concepts and institutional construction of human rights in China.¹ In

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¹ Institute of Party History and Literature of the CPC Central Committee, *Xi Jinping on Respecting and Protecting Human Rights* (Beijing: Central Party Literature Press, 2021); Xi Jinping. “Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights,” *Qiushi* 12 (2022).

particular, his assertion of “protecting human rights with security”² is important guidance for our thinking about the system, structure, and implementation methods of human rights. In light of General Secretary Xi Jinping’s series of expositions on the overall national security concept,³ it is necessary to think about the relationship between security and human rights at a more fundamental theoretical level and in a broader spatial dimension, and to build the basic framework of human rights concepts and systems in the security field through theoretical logical analysis.⁴ On the one hand, this issue requires us to deeply explore the psychological and social value of security as well as the status of the security concepts in human society and their institutional embodiment. On the other hand, it urges us to review the connotations and extension of human rights in the security dimension based on the disciplinary system, academic system, and discourse system⁵ of philosophy and social sciences with Chinese characteristics, to reflect on the experience accumulated in dealing with security and human rights during China’s modernization, to accumulate the disciplinary resources, academic resources, and discourse resources of Chinese human rights studies, to envision the contemporary atmosphere and theoretical structure of human rights thoughts and concepts that should emerge in the world of great changes and China in the new era, and to improve China’s independent knowledge system of human rights continuously.⁶

Since the end of World War II, human rights have received great attention

² “Xi Sends Congratulatory Letter to Forum on Global Human Rights Governance,” June 15, 2023, *People’s Daily*, page 1.

³ Institute of Party History and Literature of the CPC Central Committee, *Excerpts from Xi Jinping’s Holistic Approach to National Security* (Beijing: Central Party Literature Press, 2018).

⁴ Liu Qing, “Implications of the Global Security Initiative for Human Rights Governance,” *International Studies* 4 (2023): 1-16; Yu Tiejun, “Protecting Human Rights with Security,” June 16, 2023, *Study Times*, page 2.

⁵ Constructing disciplinary, academic and discourse systems of philosophy and social sciences with Chinese features was a judgment made by General Secretary Xi Jinping regarding the development of philosophy and social sciences in 2016. See Xi Jinping, “Accelerating the Construction of Philosophy and Social Sciences with Chinese Features,” in *Selected Works of Xi Jinping (Vol. I)* (Beijing: People’s Publishing House, 2023), 478-489. For relevant analysis, see Xie Fuzhan, “Accelerating the Construction of the Disciplinary System, Academic System, and Discourse System of Philosophy and Social Sciences with Chinese Characteristics,” *Social Sciences in China* 5 (2019): 4-22.

⁶ General Secretary Xi Jinping made the remarks during a visit to Renmin University of China: The priority of developing the philosophy and social sciences with Chinese characteristics is to establish an independent knowledge system. “Following the Party’s leadership and passing down revolutionary traditions and blazing a new path to building world-class universities with Chinese characteristics,” April 26, 2022, *People’s Daily*, page 1. For relevant analysis, see Zhang Zhen, “Four Dimensions of Constructing China’s Independent Knowledge System,” June 20, 2022, *Guangming Daily*, page 15; Xu Weixuan and Wu Haijiang, “Academic Mission of Building China’s Independent Knowledge System,” October 27, 2022, *Chinese Social Sciences Today*, page A03; Zang Fengyu, Shen Jiangping, Wang Li and Wang Li, “On the Mission of Our Time and Agenda for Action to Construct China’s Independent Knowledge System,” *Journal of Renmin University of China* 5 (2023): 29-42.

and intensive concern in today's domestic and international political life.⁷ More and more politicians and theorists regard human rights as an important subject for the law, a core goal of governance, and an important measure of a good government.⁸ Whether a country actively recognizes human rights and protects human rights at a high level have become a key factor in measuring its degree of modernization and governance level.⁹ Parallel to this trend, security issues have attracted the attention of various countries and the international community in recent times. These issues range from traditional ones about territory, economy, and military¹⁰ to non-traditional ones about information, food, and the ecology and environment.¹¹ Security affairs play an increasingly important role in politics, economy, culture, and daily life. As natural and social risks faced by human beings increased,¹² secure survival and development became the common desire of humankind.¹³ Moreover, many legal and policy documents mention that the concept of security not only involves national security but also includes human security. Both personal information security¹⁴ and group security¹⁵ have been increasingly included in policy discussions.¹⁶ It can be seen

⁷ Wang Puqu et al, *Foundations of Politics* (Beijing: Peking University Press, 4th edition, 2018), 111-130; Introduction to Political Science Editorial Team, *Introduction to Political Science* (Beijing: Higher Education Press, People's Publishing House, 2nd edition, 2020), 211-215; Wang Yizhou, *Introduction to International Politics* (Beijing: Peking University Press, 3rd edition, 2020), 67.

⁸ In Larger Freedom: Towards Development, Security and Human Rights for All, Report of the Secretary-General, UN Doc A/49/2005, March 21, 2005.

⁹ "Position Paper of the People's Republic of China For the 73rd Session of the United Nations General Assembly," August 28, 2018, Website of Ministry of Foreign Affairs, https://www.mfa.gov.cn/wjlb_673085/zzjg_673183/gJs_673893/xwlb_673895/201808/t20180828_7652676.shtml.

¹⁰ Liu Yuejin, "The Content of Political Security and Its Status in the National Security System," *Journal of International Security Studies* 6 (2016): 3-21; Zhang Baoquan, "On the Strategic Role of Ideology in Maintaining Regime Security," *Lanzhou Academic Journal* 7 (2011): 28-32; Sheng Hongsheng, "Legal Solutions for Suppression of Acts Detrimental to China Marine Territory Security," *Law Science Magazine* 1 (2012): 92-97; Xiong Mingfeng, "On the Relationship Between Military Security and Economic Security," *Chinese Journal of European Studies* 6 (1997): 20-23; Ma Ping, "On Military Security and National Interests," *National Defense* 4 (2006): 20-23.

¹¹ Zhu Feng, "Analysis of 'Non-traditional Security'," *Social Sciences in China* 4 (2004): 139-146; Yu Xiaoqi, Li Wei, Fang Jinying, Zhang Yuncheng and Zhai Kun, "On Non-Traditional Security," *Contemporary International Relations* 5 (2003): 44-53.

¹² Fan Ruguo, "'World Risk Society' Governance: The Paradigm of Complexity and Chinese Participation," *Social Sciences in China* 2 (2017): 65-83.

¹³ Dong Caisheng, "On Giddens's Theory of Trust," *Study & Exploration* 5 (2010): 64-67.

¹⁴ Qi Aimin, "Research on Personal Information Protection Law," *Hebei Law Science* 4 (2008): 15-33; Zhou Hanhua, "Exploring an Incentive-compatible Personal Information Protection Regime," *Chinese Journal of Law* 2 (2018): 3-23.

¹⁵ Fan Ming, "Comparative Study on the Problem of 'Mass Incidents' Between China and Foreign Countries," *Journal of People's Public Security University of China* 1 (2003): 59-65; Yuan Yong and Wang Feiyue, "Blockchain: The State of the Art and Future Trends," *Acta Automatica Sinica* 4 (2016): 481-494; Chen Xinyong and Lan Dengjun, "Social Security System Construction for the Farmers Who Lost Land," *China Soft Science* 3 (2004): 15-21; Sun Suyuan, "Collective Identity and International Politics: A New Cultural Perspective," *Contemporary International Relations* 1 (2003): 38-44.

that security has become a key issue that cannot be ignored and urgently needs to be discussed by the international community and various countries during their development.

When people analyze security as a national policy and social goal, they often see that there is always a close relationship between security and human rights. This is something that everyone needs to clearly understand. When discussing the relationship between human rights and security, some scholars have explicitly raised the issue of the value positioning between the two. For example, they put human rights and security on a par with each other and require that human rights be taken into account when a country establishes its security goals and measures;¹⁷ they have also proposed that human rights should not be violated when establishing security-related policies.¹⁸ Some scholars have analyzed the relationship between human security and human rights¹⁹ and the potential tension²⁰ between human rights and national security from a more macro and abstract theoretical perspective. Nina Perkowski has explored the relationships among humanitarianism, human rights, and security around the European Border and Coast Guard Agency (Frontex).²¹ Matthew Pollard conducted his research on security and human rights from the perspective of the relationship between terrorism and human rights.²² Some researchers have discussed the tension between national security and human rights. They believe that over-emphasizing national security may infringe on human rights;²³

¹⁶ Xiao Yongping, "The Legal Methods of Promoting the Construction of a Community of Common Health for humankind," *Oriental Law* 4 (2022): 121-130; Sheng Fangfu and Li Zhimeng, "The Impact, Transmission and Response of Major Public Health Emergencies on the Economy — Taking COVID-19 Epidemic as an Example," *Enterprise Economy* 3 (2020): 12-20; Tu Yongqian, "International Regulations and Legal Protection on Food Safety," *China Legal Science* 4 (2013): 135-148.

¹⁷ "Although the international security system and international human rights system are legitimate in these two aspects, they are both greatly restricted in the practice of providing public goods. The scarcity of public goods they can provide significantly affects their approval by actors in the international community." Ye Jiang and Tan Tan, "On the Legitimacy of International Institutions and Its Limitations — Analysis of International Security and Human Rights Institutions," *World Economics and Politics* 12 (2005): 42-49.

¹⁸ "On the relationship between national security and human rights, a reasonable balance needs to be struck between the two based on the new development concept and constitutional principles." "In the relationship between human rights and national security, it should pay attention to the preventive nature of security and rely on prevention to prevent damage to the security environment." Han Dayuan, "On the Relations Between National Security and Human Rights Defined in the Constitution of People's Republic of China," *Human Rights* 5 (2019): 1-11.

¹⁹ Benjamin J. Goold and Liora Lazarus, *Security and Human Rights* (Oxford: Hart Publishing, 2007).

²⁰ Zhao Bingzhi and Zhao Shuhong, "The Strengthening of National Security and the Weakening of Human Rights — Analyses and Comments on the U.S. Military Commissions Act Of 2006," *Law Science* 2 (2007): 13-20.

²¹ Nina Perkowski, *Humanitarianism, Human Rights, and Security: The Case of Frontex* (London: Routledge, 2021).

²² Matthew Pollard, "Terrorism, Counterterrorism, and Human Rights," in *Human Rights, Human Security, and State Security: The Intersection*, Saul Takahashi eds. (New York: Praeger, 2014), 99-124.

²³ Rhonda L. Callaway and Elizabeth G. Matthews, *Strategic US Foreign Assistance: The Battle Between Human Rights and National Security* (Hampshire: Ashgate Publishing, 2008).

conversely, if a country is in an insecure state, human rights will also be affected.²⁴ This means that in both the academic community and the general society, people tend to view human rights and national security as in inherent tension. Therefore, it is necessary to clarify the logical relationship between them. The theoretical questions that need to be considered are: Is there a parallel and opposing logical relationship between human rights and security? Should governments or relevant organizations consider human rights objectives when making security arrangements? Placing human rights and security in different systems makes them contradictory and incommensurable in value, increasing the theoretical difficulty of analysis and comparison and leading to practical problems in promoting domestic and international policies.

The aforementioned way of thinking, which believes security and human rights are in opposition, will lead to tension among policy goals. This requires us to break through the superficial phenomena and explore new possibilities in a broader and deeper theoretical framework, especially by using the idea of coordinating and resolving the relationship between human rights and security. The most noteworthy idea is the commensurable cognitive approach that incorporates human rights and security into the same system. With a simple comparative analysis by making an analogy, it is easy to see that both security and development are important needs of not only countries, but also individuals, enterprises, and organizations. Today, human rights have become a word with unquestionable legitimacy around the world, winning recognition from governments and the public of various countries. Phrases such as “intellectual property rights and human rights” and “development and human rights” make people feel that intellectual property rights and development should give way to and serve human rights. However, when we regard both intellectual property rights and development as human rights, the above comparison turns into a trade-off within the human rights system. This trade-off requires us to further clarify the following issues: When the issue of “development and human rights” was raised earlier, we tried to further clarify and analyze in detail with which human rights the right to development has a master-subordinate relationship; when the issue of “intellectual property rights and human rights” was debated earlier, we also needed to have a deeper discussion on the priority between intellectual property rights and a certain human right, such as the right to health, the right to education, and the right to scientific and cultural research. Today, the academic community has generally recognized that the right to development is a category in the spectrum of human rights²⁵. Therefore, we can further ask the

²⁴ Han Dayuan, “On the Relations Between National Security and Human Rights Defined in the Constitution of People’s Republic of China,” *Human Rights* 5 (2019): 1-11.

²⁵ Qi Yanping, “On the Institutional Protection of the Right to Development,” *Study & Exploration* 2 (2008): 99-106.

following question: Is there a security-oriented right within the framework of human rights, namely, the human “right to security” or the “human right to security”?

Based on this line of thought, it is not difficult to find that the academic community has already conducted some research on the security dimension of human rights and has put forward positive conclusions that recognize the human right to security. However, these conclusions are not profound enough. A series of noteworthy academic achievements have been made on the relationship between security and human rights. Some studies have summarized the basic aspects of the right to security.²⁶ Liora Lazarus listed individuals’ rights to security including the negative right, the positive right, the meta-right, the specific right, and the collective or group right, the provisions of relevant countries such as Canada, South Africa, Germany, and India, definitions made by the Human Rights Committee, the Inter-American Court of Human Rights (IACtHR), and the European Court of Human Rights (ECtHR), and the protection against gender violence prescribed by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Committee.²⁷ Some scholars have studied the relationship between the UN Security Council and human rights²⁸ and analyzed the effects on human rights caused by the Security Council’s relevant actions.²⁹ Some of them have analyzed fundamental rights and mutual trust in areas of freedom, security, and justice.³⁰ Other scholars have discussed fundamental rights within the EU.³¹ Many studies on this issue are more specific. For example, some studies have discussed the issue of security rights in the era of intellectual property rights.³² After 2003, some scholars proposed the need to establish the concept of the right to life security at the legal level based on the SARS pandemic at the time.³³ In specific areas of human rights, some scholars have studied workers’ right to

²⁶ Zhang Hongbo, “Security Right as a Human Right: Comparison, Connotation and Law,” *Nanjing Journal of Social Sciences* 5 (2013): 91-97.

²⁷ Liora Lazarus, “Right to Security,” in *Max Planck Encyclopedia of Comparative Constitutional Law* (Oxford: Oxford University Press, 2019).

²⁸ Jared Genser and Bruno Stagno Ugarte (eds.), *The United Nations Security Council in the Age of Human Rights* (Cambridge: Cambridge University Press, 2014).

²⁹ Ian Hurd, *After Anarchy: Legitimacy and Power in the United Nations Security Council* (Princeton University Press, 2007).

³⁰ Ermioni Xanthopoulou, *Fundamental Rights and Mutual Trust in the Area of Freedom, Security and Justice: A Role for Proportionality?* (Hart Publishing, 2020).

³¹ Sara Iglesias Sánchez and Maribel González Pascual, *Fundamental Rights in the EU Area of Freedom, Security and Justice* (Cambridge: Cambridge University Press, 2021).

³² Eva-Maria Kieninger, *Security Rights in Intellectual Property* (Berlin: Springer, 2020).

³³ Wei Yiming, “‘Right to Life’, ‘Right to Life and Security’, ‘Right to Life and Health’: What Shall be Adopted in Constitution — Perspective of Philosophy of Life in ‘SARS’,” *Tribune of Political Science and Law* 6 (2003): 73-77.

occupational security³⁴ which has become an important aspect of the labor law.³⁵ Other scholars have studied right to consumer security³⁶, food security³⁷, and social security.³⁸ Some studies include specific issues such as the refugee status of child soldiers,³⁹ how the mechanism of private military security companies reflects security and human rights,⁴⁰ China's internet information security and human rights⁴¹, and the relationship between human rights and security in trade measures.⁴² Some studies have analyzed the human rights protection principles embodied in the National Security Law of the People's Republic of China. Other studies include analysis of the right to security in a particular jurisdiction, as prescribed in Canadian laws⁴³ and by European human rights agencies.⁴⁴ Generally speaking, existing studies pay more attention to describing the phenomenon and go into detail about the right to security without preconditions and criticism. They fail to conduct an in-depth analysis of the human rights attributes of the right to security. Therefore, the deep and systemic significance of the right to security is not analyzed. The deficiencies of existing studies require us to further review the conditions for the formation and categories of

³⁴ Guo Jie, "On Worker's Right to Occupational Safety and Its Protection by Law," *The Jurist* 2 (2007): 9-14; Wu Liping, "Legislative Protection of Occupational Safety of Chinese Workers in the Context of Human Rights," *Lanzhou Academic Journal* 5 (2010): 111-114; Lu Fanghua, *International Law Research on the Protection of Occupational Safety Rights* (Shantou: Shantou University Press, 2019).

³⁵ Feng Yanjun, "On the Development of Legal Interest and Strengthening of Protection of Occupational Safety," *Study & Exploration* 1 (2011): 107-111.

³⁶ Wen Lei, "On the Protection of Consumers' Safety Right under the Background of E-business," *China Business and Market* 2 (2016): 122-127; Wang Xiaohong, "On Legal Protection of Internet Financial Consumers' Right to Personal Information Security," *Northern Finance Journal* 2 (2017): 63-66.

³⁷ Tu Yongqian, "Right to Food Safety and Its Legal Structure," *Science Technology and Law* 1 (2014): 40-75; Han Yanyu, "On the Right to Food Safety as the Citizens' Basic Rights in China," *Journal of Guangxi Administrative Cadre Institute of Politics and Law* 3 (2009): 7-11.

³⁸ Hu Yuhong, "On the Right to Social Safety," *Journal of Shanghai University of Political Science and Law (The Rule of Law Forum)* 2 (2021): 66-77.

³⁹ Zhang Tong, "Security and Human Rights: The Refugee Status of Child Soldiers in Value Dilemma," *Contemporary Youth Research* 3 (2021): 80-87.

⁴⁰ Francesco Francioni, "The Role of Human Rights in the Regulation of Private Military Security Companies," translated by Zhang Wei and Sun Yuanyuan, *Chinese Review of International Law* 5 (2020): 115-128.

⁴¹ Xu Yawen and Gao Yifei, "The Protection of Citizen Network Information Security in the Context of Human Rights — Based on Cybersecurity Law of China," *Journal of Guangzhou University (Social Science Edition)* 5 (2017): 26-33; Cai Jiahui, "A Brief Discussion on China's Internet Information Security and Human Rights Protection Issues," *Network Security Technology & Application* 11 (2016): 19 and 21; Luo Yanhua, "Strengthening Internet Information Security, Safeguarding National Sovereignty and Basic Human Rights — A Lesson from the Prism Scandal," *Human Rights* 4 (2013): 54-58.

⁴² Li Liangcai, "On the Interpretation of Unilateral Human Rights Trade Measures: An Investigation Based on the National Security Exception," *Tribune of Social Sciences* 2 (2010): 35-39; Tu Xinquan, "Security, Human Rights, and Economic Interests: the Changing Priority of U.S. Trade Policy Toward China," *Forum of World Economics & Politics* 1 (2008): 32-41.

⁴³ Guy Régimbald and Dwight Newman, *The Law of the Canadian Constitution*, LexisNexis, 2013, page 628-630.

⁴⁴ Yang Chengming, "On the Protection of the Right to Personal Liberty and Security in European Institution of Human Rights," *Hebei Law Science* 2 (2007): 158-162.

human rights and then consider whether the right to security meets these conditions and is classified into these categories. Therefore, the goal of this paper is to discuss the legitimacy and rationality of security as a human right, analyze the content of security within the perspective of human rights, find the position of the right to security in the human rights system, and then rethink the spectrum of human rights.

II. The Historical Logic of the Evolution of Human Society Has Given Rise to the Transformation of Security Needs into Rights

When we discuss the eligibility of security as a human right, the question that needs to be considered is: have human rights formed a fixed and clear extension that can no longer change with the development of the times? If human rights are a concept with fixed connotations and extensions, then it is inappropriate for us to put security into the human rights framework system.

A. Expansion and evolution of the human rights system: room for security to become a human right

Unlike some scholars who are obsessed with predetermined, unshakable essential concepts and criteria of human rights, we believe that the practical and theoretical systems of human rights are constantly changing and developing. By reviewing the historical development process, it is not difficult to find that the extension of human rights is constantly changing. This change can be analyzed from at least four perspectives: (1) changes in the subject; (2) changes in the scope of recognition and protection of rights; (3) changes in the way rights are protected and realized; and (4) limitations on the scope of protection of rights under special circumstances.

First, in terms of the subject of rights, the advocates of human rights started with the aristocracy and then expanded along the way to include ordinary people in Europe, where the concept of human rights was first proposed. In other countries, the scope of human rights also started from the upper class of society and gradually expanded to all members of society. In the course of the development of the times, people are spreading out to give more care to those who are at a disadvantage in social life, so that they can achieve good living conditions, and then demand to be given legitimate rights and even a biased allocation of resources.⁴⁵ These people especially include women, children, the elderly, people with disabilities and, in many countries, people with a particular sexual orientation, also known as LGBTQ+ (Lesbian, Gay, Bisexual,

⁴⁵ Makau Mutua, "Standard Setting in Human Rights: Critique and Prognosis," *Human Rights Quarterly* 3 (2007): 547-630.

Transgender, Queer [and more]).⁴⁶ Whether from the changes in the domestic human rights protection system or from the development of international human rights organizations and norms, it can be seen that human rights are not fixed at the subject level, but are gradually expanding.

Second, in terms of the targeting of human rights, that is, the scope of rights recognition and protection, whether in a specific country or the whole world, the scope of people's rights is constantly expanding from a broad historical perspective. Specifically, more people have enjoyed more detailed and in-depth rights in broader areas of social life. Based on world history, it is easy to find that: what people initially advocated were merely the right to express themselves and the right to be free from arbitrary detention by the government, which were lower-level rights that were not difficult to obtain. Furthermore, when these rights gained universal recognition, people found that these rights were far from sufficient to enable people to live an ideal life. Therefore, people added economic, social, and cultural rights to their claims and thus demanded an adequate standard of living. Subsequently, rights such as environmental rights and the right to development gradually became mature on the branches of traditional human rights, providing a new foundation for the expansion of the spectrum of rights.⁴⁷

Third, from the perspective of the development process of the realization and protection of human rights, the initial demands made by people on government were only negative, requiring the government to restrain its desire and impulse to expand its power and avoid causing too much trouble to the people, and that is, requiring the government to "do no evil." For example, the *Magna Carta*, of the United Kingdom, is a legal document that controls the king's power to levy taxes and protects the basic interests of the people from being arbitrarily deprived.⁴⁸ Since then, higher and higher demands have been

⁴⁶ Bonny Ibhawoh, "Human Rights for Some: Universal Human Rights, Sexual Minorities, and the Exclusionary Impulse," *International Journal* 4 (2014): 612-622; Sarah K. Dreier, "Resisting Rights to Renounce Imperialism: East African Churches' Strategic Symbolic Resistance to LGBTQ Inclusion," *62 International Studies Quarterly* 2 (2018): 423-436; Florence E. Babb, "Nicaraguan Legacies: Advances and Setbacks in Feminist and LGBTQ Activism," in *A Nicaraguan Exceptionalism?: Debating the Legacy of the Sandinista Revolution* (Hilary Francis eds.) (London: University of London Press, 2020), 165-178; Michelle A. Marzullo and Gilbert Herdt, "Marriage Rights and LGBTQ Youth: The Present and Future Impact of Sexuality Policy Changes," *39 Ethos* 4 (2011): 526-552.

⁴⁷ For the discussion on specific rights, see Xu Xianming, "On the Right to Survival," *Social Sciences in China* 5 (1992): 39-56; Chen Quansheng, "Arguments and Analysis Regarding Environment Right," *China Legal Science* 2 (1997): 61-69; Wang Kai, "On the Development of Environmental Rights in the System of Fundamental Rights," *Political Science and Law* 10 (2019): 17-30; Wang Liming, "The Status of Individual Information Right in Person Right Law," *Journal of Soochow University (Philosophy & Social Science Edition)* 6 (2012): 68-75.

⁴⁸ S. T. Ambler, "The Church and *Magna Carta* in the Thirteenth Century," in *Magna Carta: History, Context and Influence*, Lawrence Goldman ed. (London: University of London Press, 2018), 41-50; John Witte Jr., "A New *Magna Carta* for the Early Modern Common Law: An 800th Anniversary Essay," *Journal of Law and Religion* 3 (2015): 428-445.

placed on those who controlled resources, especially governments.⁴⁹ As far as economic, social, and cultural rights are concerned, the development level of human rights requires the government not only to “do no evil,” but also to actively do things that benefit society and the people. In other words, the government shall do good and the country and society shall present a good order.⁵⁰ Today, based on people’s understanding of human rights and good governance, a democratic government, a government ruled by law, and a government that plans, designs, and promotes social welfare are the minimum requirements.⁵¹

Finally, the development and changes of human rights are also reflected in the fact that when special events occur, the government is allowed to “derogate” the rights of the people.⁵² For example, during major epidemics or public health events, people’s freedom of movement will be derogated⁵³; when social security is threatened, people’s freedom of speech will be derogated to prevent them from spreading information that causes or exacerbates social panic.⁵⁴

It can be seen that the context of historical development clearly shows that human rights keep progressing with the development of human social forms and conditions. The spectrum of human rights has gradually expanded in the process of human development. Human rights protection evolves in a spiral manner with the development of the times. “Human rights are generated in the course of human history, and they can only evolve with the development of human society.”⁵⁵ The traditional human rights system has undergone hundreds of years of development and changes, constantly adapting to new situations and new problems. The extension of human rights is historical and social and is

⁴⁹ He Zhipeng, “The Development of Rights and Institutional Reform,” *Jilin University Journal Social Sciences Edition* 5 (2006): 149-155.

⁵⁰ James F. Childress, “Negative and Positive Rights,” 10 *The Hastings Center Report* 1 (1980): 19; Emily Zackin, *Looking for Rights in All the Wrong Places: Why State Constitutions Contain America’s Positive Rights* (Princeton: Princeton University Press, 2013), 36-47.

⁵¹ Ran Hirschl, “‘Negative’ Rights vs. ‘Positive’ Entitlements: A Comparative Study of Judicial Interpretations of Rights in an Emerging Neo-Liberal Economic Order,” *Human Rights Quarterly* 4 (2000): 1060-1098; Helen Hershkoff, “Positive Rights and State Constitutions: The Limits of Federal Rationality Review,” *Harvard Law Review* 6 (1999): 1, 131-1 and 196; Andrew Bradley, “Positive Rights, Negative Rights and Health Care,” 36 *Journal of Medical Ethics* 12 (2010): 838-841; Alan Gewirth, “Are All Rights Positive?” 30 *Philosophy & Public Affairs* 3 (2001): 321-333.

⁵² Guo Chunming, “On the State Emergency Power,” *Law Science* 5 (2003): 88-97; Liu Changqiu and Zhao Zhiyi, “On the Derogation of Citizens’ Health Right in Emergencies and Its Limitations,” *Journal of Law Application* 9 (2020): 30-39; Chen Cong, “Legal Regulations on Shrinking of the Human Rights in Emergency,” *Northern Legal Science* 6 (2009): 29-36.

⁵³ Sun Shiyuan, “The Restrictions on Human Rights of Preventive and Controlling Measure of Epidemic: Observations from the Perspectives of International Human Rights Standards,” *Chinese Review of International Law* 4 (2020): 25-38.

⁵⁴ Li Yanshun, “The Analysis of Law and Economics of the Protection of Personal Information and Its Derogation,” *Legal Forum* 3 (2015): 43-53.

⁵⁵ Lu Guangjin, “The New Development of Marxist Human Rights Theories in Contemporary China,” March 25, 2024, *People’s Daily*, page 10.

constantly changing. Especially in the past 300 years, people have seen its gradual expansion, which reflects the openness of the human rights system and the characteristics of the times. As a result, the negative condition of security as a part of human rights has been overcome, which means that there is a logical premise for incorporating security into human rights. This eliminates the theoretical obstacles to incorporating security considerations into human rights. Therefore, it becomes possible for the proposition of “ensuring security” to be incorporated into the human rights system.

B. Non-priori justification of the foundation of human rights: theoretical potential for the right to security

Even if we can see the continuous expansion of the scope of human rights, it does not necessarily mean that security has been included in the framework of human rights. We need to further clarify the conditions for the establishment of human rights and see whether security meets the conditions for becoming a human right before we can make further judgments. This theoretical logic means that we need to return to the basic issues of human rights and further think about the human right attributes of security needs. Therefore, it is necessary to further observe and think about the factors that give rise to human rights under different temporal and spatial contexts, and to summarize the necessary and sufficient conditions for the establishment of human rights.

First, the natural law school’s views on natural rights and social contracts cannot constitute an appropriate reason to prove human rights. When discussing the causes and motivations for the formation of human rights, scholars in the Western bourgeois revolution period were more inclined to believe that the causes and motivations are natural law, natural state, natural rights, and social contracts.⁵⁶ “By virtue of natural law, the human person has the right to be respected, is the subject of rights, possesses rights.”⁵⁷ Of course, as reasons and banners for a class or group to fight against another and gain people’s recognition and support, these are worthy of recognition. However, if we directly use them as the reason for the existence of human rights and regard them as the conditions for human rights, such an argument seems difficult to convince the public. This is because by far all the arguments about the natural state and social contracts have not answered the following questions: Which rights are natural rights? Which rights are the basic rights that people require the

⁵⁶ Andrew M. Francis, “An Essay on Human Rights and the Market for Social Contracts,” 77 *Southern Economic Journal* 1 (2010): 181-188; John Douglas Bishop, “For-Profit Corporations in a Just Society; A Social Contract Argument Concerning the Rights and Responsibilities of Corporations,” 18 *Business Ethics Quarterly* 2 (2008): 191-212; Karen O’Brien, Bronwyn Hayward, and Fikret Berkes, “Rethinking Social Contracts: Building Resilience in a Changing Climate,” *Ecology and Society*, vol. 14, no. 2 (2009) [online] URL: <http://www.ecologyandsociety.org/vol14/iss2/art12/>.

⁵⁷ Jacques Maritain, *The Rights of Man and Natural Law*, translated by Wu Yan (Beijing: The Commercial Press, 2019), 65.

government to recognize and protect when they give up their natural state and enter the social state? Furthermore, all studies to date have failed to provide valid evidence that such a social contract ever existed historically or logically. Moreover, John Rawls once said very clearly that the natural state is a hypothesis. A further problem is that if the natural state and the social contract are regarded as a logical assumption for human society to move towards today's social state, this will face two challenges. The first challenge is that besides the natural state and the social contract, are there any other logical assumptions about human society? For example, the "command-obey" social structure of the "divine right of kings" and the "ruler-minister and father-son",⁵⁸ identity structure of "living up to one's job title." In those assumptions, people are born to bear certain obligations and responsibilities, are born unfree and unequal, and shall live based on their status and roles. If such assumptions and logic cannot be effectively refuted, then the social contract theory will have serious flaws. Although the social contract theory is attractive and desirable, it cannot withstand the test of logic and theoretical scrutiny. This has already been discussed by many scholars. The second challenge is that the theories of the natural state and social contract face the test of the real situation of human history. In other words, historical records and archaeological excavations have proven that humans have never had a natural state or a social contract, but rather a completely different state. Therefore, the significance of this logical assumption is highly questionable because it contradicts the facts and cannot withstand the test of practice. Therefore, as far as the conditions for human rights are concerned, we should first rule out the view of natural rights.⁵⁹

Second, moral and legal principles cannot establish a solid foundation for the existence of human rights if they appeal directly to universality without taking historical processes and social contexts into account. In addition to the reasons for natural rights, many scholars will abstractly discuss a series of normative conditions such as morality and laws as the basis of human rights. Given these discussions, the following questions need to be further considered: How did morality emerge? How did laws come about? If morality and laws both exist prior to and outside of human society, then we can naturally ignore the specific conditions and development process of human society and directly discuss what rights morality and laws have established. However, human practice shows that moral principles and norms are constantly changing in the process of human relations and continue to develop in the context of social development. They are not active factors in the development of relations among

⁵⁸ *The Analects of Confucius: Yan Yuan.*

⁵⁹ For the author's previous discussion of this issue, see He Zhipeng, "The Theory of Non-Social Contract," *Anhui University Law Review* 1 (2005): 134-144; He Zhipeng, "The Theory of Non-natural Rights," *Law and Social Development* 3 (2005): 17-30.

social beings.⁶⁰ Similarly, laws, as a system of norms largely based on morality and guaranteed by politics, constantly evolve within specific forms of society and particular forms of human relations.⁶¹ Therefore, while it is important to observe and think about which rights are permitted and established by morality and laws, we cannot say that rights that are not determined or stipulated by existing morality and laws do not exist or are unimportant. This means that we need to go beyond the existing systems of morality and laws to summarize the conditions for the growth of rights. These conditions are identical to those for the development of morality and laws. What then are the conditions for the development of morality and laws? The answer is the environment of human society, that is, the relationship structure, basic form, and macro-value concepts of human society. A clear grasp of these factors helps to gain a clearer understanding of the conditions of rights.⁶²

Third, the theory that human rights arise from needs cannot withstand the reduction and absurdum of practice. Some people believe that, from the perspective of social structure, rights arise from human needs.⁶³ This view is obviously unreliable because, if rights can be generated by needs alone, then people with more needs shall have more rights. This is inconsistent with people's basic understanding of equal rights and will lead to a society in which "childish adults" who take but don't contribute are favored while contributors are ignored or even disregarded. This approach results in a society that favors those who contribute less and demand more. Some studies deduce human rights from "human nature,"⁶⁴ but they also lack sufficient theoretical evidence.⁶⁵

Similarly, theories that use supply as a condition to justify the emergence of human rights are also worth reflecting on. There is an understanding of human rights in the theoretical community that attributes human rights to social supply,

⁶⁰ Mark Goodale, "Ethical Theory as Social Practice," 108 *American Anthropologist* 1 (2006): 25-37.

⁶¹ For relevant basic theoretical discussions, see Gong Pixiang, "Marx's Thinking on the Development of Law and Its Contemporary Significance," *Social Sciences in China* 10 (2017): 112-135; for a detailed analysis of the issue, see Zhang Wenxian, "Inheritance, Transplant and Reform — the Only Way of Legal Development," *Social Science Front* 2 (1995): 9-17; Zhang Wenxian, "WTO and China's Legal Development," *Law and Social Development* 1 (2002): 3-12; Ye Qiu-hua, "An Analysis on the Development of the Legal Systems in the Western Europe at the Middle Ages," *Journal of Nanjing Normal University (Social Science Edition)* 6 (1999): 54-59; Li Shuangyuan, Su Jing and Jiang Xinmiao, "Prospects for the Basic Trends of Legal Development in the International Society in the 21st Century," *Journal of Social Science of Human Normal University* 1 (1995): 1-9.

⁶² Zheng Lizhen, "A Review of Studies on the Origin of Human Rights," *Philosophical Trends* 12 (2009): 64-71.

⁶³ William A. Edmondson, *An Introduction to Rights* (2nd edition), translated by Hou Xuebin (Beijing: The Commercial Press, 2023), 32.

⁶⁴ James Griffin, *On Human Rights*, translated by Xu Xiangdong and Liu Ming (Nanjing: Yilin Press, 2015), 40-44.

⁶⁵ Hu Yicheng, "Humanism: The Biggest Misconception in Human Rights Research Methodology — A Review of the Mainstream Methodological Discussions of Chinese Human Rights Research," *Zhejiang Social Sciences* 2 (1993): 2-7.

and that is, the extent to which society can provide will determine the extent to which rights will be protected. The problem with this view is that social supply can be adjusted and redistributed. If human rights are determined entirely by the supply side, it is likely to lead to a distorted allocation of resources. For example, based on their interests, the suppliers will shape a social structure that tends to make the rich richer and the poor poorer. In such a society, the strong are always strong, the weak are always weak, the winner takes all, and the loser is destitute. This will obviously exacerbate social conflicts and is not in line with our understanding of human rights.

Based on the above criticism, this paper argues that human rights should be defined from the two dimensions of claimants and protectors as the individual or group needs of people that should and may be recognized by social authorities. Therefore, based on the mechanism of occurrence, human rights should be understood from the perspective of “supply-demand” alignment. Logically, the following can be established. If the extension of human rights is unchanging, then the characteristics and requirements of human rights can be summarized from an entity perspective. However, as discussed above, the scope of human rights has always been changing and developing in the history and reality of human life. Therefore, rather than observing and analyzing the standards of human rights based on the status of human rights in a particular era, it is better to discuss the constituent elements of human rights based on the basic laws governing the development and changes of human rights. Specifically speaking, human rights are neither a priori (existing before the practice of human society and before human beings’ thinking, summarization, and induction) nor a transcendental concept (not conditioned by human practice, thinking, and cognition). There isn’t a priori or transcendental standard or fixed model for determining whether a claim constitutes human rights. In my previous studies, I regarded human rights as social individuals’ requests or claims to social authorities for their basic welfare and living conditions.⁶⁶ People tend to pay more attention to the legitimacy of such demands under certain temporal and spatial conditions, and the possibility of protecting such demands in the social system. Therefore, the basic reasons for establishing a human right shall be observed from the perspective of dynamic development. Amid such external changes, two aspects constitute the core elements of human rights. First, from

⁶⁶ This view can help us understand why we have rights from a generative perspective. Obviously, from a value perspective, how to ensure that society invests resources in safeguarding people’s rights rather than forming a small interest group out of selfishness requires the further introduction of another idea, namely the people-centered or people-based concept. China’s relevant discussions and practices in this regard have been fully recognized since the 20th century. For a relevant discussion, see Huang Zhansen, “Humanism, ‘People-centeredness’ and ‘Inclusion of Human Rights in the Constitution’,” in *Proceedings of the Theoretical Seminar on “‘The Inclusion of Human Rights in the Constitution’ and Legal Protection of Human Rights”* (2004), China Society for Human Rights Studies ed. (Beijing: Unity Press, 2006), 279-287.

the perspective of the people, there are needs for certain interests; second, from the perspective of social resources, there is an institutional possibility to provide such benefits to meet such needs. Therefore, combining these two conditions, human rights can be defined as “the alignment between basic human needs and available resources in society.”⁶⁷

This way of understanding human rights, which focuses on the alignment between demand and supply and between demand and resources, establishes a function based on the relationship between two variables, strips away the limitations of human rights entities, and means that a static observation method is no longer used to discuss the conditions for the establishment of human rights. The cognitive approach attempts to construct an analytical framework that transcends a particular moment or event and better reflects the historical and social nature of human rights.⁶⁸ It only observes and analyzes the external conditions for the formation of human rights, thereby forming a dynamic understanding of human rights conditions.

C. Theoretical argument for security claims to qualify as human rights

When seeing human rights as the alignment between a society’s available resources and people’s inherent needs, we should regard people’s needs as an important part of the premise and foundation of human rights. The reason why civil rights and political rights become human rights is that people have needs for basic actions in a political country, and the country has sufficient resources to meet such needs. In contrast, economic, social, and cultural rights become human rights and make no absolute demands but progressive ones on the country. This is because although people have needs for a good living condition and living standards, social resources are not enough to fully meet them.

To support the above view, we need to further examine and prove whether security is a basic human need, or whether people’s need for security constitutes one of their basic needs. At the same time, we should also discuss whether security is a resource that a society should and can provide. This is an important prerequisite for discussing whether security can be a part of human rights. By studying this issue, we will find that this can be inspired by Abraham H. Maslow’s Hierarchy of Needs. According to Maslow’s research, security is not only a human need but also a very important and basic need. If security needs are

⁶⁷ He Zhipeng, “An Inquiry into the Cause and Basis of Human Rights,” *Law and Social Development* 3 (2006): 105-116. For a relevant discussion, see Liu Xi, “Exploration of Basic Issues of Human Rights from the Perspective of Legal Anthropology,” *Human Rights* 4 (2009): 12-16; Chen Youwu and Li Buyun, “Outline of the Theoretical System of Human Rights with Chinese Characteristics,” *Political Science and Law* 5 (2012): 54-64; Li Lin and Qi Yanping, “Review and Prospect of Jurisprudence in China Approaching to a New Age,” *Law Science* 6 (2018): 3-17; Liu Zhiqiang, “On the Construction Logic of Chinese Human Rights Discourse System in the New Era,” *Modern Law Science* 3(2019): 23-34.

⁶⁸ Emilie M. Hafner-Burton, “A Social Science of Human Rights,” 51 *Journal of Peace Research* 2 Anniversary Special (2014): 273-286.

not met, it will be difficult to meet other needs.⁶⁹ People have a very urgent need for security. Objectively speaking, security is one of the indispensable conditions for human survival and development. It is the primary and urgent need of every individual and every closely connected group. Han Fei, a representative figure of the ancient Chinese legalists, believed that the Chinese in their primitive period longed for basic security and regarded those who could bring them security as leaders. “In ancient times, there were few people but many beasts, and humans could not stand the harm from beasts, insects, and snakes. Once a sage appeared. He built a nest on a tree for people to avoid being invaded by wild beasts. The people loved him very much, so they recommended him to be the ruler and called him Youchaoshi. At that time, people ate fruits of wild plants and clams that had a fishy and unpleasant smell. These foods harmed the stomach and intestines, causing many diseases. A sage appeared and drilled wood to make a fire to eliminate the fishy and unpleasant smell of food. The people loved him very much and recommended him to be the ruler, calling him Suirenshi.”⁷⁰ Mencius, a representative figure of Confucianism, also highly praised those who led the people to resist natural risks and enhance their sense of security. “In Yao’s rule, China was not at peace. Floods were everywhere and caused disasters. In lush grass and trees, there were many birds and beasts. The grain harvests were poor and the beasts were a threat to human security. Traces of animal hooves and bird tracks can be seen everywhere in the Central Plains. Yao was the only one who was worried about this, so he sent Shun to lead the governance. Shun ordered Boyi to set fire to the vegetation in the mountains, forests, and swamps, causing the animals to flee and hide. Yu also dredged nine rivers, unblocked the Ji River and Luo River, and diverted them into the sea. He dug the Ru River and Han River, opened the Huai River and Si River, and led them to the Yangtze River. As a result, the Central Plains became vast cultivated land.”⁷¹ From the perspective of each individual, people all hope to be in a secure situation. Security means avoiding danger objectively and being free from threats subjectively. Expanding to all areas of social life, security includes a wide range of needs. At the most fundamental level, people hope that their lives, health, and diet will not be threatened. Further, they expect that their working environment will not be in danger and that their travels will not be subject to widespread traffic accidents. At last, they also expect that their information and reputation will not be threatened. As a result, people’s security needs have formed a pretty wide spectrum.

If the scope is further expanded to a department, a company, a government,

⁶⁹ Abraham H. Maslow, *Motivation and Personality*, translated by Xu Jinsheng et al. (Beijing: Huaxia Publishing House, 1987), 84.

⁷⁰ *Han Feizi: The Five Vermin*.

⁷¹ *Mencius: Duke Wen of Teng (Part I)*

or even a country, we will also see various security issues. The most basic one is the security issue related to survival. The second one is whether they can survive and develop in a healthy, lasting, and orderly manner. In other words, from the perspective of groups, to survive and develop, each social organization needs security. The most basic security is life and survival security. Being free from danger to its survival (such as a country's territorial security and military security) is the most basic security need. On this basis, security involves various aspects such as economic security, political security, information security, reputation security, and food security.⁷² Specifically, the secure existence and sustainability of a social organization is the foundation for its future development. This is also the foundation for each of its members to ensure their survival and development. Therefore, as a collective human right, the right to security also has the premise and foundation for the hierarchy of needs.⁷³ In this way, we can see that security is a basic need for human beings. It is a basic need that human beings cannot live without in a biological sense and a state of social existence. Public security and individual security are interdependent. "Public security concerns the physical health and life security of the people"⁷⁴ while "people's security is the cornerstone of national security."⁷⁵ Therefore, from the perspective of needs, security qualifies as a part of human rights.

Correspondingly, everything from an organization, a local or a central government that responds to individual requests to a broader social mechanism that responds to social organizations, especially a country or the international community, can respond to the security needs raised by individuals. Ensuring safety is above all the responsibility of the actors themselves. The security of individuals, as members of a society, or organizations and countries, as members of a wider society, depends to a large extent on their capabilities. Capabilities include the degree of risk resistance and health level, which are aspects that every individual needs to actively develop. However, confirming, ensuring, maintaining, and restoring security also depends on the external environment. The external environment of an actor includes not only the natural environment but also the social environment. These are the conditions that a social authority can provide in an organized society and are also the responsibilities of a well-governed government. "The people's yearning for a better life is the goal of our work."⁷⁶ Therefore, as long as social conditions permit, regulators of social

⁷² David Andersen-Rodgers and Kerry F. Crawford, *Human Security* (2nd edition) (Lanham: Rowman & Littlefield Publishers, 2022).

⁷³ See Laura Neack, *National, International, and Human Security* (3rd edition) (Lanham: Rowman & Littlefield Publishers, 2023).

⁷⁴ Institute of Party History and Literature of the CPC Central Committee ed., *Xi Jinping on Respecting and Protecting Human Rights* (Beijing: Central Party Literature Press, 2021), 75.

⁷⁵ *Ibid.*, 78.

⁷⁶ *Ibid.*, 31.

resources shall allow people to enjoy the right to security. Just as the CPC requires, “we shall always put the security of people’s lives first”⁷⁷ and “we shall adhere to the concept of secure development and always put the safety of people’s lives first.”⁷⁸ The methods adopted include establishing good social norms and avoiding threats and attacks on security. In the international system, “we advocate using security to protect human rights, respecting the sovereignty and territorial integrity of all countries, pursuing a path of peaceful development, implementing global security initiatives, and creating a peaceful environment for the realization of human rights.”⁷⁹ A country can provide a series of facilities and measures to meet the security needs of individuals. As a result, through a series of work arrangements, ensuring the security needs of individuals can be achieved. Especially when security is threatened, the country can effectively restore security and compensate for security losses. This shows that individual security needs can be met to a certain extent through the allocation of group resources. When Westerners proposed “freedom from fear” as a goal of a good society, they had already regarded security as an important dimension of human rights.⁸⁰ Freedom from fear means a sense of security, which is the support and guarantee of security that a society provides for people. In the 20th century, terrorism has become a major issue of social concern. To fight against terrorism and contain and combat terrorists, humankind has taken many effective measures. Fighting terrorism, from the perspective of confrontation, is a struggle against terrorist acts, terrorist ideologies, terrorists, and terrorist organizational systems. From the perspective of protecting human rights, it means actively protecting and promoting people’s right to security.

The above arguments form a logical loop that security is sufficiently classified as a human right, which means, individuals need security while social authorities are capable of meeting their needs for security. In this way, an alignment is formed between demand and supply, and security as a human right has a clear formation mechanism. When the resources provided by governments, countries, or international mechanisms are relatively clear and secure, a good resource allocation structure for security maintenance can be established. On the contrary, if we arbitrarily list some security rights without considering human needs or social supply, they will not only be inconsistent with our general understanding of rights but also inconsistent with the process of rights formation and development.

D. Legal system: protection for human rights to security

⁷⁷ Ibid., 71.

⁷⁸ Ibid., 71-72.

⁷⁹ “Xi Sends Congratulatory Letter to Forum on Global Human Rights Governance,” June 15, 2023, *People’s Daily*, page 1.

⁸⁰ Eleanor Pontoriero, “On Multiple Belonging: Engaging Human Rights from a Buddhist-Christian, and Feminist Liberative Praxis,” *Buddhist-Christian Studies* 39 (2019): 181-202.

Security is related to a series of basic rights such as the right to survival and health, and provides, to a large extent, the premise and foundation for the right to development. Harm to security suppresses the right to life and health and also limits economic and social development as well as individuals' right to development. This can be illustrated by a small example. In the 21st century in China, when many delivery people riding electric bikes and motorcycles ignore traffic rules and arbitrarily run red lights, drive in the wrong direction and at high speeds on the road, they not only fail to value their own security but also threaten the security of others. Such a threat to security will greatly undermine people's expectations for their own development and social development. This kind of unsafe driving behavior will lead to a large number of traffic accidents, and every traffic accident may cause loss life, health, and property. These safety-ignoring practices have negative implications for the development of the individuals involved and will also affect the entire society's economic prosperity and overall sustainable stability. Therefore, a country has the responsibility to pay attention to and respond to people's security needs and to safeguard the security rights of individuals and groups through legislation, law enforcement, justice, and the promotion of law-abidingness.

From the perspective of Chinese legislation, China has initially formed a legal framework to protect the right to security. There are five references to security in China's current Constitution, among which Article 28 can be interpreted as involving the right to security.⁸¹ From the perspective of national security, China has the *National Security Law* of the People's Republic of China and has also clearly stipulated crimes endangering national and public security in the *Criminal Law* of the People's Republic of China.⁸² This is China's protection of the right to security with its domestic laws. Additionally, legislation on matters such as land borders, civil aviation, territorial waters, contiguous zones, exclusive economic zones, continental shelves, counter-espionage, and counter-foreign sanctions also reflect the basic concept of maintaining national security. To ensure the security of enterprises and individuals, the state has formulated legal norms such as the *Law of the People's Republic of China on Work Safety* (enacted in 2002 and revised in 2021) and the *Law of the People's Republic of China on Road Traffic Safety*. To ensure safe production, the state has also formulated qualification requirements for safety engineers, explosion-proof design standards for petrochemical buildings, and safe production training management measures. As revealed by scholars, under the leadership of the CPC, we adhere to the principle of equal sharing of human

⁸¹ Article 28 of the *Constitution of the People's Republic of China*: "The state shall maintain public order, suppress treason and other criminal activities that jeopardize national security, punish criminal activities, including those that endanger public security or harm the socialist economy, and punish and reform criminals."

⁸² Articles 102 to 139a of the *Criminal Law of the People's Republic of China*.

rights and promote the comprehensive development of economic, social, cultural, civil, and political rights as a whole. The level of human rights protection in China has been significantly improved, and Chinese people's sense of gain, happiness, and security has been significantly increased. We have deepened judicial system reform, strengthened the construction of a secure and law-based China, punished all types of illegal and criminal activities by the laws, maintained long-term social stability, and effectively protected the lives and property of the people. We will fully, accurately, and comprehensively implement the new development concept, focus on solving the most direct and realistic problems of interests that are most concerned by the people as well as the problem of unbalanced and inadequate development, and strive to achieve a fairer, more sustainable and safer environment that promotes higher quality and more efficient development so that people will have greater, more secure, and more sustainable sense of gain, happiness, and security in the process of development.⁸³

Security concerns are not limited to a single country. International peace and security are of particular concern in contemporary international relations and international laws.⁸⁴ At the global level, the *United Nations Charter* establishes a series of principles and rules to reflect the high recognition and emphasis on the independence, sovereignty, and integrity of countries.⁸⁵ In particular, the United Nations Security Council was established at the inception of the United Nations to deal with issues of world peace and security. It aims to maintain the security of all countries. "Security is the prerequisite for development and human beings are an indivisible security community."⁸⁶ In the construction of foreign affair-related rule of law that China is actively promoting,

⁸³ Xu Xianming. "Steadfastly Following the Chinese Path to Human Rights," April 18, 2022, *People's Daily*, page 9.

⁸⁴ For a relevant discussion, see Liao Fan & Wang Hui, "From Choice to Obligation: Multilateralism from the Perspective of International Law," *Chinese Review of International Law* 1 (2024): 31-43; Cai Congyan, "The Leaving and Return of the State and the Future of International Law," *Chinese Review of International Law* 4 (2018): 3-15.

⁸⁵ Preamble of the Charter of the United Nations: "WE THE PEOPLES OF THE UNITED NATIONS DETERMINED...to unite our strength to maintain international peace and security;" Article 1: "The Purposes of the United Nations are: To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;" as well as Articles 11, 12, 26, 33-43.

⁸⁶ Xi Jinping, "Maintain World Peace and Stability," in *Xi Jinping: The Governance of China IV* (Beijing: Foreign Languages Press, 2022), 451.

security is also a highly important aspect and goal.⁸⁷ As General Secretary Xi Jinping pointed out, “There is no absolutely secure paradise in the world. The security of a country cannot be built on the turmoil of others. Threats faced by other countries may also become challenges to one’s own... All parties shall establish a common, comprehensive, cooperative, and sustainable security concept.”⁸⁸ “To make up for the peace deficit and resolve the global security dilemma, China has put forward a global security initiative, advocating that all countries uphold a common, comprehensive, cooperative, and sustainable security concept and promote the building of a balanced, effective, and sustainable security architecture.”⁸⁹ Building a community with a shared future for humankind depends on the practical actions of all countries. “The international community shall make efforts in aspects such as partnership, security landscape, economic development, cultural exchange, and ecological construction.”⁹⁰ The development and progress of the international human rights cause is inseparable from a secure and stable social environment. The realization of common prosperity through mutual respect and common cooperation among countries is an important guarantee for global human rights governance.⁹¹

Based on the above analysis, it is objectively possible to regard security as a category of human rights from the perspective of their formation. There are no obvious obstacles in theory. Not only has security long been established as a basic human need, but authorities within a given society also can allocate resources to a certain extent to respond to security needs. Especially at present, many mechanisms that respond to people’s survival and development needs can be expressed with human rights, which to a certain extent reflects the characteristics of the continuous expansion of the human rights spectrum. The progressive and superimposed development characteristics of the concept of rights are reflected in everything from the initial civil and political rights that safeguard individual freedom to economic, social, and cultural rights that safeguard social welfare; from the right to survival and the right to life that focus

⁸⁷ Yang Zewei, “China’s Holistic Approach to International Law in the New Era,” *Journal of Wuhan University of Science and Technology(Social Science Edition)* 5 (2020): 465-478; He Zhipeng, “Goal Setting and Practical Principles of Foreign-related Rule of Law,” *Social Sciences International* 2 (2023): 194-209; He Zhipeng, “The World Peace Dimension of Foreign-related Rule of Law,” *Wuhan University International Law Review* 4 (2022): 45-60; He Zhipeng, “On the Security Dimension of Rule of Law Concerning Foreign Affairs,” *Research on Rule of Law* 3 (2023): 65-82.

⁸⁸ Xi Jinping, “Work Together to Build a Community of Shared Future for Mankind,” in *Selected Works of Xi Jinping (Vol. 1)* (Beijing: People’s Publishing House, 2023), 566.

⁸⁹ Xi Jinping, “Ride on the Trend of the Times and Enhance Solidarity and Cooperation to Embrace a Better Future — A Speech at the 22nd Meeting of the Council of Heads of State of the Shanghai Cooperation Organization (SCO) (September 16, 2022),” September 17, 2022, *People’s Daily*, page 2.

⁹⁰ Xi Jinping, “Work Together to Build a Community of Shared Future for Mankind,” in *Selected Works of Xi Jinping (Vol. 1)* (Beijing: People’s Publishing House, 2023), 565.

⁹¹ Fu Zitang, “Steadfastly Following the Chinese Path to Human Rights,” September 14, 2022, *Guangming Daily*, page 6.

on individuals to the right to development that safeguards collective solidarity and common interests; “from the right to security, the right to peace, and environmental rights that emphasize external conditions to digital human rights emerged in contemporary times.”⁹²

III. The Governance Logic of National Economic and Cultural Improvement Has Deepened the Rational Division of Rights Spectrum

In an attempt to analyze the status of security in the human rights system, it is necessary to examine the overall structure of the human rights system. As argued above, security can be a target of rights and the right to human security is qualified to be an important part of human rights and a type of human rights; however, this does not mean there is already a clear illustration of the human rights system. What position should security, which is qualified to constitute a part of human rights, hold in the human rights system and structure, and what kind of relationship does the right to security have with other types of human rights? These require further in-depth analysis. The value of answering the above questions is: it will require effective configurations to actually and organically embed the human right to security into the spectrum of human rights, instead of simply making it a proposition. Reflection on this question touches upon the most fundamental aspects of human rights, that is, how to perceive the systems of human rights practice, theory and knowledge. To this end, the existing human rights system and the various rights under human rights need to be examined. Only with an effective analysis and reflection on the existing structural system and classification of human rights can we have a clearer understanding of the position of the right to security in the human rights system. With an in-depth analysis of human rights as a right to security, it is possible to reflect on and reconstruct the existing human rights framework as a whole, thus making more diverse and solid efforts to modernize the concepts and knowledge system of human rights.

A. Treating security as a human right: logical problems and solutions

The first way to reflect on the attribution and positioning of the right to security is to determine its targets. Apparently, the right to security includes guaranteeing the security of person, property, behavior, information, and even the entire nation. These targets of the right, to some extent, overlap with the existing system of human rights. So, does this mean that looking at security from the conceptual perspective of human rights and taking it as a human right is a methodological problem, leading to confusion in the human rights system? In fact, it does not. This has been the case since the conception of the right to

⁹² Lu Guangjin, “The Historical Position and Value Dimensions of Human Rights Civilization,” *Human Rights* 1 (2024): 19.

development in the third-generation human rights. Specifically, many aspects of the right to development are inextricably linked to the existing system of human rights. If an individual wants to develop, he/she needs to improve his/her abilities through learning, which may overlap with the right to education; if he/she wants to develop in his/her career, he/she needs to work or start a business, which may conflict and overlap with the right to work; human development is based on health, which may overlap with the right to health and the right to rest. Similarly, when it comes to the right to peace, peace essentially requires a social environment where a person's life and property can be guaranteed, people are free from war and turmoil, and the country has a stable order of economic, social and cultural construction and development. These claims of rights overlap with certain rights among civil and political rights, or certain rights among economic, social and cultural rights. Therefore, the potential case in which the right to security overlaps with certain elements in the human rights system had already happened before when the right to peace and the right to development overlapped with certain elements in the original human rights system. This does not necessarily indicate a fault of the right to security, but rather that the emergence of certain rights in the third-generation human rights caused an impact on the first- and second-generation human rights systems, requiring further reflection on human rights and determination of a more scientific and appropriate classification method.

There is a similar way of reflection: if we deduce according to the existing classification of human rights, it will easily regard security as the fourth or fifth-generation human rights out of inertia, following the first, second and third generations of human rights. Another case is that security could be considered as a kind of collective human right, or a human right shared by individuals and groups, and placed under the third-generation human rights. However, none of these approaches are thorough attempts with theoretical logic. This is because the traditional division of the three generations of human rights itself is logically questionable.⁹³ Therefore, it is inappropriate to further extend or embed the right to security into the conceptual framework of the three generations of human rights; more importantly, it also requires a more thorough and in-depth reflection on such conceptual system and re-establish the framework for the classification of human rights.

So, while trying to reveal the position of the right to security in the human rights system, it will find a theoretical challenge: the rather confusing classification and structure of human rights. A series of similar problems exist in the academic field of human rights. For example, some scholars believe that digital human rights should be a kind of human rights and regard digital human

⁹³ Xu Xiangmin, "Environmental Rights: Stages of Development in Human Rights," *Social Sciences in China* 4 (2004): 125-126.

rights as the fourth-generation human rights.⁹⁴ Some scholars have proposed that harmony can become a human right and classify harmony as a fourth-generation human rights.⁹⁵ By the standard of the demand-supply principle in the qualifying conditions of human rights, it is apparent that some human rights can indeed be established as emerging rights, but it does not rule out that some claims of human rights do not actually meet the conditions of human rights and cannot be considered human rights in the true sense. Reflecting on the issues discussed by the above human rights scholars, it is necessary to further clarify the logic: How should the spectrum of human rights be established? How should the right to security be appropriately and stably placed in the system of human rights?

In response to such questions, some scholars have tried to resolve the contradiction from the perspective of collective human rights, that is, to regard new rights such as the right to peace, environmental rights, and the right to development as claims exclusively to the collective (groups). This approach is certainly inspiring, and problem-solving to a certain extent. However, one issue that cannot be ignored is that the academic community has basically reached a consensus that the right to development is not limited to groups, and individuals often also claim the right to development. In practice, a sound national system and international system will also actively recognize and safeguard the individuals' right to development and form a sound governance system. Therefore, trying to limit the above rights to collective human rights is not a sufficient way to deal with such rights.

B. Traditional classification of the three generations of human rights: limitations of the times

An analysis of relevant literature shows that the view of “three generations of human rights” is a theory that has been rigorously thought out and discussed. This approach has positive significance in alluding to the motto of the three concepts — “Liberty, Equality, Fraternity,” which was a slogan of the French Revolution. At the same time, it can also, to a large extent, cope with the process of collective rights from civil and political rights to economic, social, and cultural rights, and to the right to peace, the right to development, environmental rights, which can be regarded as a phased achievement in the process of human cognition of human rights. But there is also a problem: the vague and logically inconsistent criteria for distinguishing human rights among different generations. A thorough analysis reveals obvious problems in the measure used for dividing or classifying the three generations of human rights. If the three generations of

⁹⁴ Ma Changshan, “The Fourth Generation of Human Rights and Their Protection in the Context of a Smart Society,” *China Legal Science* 5 (2019): 5-24.

⁹⁵ Xu Xianming, “The Right to Harmony: The Fourth Generation of Human Rights,” *Human Rights* 2 (2006): 30-32.

human rights are established according to the discovery of certain rights, and that is, they are classified based on the historical sequence in which the established human rights are generally recognized by society, there would be no problem in classifying civil rights and political rights as the first-generation human rights, economic, social and cultural rights as the second-generation of rights, and then the right to peace, the right to development and environmental rights as the third-generation human rights. However, the purely historical sequencing only indicates the sequence of human rights claims and recognition in human history, it cannot serve as a logical measure for their theoretical classification. Furthermore, history itself cannot serve as a criterion; the appropriate scale must be explored within history. Just as “modern” as a time concept itself cannot serve as a measure of “modernization” or “modernity,” the three generations of human rights claims need a measure outside of the historical process if they are to be logically tenable. But it seems impossible to establish such a measure, since every interpretation opposing it is likely to be questionable. When we observe the objects of the first-generation human rights, they claimed the rights of individual citizens to participate in political life and to guarantee basic freedoms; whereas the second-generation human rights are mainly a series of rights claimed by individuals to ensure a good life. The main difference between the first-generation and second-generation human rights lies in the different areas of content they claim. The third-generation human rights include the right to peace, environmental rights, and the right to development. The subject of rights claims has changed, and that is, it is mainly the collective (groups), followed by the individuals. So, the first- and second-generation human rights use the objects of claims as the criterion for division, while the third-generation human rights shift to the subjects of rights claims. This drift in the measure for classification violates the law of logical identity, so it is not a reasonable mode of classification. Moreover, if new human rights claims emerge in the future, they may very likely belong to both the first-generation or second-generation human rights and the third-generation human rights, which will cause confusion about the attribution of rights. Therefore, the generational division of human rights is not a scientific, reasonable, or internally logical model of division for human rights.

If the main difference between the first-generation and second-generation human rights is the field in which the rights are located and the objects to which the rights point, then the difference between the second-generation and third-generation human rights is not so much a classification based on the targets and objects of rights, but a classification based on the subjects of rights. This raises a series of problems. Specifically, how should human rights be classified based on the subjects of rights? How should content rights based on human rights be classified? In addition to the measure of subject and content, are there other ways to categorize human rights? Intriguingly, some scholars have

attempted to continue with this logically confusing generational system. This is like the fact that human science has already denied the state of nature and social contract, but some scholars are obsessed with theories based on social contract, which is logically invalid and lacks the academic wisdom of theoretical innovation.

C. Construction of the human rights classification system

The rigorous standard of theoretical logic requires us to find other rationalities beyond the trajectory of historical invention, and to find other more inclusive measures of rationality. The right to security is inextricably connected to existing human rights. Precisely because of the complexity of such connection, it needs to have a clear positioning of the right to security, understand what intention it represents, what kind of institutional guarantees it requires, and what effects it has on domestic and international orders. Furthermore, how should human rights be classified? There are at least four dimensions of classification:

First, based on the types of subjects, rights should be divided into general rights (rights of common people) and special rights (rights of specific groups of people). Most human rights are set without regard to individual differences, but there are certain rights that are specifically designed for vulnerable groups (women, children, people with disabilities, the elderly, etc.).

Second, based on the form of the subjects of rights, they can be divided into individual rights enjoyed by natural persons and collective rights enjoyed by a specific group. Individual rights are human rights in the traditional sense, while collective rights, in a broader social perspective, are the rights that exist to safeguard certain ethnic groups, minority groups, and even countries. Since the 1960s, the new international economic order that some developing countries have been striving for should be seen as a process of calling for and striving for collective human rights.

Third, based on the objects to which rights refer, they can be divided into civil, political, economic, social, cultural rights, and further divided into the right to life, personality rights, right to vote, right to a fair trial, freedom of speech, right to work, right to rest, environmental rights and such.

Fourth, based on the goals that the rights attempt to achieve, they can be divided into the right to subsistence, right to security, and right to development. The category of goal-oriented human rights mainly identifies the human needs that can be protected by the rights and the individual or group status that can be achieved by fully protecting the rights.

Measure of Human Rights Classification	Types Based on the Measure	
Type of Subject	General Rights	Special Rights
Form of Subject	Individual Rights	Collective Rights

Type of Object	Right to Life	Personality Rights	Right to Vote	Right to a Fair Trial	Freedom of Speech
Goal	Right to Subsistence		Right to Security		Right to Development	

The value of this classification method lies in it deepening the conceptual understanding of human rights and the typology of human rights in theory, better positioning human rights in practice, and thus properly protecting human rights and clarifying the means and systems for protecting specific types of human rights.

D. Refining the attribution of the right to security

Based on such classification criteria, the right to security should be placed in the category of goal-oriented human rights, that is, the type of human rights that are classified based on goals. It is inappropriate to classify the right to security based on the type of subject, because it should be universally protected for all subjects. However, special problems may also arise in relation to certain special groups, for example, people with disabilities, who face higher security risks. Therefore, it will be hard to distinguish based on the subjects. It is also inappropriate to classify the right to security based on the number of beneficiaries, because it is enjoyed by both individuals and groups. Every individual has the need for security, which should be protected in a well-functioning society. People in certain regions and countries may be at a greater disadvantage in terms of security, so there may also be a collective right to security. It should be noted that the collective right to security mentioned here does not refer to the collective security established by the UN. The United Nations’ system of collective security focuses on joint action among countries to respond to and resist threats through international organizations, rather than a collective (group) demand for security. It is also unsuitable to classify the right to security based on the object to which the right refers. Because security involves many aspects, such as a peaceful national state, guarantee of life security, basic security of social environment, smooth operation of economic transactions, and effective protection of personal information. Thus, from the perspective of the object, security will involve a bundle of rights rather than being concentrated on one right.

Based on the above analysis, the right to security claimed by people, like the right to subsistence, the right to peace and the right to development, is also a goal-oriented right of human beings. Classifying these rights as goal-oriented human rights can avoid the dilemma of people being unable to make thorough logical progress by analyzing from the perspective of subject and object, and help to have a more accurate understanding of the multiple criteria and multi-dimensional existence of human rights.

IV. Significance of security as a human right

Treating security as a human right does not mean a theoretical pursuit

divorced from practice or a logically self-consistent deduction. For one thing, it is instructive for further understanding the development of human rights and clarifying the system of rights. For another, it has positive significance for countries and the international community to establish policies to maintain and realize relevant social values and avoid the hegemonic transformation of human rights discourse in international relations.

A. Effective sorting of different human rights

Some international human rights organizations believe that freedom and security are closely linked. This view is actually inconsistent with the logic in people's life. In many cases, a person can be free but not safe; and at other times, a person can be safe but not free. Therefore, it would be inaccurate to determine that freedom will lead to security, or that security will ensure freedom. Each has its own referential issues and excluded objects. Freedom means that an actor is not constrained in thought and action, and it opposes the control of social authority over people's thoughts and actions; while security refers to the stable protection of people's life, property and information, and it defends against the threat and deprivation brought to individuals by social public power or other behavioral systems with power or force. Therefore, it is very likely that some persons may have their life, property, and information protected (security), but their thoughts and actions restricted (no freedom). For others, it is very likely that their thoughts and actions are not restricted (freedom), but their person, property and information may be deprived at any time (insecurity). Therefore, freedom and security have different backgrounds, objects and contents, and it is only possible to seek opportunities for mutual involvement of the two in the sense of extensive connection.

B. Resolving conflicts between the right to security and other rights

Some scholars, countries and international organizations have separated security and human rights, and have formed a way of trying to sort out the contradictions, conflicts, or at least tensions between them.⁹⁶ By examining relevant discourses, it reveals that such way of observation and reflection has obvious logical deficiencies. As the theoretical logic of the right to security is established, it can clearly sort out the following: security is a human need, and human rights are a system established to meet human needs. Therefore, human rights can cover security, and security should be a part of human rights. The question is not which of the two is higher or lower, but how to properly sort the different rights in the human rights system. This can eliminate the hegemony of human rights discourse in certain cultures, and in theory it is likely to provide a new perspective and open up a new path for viewing and discussing the

⁹⁶ Rhoda E. Howard-Hassmann, "Human Security: Undermining Human Rights?" 34 *Human Rights Quarterly* 1 (2012): 88-112; Christian A. Honeywood, "Britain's Approach to Balancing Counter-Terrorism Laws with Human Rights," 9 *Journal of Strategic Security* 3 (2016): 28-48.

relationship between security and human rights. This inevitably requires a way of thinking about security from the perspective of human rights, and to observe, analyze and deal with security issues from the standpoint and perspective of human rights.

The academic community has fully realized that there are conflicts among different rights,⁹⁷ and has proposed a basic idea of resolving conflicts among rights based on hierarchy.⁹⁸ With security being included into, instead of being excluded from, the discourse system of human rights, it is necessary to resolve the tension between security and other human rights through reflective thinking about the conflict among rights and consider how the hierarchy of the right to security and other types of human rights should be defined. The following principles can be used as a reference to resolve conflicts between the right to security and other types of human rights:

First, with respect to single individuals (including individuals and groups), there is a differentiated order of protection among the different categories of rights for them. Especially when resources are limited, it is impossible for all of an individual's rights claims to be met, and the individual must make choices. In this light, when the maintenance of rights requires the establishment of a hierarchy (order, priority), security is ranked closely behind life and has a higher priority. In other words, it must first ensure that a person's life is not violated or arbitrarily deprived; and then ensure the person's safety.⁹⁹ Human dignity, freedom and welfare come next with the rights in these two areas being protected. Otherwise it would be putting the incidental before the fundamental and would likely go against the basic logic of a person's subsistence and development.

Second, when there is a conflict between the rights of different actors, the rights of one subject and the rights of another subject should also be protected according to the hierarchy of rights. This represents a long-standing debate and has basically been agreed upon in constitutional studies.¹⁰⁰ It is the common

⁹⁷ For a relevant discussion, see Su Li, "The lawsuit of the Story of Qiu Ju, Qiu Shi's rat poison case, and freedom of speech," *Chinese Journal of Law* 3 (1996): 65-79; Liu Zuoxiang, "On Several Theoretical Issues Relating to the Contradiction of Rights," *China Legal Science* 2 (2002): 56-71; Liu Zuoxiang, "The Conflict of Rights: A Law Phenomenon That Should Be Attached Importance to," *Law Science* 3 (2002): 76-82; Wang Kejin, "On the Conflict of Rights: A Perspective from Legal Positivism," *Law and Social Development* 2 (2004): 43-61; Zhang Pinghua, "The Definition of Conflict of Rights," *Science of Law (Journal of Northwest University of Political Science and Law)* 6 (2006): 60-69. For a different view, see Hao Tiechuan, "Conflict of Rights: A Problem That Is Non-existent," *Law Science* 9 (2004): 3-6.

⁹⁸ For an analysis of this issue, see Guan Jinhua, "Also Review on Jia Guihua's Case and Qiu Mantun's Case—Discuss with Professor Su Li," *Chinese Journal of Law* 3 (2000): 28-45; Lin Laifan and Zhang Zhuoming, "Rank of Rights in Conflicts: An Analysis in the Perspective of Normative Jurisprudence," *Journal of Zhejiang University (Humanities and Social Sciences)* 6 (2003): 5-13.

⁹⁹ James Spigelman, "The Forgotten Freedom: Freedom from Fear," 59 *The International and Comparative Law Quarterly* 3 (2010): 543-570.

¹⁰⁰ Wade M. Cole, "Human Rights as Myth and Ceremony? Reevaluating the Effectiveness of Human Rights Treaties, 1981-2007," 117 *American Journal of Sociology* 4 (2012): 1, 131-1 and 171.

responsibility of the legislative, the executive and the judicial authorities to establish the hierarchy of rights among different actors. During the formation of this hierarchy, the position of the goals that rights are expected to achieve in the hierarchy of human needs still needs to be considered. The needs of life come first, followed by the needs of safety. Other needs need to give way to these most basic needs; especially when resources are limited, these different needs need to be met in order.

Finally, when individual rights conflict with collective rights, it will require more specific and thoughtful solutions. Such a solution can be a comparison of the goals that individual needs and collective needs intend to achieve, determining which is more important and more fundamental. More specifically, these questions should be considered: If group needs are protected instead of individual needs, how much will the individuals lose? Or conversely, if individual needs are upheld instead of collective needs, how much damage will be caused? Compare the losses and conclude which one takes precedence. The premise and basis of this comparison is to classify the needs and divide them into levels. The needs of a single individual of the same rank need to give way to the equal needs of the majority. Or, if rights are at different levels, the more fundamental and basic rights claims of individuals prevail over the higher-level, non-basic rights claims of the majority. For example, a person's life cannot be threatened or taken away for the sake of the happiness of the majority; nor can a person's safety be deprived for the sake of the workfare of a few.

C. Avoiding the ideological tendency of paramountcy of human rights

When people try to probe into a series of issues about social and national governance from the perspective of human rights, they will unconsciously show a tendency to regard human rights as the highest social value and governance measure, as an unshakable absolute requirement, and as a governance value that other legal norms, policy goals, and action guidelines need to yield.¹⁰¹ This kind of thinking that attaches great importance to human rights is certainly positive and progressive if viewed from the historical perspective of the development in the Western Middle Ages. However, it must be noted that in contemporary society, "person" and "human rights" have received considerable attention; to a certain extent and in certain social circumstances, the emphasis on human rights has even led to policy distortions.¹⁰² The progress of human civilization has shown increasingly apparent diversity and pluralism of social cultures. Objectively, there are multi-level and multi-dimensional value goals pursued by society, with human rights as a part. At the same time, human rights are by no

¹⁰¹ Gary Teeple, "The Changing Struggle for Rights: A Critical Look at the Origins and Fate of Human Rights," in *Human Welfare, Rights, and Social Activism: Rethinking the Legacy of J. S. Woodsworth* (Jane Pulkington eds. (Toronto: University of Toronto Press, 2010), 91-113.

¹⁰² Wang Zihong, "Ideology in International Economic Sanctions — Analysis of Economic Sanctions with Human Rights & Democracy as Policy Goals," *International Forum* 4 (2014): 1-6.

means limited to individual rights. From this observation, some countries use human rights as a weapon to suppress other countries, which reflects the trend of human rights abuse. Over-emphasis on a certain type of human rights will inevitably transcend all other values, including the rights of other individuals and the stability, unity, fraternity and peace of the entire society. In this sense, human rights have gone beyond the function of protecting the rights of persons and have become a tool of political struggle.¹⁰³

The arguments of “paramountcy of human rights” and “human rights above sovereignty” held by some countries are essentially using human rights as a weapon to attack other countries, especially the policies and propositions of other countries.¹⁰⁴ From a neutral standpoint, this approach fails to meticulously consider other social goals, fails to give specific, true and profound consideration to other pursuits of society, instead it curbs and excludes them all. This can easily lead to the atomization of society, causing people to become overly selfish and ignore the goals and pursuits of society as a whole. Leo Strauss, in his book *Natural Rights and History*, considered that simply focusing on human rights while relatively ignoring social justice (or using Strauss’s concept of “natural right”) does not completely mean historical progress, and may even be a historical deviation.¹⁰⁵ Thus, it is necessary to analyze certain concepts that are beyond traditional human rights together with traditional human rights in the same value system and conceptual system, in order to form a more appropriate and measurable social governance structure.¹⁰⁶ In this way, rights such as the right to peace, the right to security, the right to development and environmental rights are likely to not only supplement political and civil rights, economic, social and cultural rights, but also correct and balance these rights so that they can be coordinated and jointly promote people’s free and all-round development.

V. Conclusion and Implications

Security is a social need that becomes increasingly prominent among individual citizens, various groups, and even nations with human development and progress reaching a certain stage. It is also a human need that can be

¹⁰³ Tian Zhifeng, “Soft Power Competition: Cultural Security of a Nation against the Background of Globalization,” *Academic Exchange* 8 (2003): 33-37.

¹⁰⁴ Hakimeh Saghaye-Biria, “Decolonizing the ‘Universal,’ Human Rights Regime: Questioning American Exceptionalism and Orientalism,” 4 *ReOrient* 1 (2018): 59-77; Elizabeth Van Wie Davis, “Governance in China in 2010,” 35 *Asian Affairs: An American Review* 4 (2009): 195-211; Elizabeth Van Wie Davis, “Uyghur Muslim Ethnic Separatism in Xinjiang, China,” 35 *Asian Affairs: An American Review* 1 (2008): 15-29.

¹⁰⁵ Leo Strauss, *Natural Rights and History* (Chicago: The University of Chicago Press, 1953), 81-119.

¹⁰⁶ Sally Engle Merry, “Measuring the World: Indicators, Human Rights, and Global Governance,” 52 *Current Anthropology* S3 (2011); Damani J. Partridge, Marina Welker and Rebecca Hardin, “Corporate Lives: New Perspectives on the Social Life of the Corporate Form,” 52 *Current Anthropology* 53 (2011): S3-S16.

responded to, protected, and guaranteed when national and global governance progress to a certain level. In this sense, the basic conditions have already been met for security to become a human right; and together with the right to subsistence, the right to peace and the right to development, it constitutes a part of the human rights system that has been expanded and improved since the 20th century. Analyzing the position of the right to security in the human rights structure, there are serious problems with the existing way of defining the “three generations of human rights” which lacks unified classification criteria. To a large extent, it only represents a vague and imprecise classification made by some Western scholars in the early stages of the development of human rights theory. With the refinement of human rights theory, the classification model used for classifying the three generations of human rights should be abandoned. It is neither necessary nor wise to further deduce the fourth and fifth generations of human rights based on this imprecise and unclear division. With a scientific attitude, it should establish a rigorous and clear definition of human rights based on the types of subjects of human rights, the number of subjects, the objects of rights and the goals of rights. The right to security belongs to the goal-oriented category of human rights. Treating security as a human right has largely avoided discussing human rights and security in parallel, and has avoided using the legitimacy of human rights to suppress national governments’ security measures, or frame and attack other countries. This provides space for the development of human rights theory in a broader context, and also enriches the toolbox of human rights discourse and security laws and regulations on a smoother policy platform.

(Translated by *JIANG Yu*)