

# On the Theoretical System Development of Contemporary Chinese Outlook on Human Rights

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**Abstract:** *Centering on the systematic construction of human rights theories, Xi Jinping's discourses on respecting and protecting human rights creatively put forward a series of original theoretical viewpoints and academic propositions, profoundly revealing the basic connotation of a contemporary Chinese outlook on human rights and realizing all-around and deep-level innovation in the construction of a contemporary human rights theoretical system. In ontology, the four-in-one view of human rights of the political party, the government, society, and the people goes beyond the dichotomy between the political state and civil society. In element theory, the substantive view of human rights surpasses the formalist view of human rights. In category theory, the view of human rights focusing on the right to subsistence and the right to development transcends the view of human rights based on the individual's right to freedom. In operation theory, the "development-based human rights path" goes beyond the "human rights-based development path." In practice, the positive view of human rights based on the rule of law surpasses the negative view of human rights based on the rule of law.*

**Keywords:** Xi Jinping on Respecting and Protecting Human Rights ♦ human rights theory ♦ original ♦ Contemporary Chinese Outlook on Human Rights

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General Secretary Xi Jinping's discourses on respecting and protecting human rights are an important component of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era and contribute new theoretical insights and systematic guidance for adapting Marxist human rights concepts to Chinese contexts and the needs of the times and building the contemporary Chinese outlook on human rights. An in-depth exploration of General Secretary Xi Jinping's original contributions to the development of human rights theory from a theoretical perspective and a comprehensive interpretation of the theoretical structure and innovative value of the contemporary Chinese outlook on human rights are of fundamental significance for the construction of China's discipline, academic, and discourse systems of human rights studies. In terms of basic attributes, the originality of a theory lies in the fact that it provides new academic propositions, conceptual frameworks, intellectual connotations, theoretical thinking, and practical wisdom. To this end, this paper comprehensively reveals the construction of the theoretical system of the contemporary Chinese outlook on human rights from five dimensions, namely, the ontology, essential elements, scope, operation, and practice of human rights.

## I. Construction of the Ontology of Contemporary Chinese Outlook on Human Rights

The modern concept of human rights originated in the West and gradually took shape and developed with the Renaissance and the Enlightenment, with the philosophy of liberalism as its theoretical basis. Under the influence of individualism, liberalism, and rationalism, the classical Western liberal concept of human rights evolved along the theoretical trajectory from "natural law" to "natural rights" and then to "human rights." However, the classical liberal view of human rights is grounded on the dichotomy between political state and civil

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society to interpret the concept of human rights. It holds that human rights are the rights of individuals to resist the government and regards antagonism, struggle, and resistance as the essential attributes of human rights. From the perspective of its origins, the birth of human rights concepts in modern times was a history of struggle. The “binary opposition” between political state and civil society is the basic theoretical paradigm of the Western liberal discourse system on human rights. Whether it is the dichotomy between man and nature in ancient Greece, the opposition between clerical power and secular power in the Middle Ages, or the binary opposition between political state and civil society in modern times, the antagonism of human rights has played a certain role in criticizing and deconstructing old systems. However, “a political state cannot exist without the natural basis of the family and the human basis of civil society, which are necessary prerequisites for a state.”<sup>1</sup> The liberalist view of human rights overly advocates the supremacy of individual rights and emphasizes the antagonistic nature of human rights while ignoring the common good and unity of human rights. The contemporary Chinese outlook on human rights has transcended the ideological barrier of absolute antagonism and shifted from absolute antagonism between political state and civil society to a theoretical pattern in which political parties, the government, society, and the people complement and integrate with each other. It stresses that the Party and the government have always taken respecting and protecting human rights as their fundamental mission, adhered to the principle of “exercising power and governing for the people,” and endeavored to create a social governance based on collaboration, participation, and shared benefits. To this end, the theoretical thinking and practical value of respecting and protecting human rights have been integrated into the governance of the Party, the government, and society. Respecting and protecting human rights is the value purpose of state governance, and the governance of the Party, the government, and society should always center around the basic principle of “putting the people first,” thus realizing a radical leap from the binary opposition of political state and civil society to the four-in-one integration of political parties, the government, society, and the people.

First, the people-centered approach to human rights development has laid the foundation for the legitimacy of the Communist Party of China (CPC) as the ruling party of China and revealed the internal logic of the ruling party and the development of human rights. Firstly, putting the people first is the Party’s basic stance on leading the development of human rights. “The CPC comes from the people and has its roots in the people. It serves the people and seeks to improve their well-being.”<sup>2</sup> People-centeredness is the distinctive characteristic of a Marxist political party, and standing firmly on the people’s side is the fundamental pursuit of the CPC’s leadership in human rights protection. Whether or not the people’s demands for rights are met is an important criterion for judging the development of human rights. The amendment to *The Constitution of the Communist Party of China*, adopted at the 17<sup>th</sup> CPC National Congress in 2007, included “respect and safeguard human rights” for the first time. Secondly, people-centeredness is the strategic guidance for the development of human rights under the leadership of the CPC. “The ultimate goal of development is for the people.”<sup>3</sup> In leading the development of human rights, the Party must always adhere to the principle of for the people and by the people, benefiting the people, protecting the people, and ensuring that all people share the fruits of human rights development. Specifically, “for the people” means to meet the people’s aspiration for a better life and enhance their sense of happiness; “by the people” means to respond to the people’s expectations for interests and enhance their sense of gain; “benefiting the people” means to safeguard the well-being of the people and improve their sense of fulfillment; “protecting the people” means to strengthen the institutional support

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<sup>1</sup> Central Compilation and Translation Bureau, *The Complete Works of Marx and Engels*, vol. 3 (Beijing: People’s Publishing House, 2002), 12.

<sup>2</sup> The State Council Information Office of the People’s Republic of China, “The Communist Party of China and Human Rights Protection — A 100-Year Quest,” *People’s Daily*, June 25, 2021, page 2.

<sup>3</sup> The 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), 92.

for human rights protection and enhance the people's sense of security. Thirdly, safeguarding the people's interests is the value purpose of the Party's leadership in the development of human rights. The CPC serves as the core leadership in the human rights cause of contemporary China, and "must put the people's interests above all else."<sup>4</sup> Interests are a core component of rights. In this sense, human rights are the specific externalization of interests, and law is the institutional carrier for confirming and protecting the interests of the people. Marx said, "Law should speak for the common interests and needs of society fostered by a certain mode of material production rather than the arbitrary will of any individual."<sup>5</sup> The interests of the people combine individual and collective interests, which not only include the specific interests of each individual who makes up "the people," but also represent the overall interests of all people in a community. Four, ensuring the principal position of the people is the logical basis for the Party's leadership in the development of human rights. "The most salient feature of China's approach to human rights development is its people-centeredness nature."<sup>6</sup> The theory of respecting the principal position of the people is radically different from the concept of building "a government of the people, by the people, and for the people" and the "Three Principles of the People" put forward in modern times, which represents the latest achievement in practical experience and theoretical summarization of the CPC in leading the people in human rights movements and advancing human rights development over the past century. Upholding the principal position of the people and ensuring that the people enjoy a wide range of rights and freedoms have become the reason for the existence of public power. The theory of respecting the people's principal position regards the people as the main judges for the development level of human rights in China; it returns to the core and fundamental purpose of human rights protection, regards individuals as the aim rather than the means of human rights development, and represents the latest development of Marx's statement that "man is the highest essence of man."<sup>7</sup>

Second, the people-centered approach to human rights development clarifies the intrinsic relationship between state governance and human rights protection. "Only when the government takes human rights and civil rights seriously will the people take the government, the law, and the order seriously."<sup>8</sup> It is notable that traditional governments adopt the top-down governance model, which leads to the improper expansion of government power and the infringement of the legitimate rights and interests of various entities. "Facts in the history of human society have proved that the rule of law is the most reliable and stable way of governance."<sup>9</sup> Therefore, the rule of law is the best choice for the transformation of China's governance model. For one thing, the principle of presumption of human rights should be established in state governance. It is necessary to clarify the boundaries between public and private rights through the list of powers, the list of responsibilities, and the negative list. For the government, it must make sure that "all duties and functions assigned by law are performed" and that "anything the law does not authorize is not done."<sup>10</sup> For individuals, they can "do anything which is not prohibited by the law." This reflects a way of thinking oriented toward human rights instead of a governance logic centered on public power. "Power, big or small, is prone to misuse if without constraint and supervision."<sup>11</sup> Therefore, to advance law-based governance, it is necessary to establish and improve the system of power list and

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<sup>4</sup> Ibid., 37.

<sup>5</sup> Central Compilation and Translation Bureau, *The Complete Works of Marx and Engels*, vol. 6 (Beijing: People's Publishing House, 1961), 292.

<sup>6</sup> Xi Jinping, "Firm Adherence to China's Path of Human Rights Development to Promote Further Progress in Human Rights," *Qiushi* 12 (2022): 4-10.

<sup>7</sup> Central Compilation and Translation Bureau, *Marx and Engels Collected Works*, vol. 1 (Beijing: People's Publishing House, 2009), 11.

<sup>8</sup> Zhang Wenxian, "Rule of Law and the Modernization of State Governance," *China Legal Science* 4 (2014): 10.

<sup>9</sup> Xi Jinping, *On Comprehensively Advancing Law-based Governance* (Beijing: Central Party Literature Press, 2020), 120-121.

<sup>10</sup> Xi Jinping, "Advancing the Construction of a Socialist Country Under the Rule of Law," *Qiushi* 1 (2015): 3-8.

<sup>11</sup> Party Literature Research Center of the CPC Central Committee, *Excerpts of Xi Jinping's Discourses on Comprehensively Advancing Law-based Governance* (Beijing: Central Party Literature Press, 2015), 59.

promote the openness of government affairs in an all-around way with the focus on the allocation of power as well as institutional reform and reorganization, so as to strengthen limitation and supervision on the administrative power of the government. “A responsibility-list approach is a practical expression of the self-regulation of administrative organs to achieve public interests.”<sup>12</sup> Establishing a system of responsibility list can effectively clarify the scope of responsibilities of different departments of administrative organs and is an important measure to optimize public and social services and address the pressing issues related to the people’s well-being. “A negative-list approach is a concentrated expression of the autonomy of private law.”<sup>13</sup> The shift from “positive lists” to “negative lists” can lower the access thresholds for market entities and effectively limit and standardize the exercise of discretion by administrative bodies in the legal dimension, maximizing the protection of the rights and freedoms of market players. For another, it is necessary to establish and improve the “three-in-one” human rights protection model through enhanced governance. The first is to ensure that the government duly fulfills its obligations. The government should adhere to law-based governance and fulfill its basic obligations to respect citizens’ passive human rights. “We should protect citizens’ personal rights, property rights, personality rights, basic political rights, and other rights from infringement.”<sup>14</sup> To achieve this goal, it is necessary to transform the government’s responsibility to respect and safeguard human rights from a “moral obligation” to a “legal obligation.” The second is to ensure that the government duly fulfills its obligation to protect human rights. The government should focus on meeting the people’s demand for a better life, take measures to eliminate barriers to the fulfillment of citizens’ rights from state power or any third parties, and make up for the incurred damage to human rights through the system of state compensation and administrative compensation. The third is to ensure that the government fulfills its obligation to promote the development of human rights. Through institutional measures such as continuously improving the social security system, implementing social assistance, promoting poverty alleviation through education, and providing public legal services, the government should continuously empower all citizens, especially specific vulnerable groups, at the material and cultural-ethical levels, improving the capacity for rights, behavioral capacity, and capacity for responsibility of subjects of human rights.

Finally, the people-centered approach to human rights development reveals the core essence of social governance and human rights protection. Unlike governance and market governance, social governance refers to the continuous process of addressing increasingly complex social problems and meeting increasingly diverse social needs by multiple governance entities in a cooperative and consultative manner. “The key to strengthening and innovating social governance lies in institutional innovation, and the people play an essential role in this process.”<sup>15</sup> The key to strengthening the protection of human rights in social governance lies in motivating the initiative of every individual, so that the people can change from passive participants to active builders in human rights development. Social governance is a type of interactive governance. Interactive governance does not blindly emphasize the central role of society or the state, but ensures that multiple governance entities can equally and fully participate in the whole process of human rights development through the benign interaction between enterprises, social organizations, civil society groups, the people, political parties, and the governments. Social governance is also a kind of autonomous governance. “Only on the basis of autonomy can we build a community of social governance where everyone is responsible, everyone fulfills his or her duties, and everyone enjoys the benefits.”<sup>16</sup> It is an inherent part of social governance to give play to the unique advantages of

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<sup>12</sup> Liu Qichuan, “Legal Logic Behind the Formulation Rules of Responsibility Lists,” *China Legal Science* 5 (2018): 111.

<sup>13</sup> Wang Liming, “The Negative-List Management Model and the Autonomy of Private Law,” *China Legal Science* 5 (2014): 27.

<sup>14</sup> Xi Jinping, *On Comprehensively Advancing Law-based Governance* (Beijing: Central Party Literature Press, 2020), 204.

<sup>15</sup> *Ibid.*, 95.

<sup>16</sup> Zhang Wenxian, “Theory of the ‘Integration of Three Governances,’” *Governance Studies*, No. 6, 2020, p. 6.

the system of community-level self-governance in urban and rural governance, to cultivate self-motivated and rational contributors to human rights development, and to ensure that the people can independently manage public affairs and public welfare undertakings at the grassroots level that involve their own interests in accordance with the law. Besides, social governance is a kind of participatory governance. Participatory governance gives play to the important role of public participation in social governance through “guaranteeing the people’s right to equal participation and equal development,”<sup>17</sup> which is absolutely different from authoritarian governance. In social governance, we should adhere to the constitutional concept that all state power belongs to the people and ensure that the people participate in the whole process of interest expression, resource allocation, and public decision-making in an orderly and extensive manner according to the law. We should continuously enhance the people’s ability to pursue equal participation and equal development, so as to realize the coupled development of human rights and participatory governance. Social governance is also a kind of co-governance. Co-governance advocates that through communication and cooperation among multiple entities, the conflict of rights in social governance should be tackled in a democratic way to achieve a balance of interests. “Democracy is a form of state power... Democracy means formally recognizing the equality of all citizens and the equal right of everyone to determine the system of the state and govern the country.”<sup>18</sup> Whether or not the people’s right to democratic elections, democratic decision-making, democratic supervision, and democratic governance can be fully realized is an important indicator of a country’s degree of democracy. In addition, social governance is a kind of shared governance. The fundamental purpose of shared governance is to uphold the basic principles of equal rights, equal opportunities, fair rules for all, and outcome equity, build a mechanism for sharing rights to ensure that all people enjoy equal opportunities for development, and enhance the inclusiveness of human rights in the process of achieving common prosperity. Therefore, it is necessary to “improve the social governance system based on collaboration, participation, and shared benefits”<sup>19</sup> to provide institutional support for the development of human rights in the new era, so that everyone can contribute to human rights development, enjoy corresponding achievements, and judge their development level.

## **II. Construction of Essential Elements for Contemporary Chinese Outlook on Human Rights**

What are the constituent elements and intrinsic values of human rights is the theoretical basis for constructing the discourse system on human rights. Western classical natural law takes “natural rights” as the logical basis of human rights, gives legitimacy to public power through social contracts, and emphasizes the deconstruction and criticality of human rights, leading to the formality and superficiality of their view of human rights. The contemporary Chinese outlook on human rights is based on the practical needs of China’s human rights practice, guided by Marxist human rights theory, focusing on the synchronicity and integrity of human rights development, and taking the all-around, free development of human beings as the intrinsic value of human rights development. This holistic and substantive view of human rights overcomes the inherent drawbacks of human alienation in the Western discourse system on human rights. It aims to realize the institutionalization and substantiation of human rights and offers all-around and scientific answers to the question about the systematic framework and intrinsic elements of human rights, which is constructive and forward-looking. Therefore, it radically transcends the limits of the Western formalist view of human rights.

The first is the composite nature of human rights subjects, that is, it reveals the interaction and coexistence of individual subjects and collective subjects and ultimately returns to each

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<sup>17</sup> The 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), 6.

<sup>18</sup> Lenin, *The State and Revolution*, compiled and translated by the Compilation Bureau for the Works of Marx, Engels, Lenin and Stalin of the CPC Central Committee (Beijing: People’s Publishing House, 2015), 102.

<sup>19</sup> Xi Jinping, “Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects,” *People’s Daily*, October 26, 2022, page 1.

individual. On the relationship between the individual and the collective, Marx pointed out: “Only when the real individual reverts the abstract citizen to himself and becomes a quasi-being as an individual in the middle of his own empirical life, his own individual labor, and his own individual relations, and only when man realizes that his ‘inherent power’ is a social force, and organizes this force so that he no longer separates the social force from himself in the form of political power, can the emancipation of man be achieved.”<sup>20</sup> The Western liberal view of human rights ignores the composite nature of human rights subjects and the “species-essence” of human beings and only pursues the “individual-oriented” position. Contemporary Chinese outlook on human rights does not simply define human rights subjects as individuals or collectives, but creatively demonstrates the concept of human rights subjects with composite characteristics from the perspective of “the prosperity of the country, the rejuvenation of the Chinese nation and the well-being of the people”.<sup>21</sup> The state, the nation, and the people are all relatively independent collective concepts, but this does not mean that the human rights of individuals are denied. What is crucial to the realization of the Chinese Dream is to ensure that everyone, be it an individual or a collective, enjoys the fruits of human rights development. For the composite subject of the state, the innovation of contemporary Chinese outlook on human rights lies in promoting human rights protection through the development and prosperity of the country. “The Chinese Dream and human rights are interrelated and mutually reinforcing.”<sup>22</sup> To a certain extent, the Chinese Dream is a dream of human rights.

A country’s rights to subsistence and development are the prerequisite and precondition for individuals to enjoy the rights to subsistence and development. “The humiliated history of modern Chinese society proved the extreme importance of the rights to subsistence and development for China.”<sup>23</sup> The survival and development of individuals would be impossible without national independence and liberation. Nation is a collective concept, and the contemporary Chinese outlook on human rights put forward and expounded on the original concept of community for the Chinese nation, which is a concentrated embodiment of such a concept. “The pattern of unity in diversity of the Chinese nation refers to that unity contains diversity and diversity composes unity, that unity and diversity are interdependent, and that unity is the main line and direction, diversity is the element and driving force, and the two are dialectically unified.”<sup>24</sup> “Unity in diversity” is the fundamental feature of the concept that the Chinese nation is a community formed by all ethnic groups. Unity is the foundation upon which diversity functions as components. To put the construction of the Chinese nation as a community of all ethnic groups into the track of the rule of law, we must “uphold the sense of community for the Chinese nation as the overriding principle,”<sup>25</sup> and ensure that ethnic minorities equally and fully enjoy rights while fulfilling obligations. “The fundamental goal of national prosperity and rejuvenation is the people’s well-being.”<sup>26</sup> However, “the people are not an abstract symbol but individuals of flesh and blood,”<sup>27</sup> and they are an interconnected whole comprised of individuals with public rationality for public interests. To achieve national prosperity and rejuvenation, the specific and realistic needs of every individual subject of human rights must be taken into consideration, to ensure their full enjoyment of human rights. “Only when the country and the nation flourish can everyone lead

<sup>20</sup> Central Compilation and Translation Bureau, *The Complete Works of Marx and Engels*, vol. 3 (Beijing: People’s Publishing House, 2002), 189.

<sup>21</sup> Party Literature Research Center of the CPC Central Committee, *Excerpts of Xi Jinping’s Discourses on Realizing the Chinese Dream of National Rejuvenation* (Beijing: Central Party Literature Press, 2013), 71.

<sup>22</sup> Wang Xigen, et al., *The Chinese Dream and Human Rights Development* (Beijing: People’s Publishing House, 2019), 1.

<sup>23</sup> Wang Xigen, “Human Rights Value of Xi Jinping Thought on the Rule of Law,” *Oriental Law* 1 (2021): 45.

<sup>24</sup> Party Literature Research Center of the CPC Central Committee, *Excerpts of Xi Jinping’s Discourses on Socialist Political Construction* (Beijing: Central Party Literature Press, 2017), 150.

<sup>25</sup> “Forging Strong Sense of Community for Chinese Nation and Promoting the High-quality Development of Party’s Work on; Ethnic Affairs in the New Era,” *People’s Daily*, August 29, 2021, page 1.

<sup>26</sup> Wang Xigen, “Adapting Marxist Human Rights Theory to the Chinese Context and Its Development,” *Law and Social Development* 2 (2019): 64.

<sup>27</sup> Xi Jinping, *Xi Jinping, The Governance of China (II)* (Beijing: Foreign Languages Press, 2017), 317.

a happy life.”<sup>28</sup> In addition, representative specific groups including the elderly, women, children, the disabled, ethnic minorities, poverty-stricken population, urban residents with difficulties, and migrant workers are also the composite subjects of human rights, which is a prominent characteristic of the contemporary Chinese outlook on human rights. Those specific groups are more vulnerable due to certain physiological or social reasons and thus have a disadvantageous position in human rights protection. Standing at the strategic height of realizing the Chinese Dream, the contemporary Chinese outlook on human rights calls for making continuous progress in “ensuring people’s access to childcare, education, employment, medical services, elderly care, housing, and social assistance”<sup>29</sup> and stimulating the innate potential of every individual in the specific groups, so that “everyone can have access to opportunities for achieving self-development, making contributions to society, living a wonderful life, and realizing their dreams.”<sup>30</sup>

The second is the full coverage of human rights objects, that is, revealing the value of human rights objects in terms of economic, political, social, cultural and ecological progress. “The objects of human rights refer to the various opportunities, resources, interests, and benefits to which human rights are directed,<sup>31</sup> and “full coverage” means the continuous expansion of the scope of human rights objects. In the legal philosophy of human rights, human rights themselves are an interrelated and inseparable whole. As a representative of classical natural law studies, Locke believed that in the state of nature, no one “ought to harm another’s life, health, liberty, or possessions.”<sup>32</sup> The Western liberal view of human rights has been deeply influenced by modern theories of natural rights, which differentiates and dissolves the holistic nature of human rights and regards human rights objects as the civil and political rights with freedom as the core, while ignoring economic, social, cultural, and ecological rights. The contemporary Chinese outlook on human rights is committed to improving people’s livelihood and well-being, promoting common prosperity, and fully realizing human rights in the economic, political, social, cultural and ecological dimensions. From the economic perspective, economic rights are the basis for people to enjoy and realize other rights. “The ultimate purpose of economic development is to better ensure and improve people’s well-being.”<sup>33</sup> People’s well-being involves the realization level of various rights, including the right to an adequate living standard, the right to employment, and the right to education, which is closely related to the economic development level. The benefits generated by economic development can provide material support for the people’s multi-level and diversified needs in terms of environment, housing, income, and medical care. From the political perspective, China gives full play to the significant advantages of its socialist democratic system, ensures that the people exercise their rights to know, to participate, to express views and to supervise the exercise of power in accordance with the law and in an orderly manner, solve pressing problems related to the vital interests of the people, implement the whole-process people’s democracy, and realize the unity of formal democracy and substantive democracy. From the cultural perspective, cultural rights can provide an inexhaustible source of motivation for the well-rounded development of human beings. “Civilization is a conspicuous symbol of a modern country” and “the development of cultural undertakings is the fundamental way to meet the people’s cultural-ethical needs and protect their cultural rights and interests.”<sup>34</sup> It is necessary to comprehensively promote the building

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<sup>28</sup> Party Literature Research Center of the CPC Central Committee, *Excerpts of Xi Jinping’s Discourses on Realizing the Chinese Dream of National Rejuvenation* (Beijing: Central Party Literature Press, 2013), 3-4.

<sup>29</sup> Xi Jinping, “Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era,” *People’s Daily*, October 28, 2017, page 1.

<sup>30</sup> The 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), 34.

<sup>31</sup> Wang Xigen, “Human Rights Value of Xi Jinping Thought on the Rule of Law,” *Oriental Law* 1 (2021): 40.

<sup>32</sup> John Locke, *Two Treatises of Government (II)*, translated by Qu Junong (Beijing: The Commercial Press, 2017), 4.

<sup>33</sup> Xi Jinping, *Xi Jinping, The Governance of China (II)* (Beijing: Foreign Languages Press, 2017), 374.

<sup>34</sup> Xi Jinping, *Understanding the New Development Stage, Applying the New Development Philosophy, and Creating a New Development Dynamic* (Beijing: Central Party Literature Press, 2021), 402.

of China into a leading country in education, culture and sports, vigorously develop cultural undertakings and cultural industries, and build a public cultural service system that covers all aspects and types to ensure that the people share the dividends of cultural development. From the social perspective, efforts should be made to optimize the social rights protection system on the theoretical basis of social equity. General Secretary Xi Jinping, general secretary of the Communist Party of China (CPC) Central Committee, stressed, “As we work to ensure and improve people’s well-being, we must focus on the most pressing, most immediate issues that concern the people the most”<sup>35</sup> and “promote social equity and justice, with people’s well-being as the core goal.”<sup>36</sup> We should solve the issues that concern the people most, such as income, medical care, hygiene, education, and elderly care, focus on protecting the rights of specific groups such as women, children, the elderly, and the poverty-stricken population, ensure equal access to public services, and continuously empower human rights subjects. From the environmental perspective, ecological and environmental rights provide the necessary environmental conditions for other rights. “Environment is livelihood.”<sup>37</sup> The eco-environment is a key factor affecting the realization of the right to health. We should adhere to the basic principle of promoting ecological progress for the people, address challenges to environmental development, meet the people’s needs for a better environment with diversified and high-quality ecological products, and continuously improve the people’s happiness index.

The last is the wide scope of human rights, that is, it reveals the dialectical unity between the comprehensive coordination and promotion of all human rights and the well-rounded and free development of human beings. The well-rounded and free development of human beings does not simply refer to the all-around improvement of individual abilities and the full satisfaction of their needs for rights, but represents an ideal state of social development — “a form of society based on the all-around and free development of each individual,”<sup>38</sup> which shows a substantialist view of human rights. The development of human beings includes two levels: free development and well-rounded development. The free development of human beings gets rid of personal dependence, overcomes the alienation of human beings based on the social division of labor, enables everyone to exercise various rights independently, consciously and freely, and realizes the development of personality. The well-rounded development of man means that “a person possesses his own comprehensive essence in a holistic way, that is, as a whole human being.”<sup>39</sup> Based on the relationship between these two concepts, the free development of human beings is the driving force and premise of well-rounded development, while the well-rounded development of human beings is the goal and destination of free development. The contemporary Chinese outlook on human rights inherits and enriches the Marxist theory on the well-rounded and free development of human beings and insists on promoting the development of human rights with Chinese modernization. It holds that all human rights are equally important to the well-rounded and free development of human beings, which should be promoted in a comprehensive and coordinated way. In addition, the specific rights contained in a single human right shouldn’t be higher than or superior to others, thus creating a substantialism approach to human rights development. The well-rounded and free development of human beings and the comprehensive and coordinated promotion of all human rights complement each other. “China coordinates the planning and promotion of all rights and endeavors to achieve a balanced development of economic, social, and cultural rights and civil and political rights.”<sup>40</sup> Chinese modernization contains five

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<sup>35</sup> Xi Jinping, *The Governance of China (III)* (Beijing: Foreign Languages Press, 2020), 35.

<sup>36</sup>The 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), 106.

<sup>37</sup> Xi Jinping, “A Deeper Understanding of the New Development Concepts,” *Qiushi* 10 (2019): 4-16.

<sup>38</sup> Karl Marx, *Das Kapital (Commemorative Edition)*, vol. 1 (Beijing: People’s Publishing House, 2018), 683.

<sup>39</sup> Central Compilation and Translation Bureau, *Marx and Engels Collected Works*, vol. 1 (Beijing: People’s Publishing House, 2009), 189.

<sup>40</sup> State Council Information Office of the People’s Republic of China, *Seeking Happiness for People: 70 Years of Progress on Human Rights in China* (Beijing: People’s Publishing House, 2019), 11.

dimensions, namely, “the modernization of a huge population,” “the modernization of common prosperity for all,” “the modernization of material and cultural-ethical advancement,” “the modernization of harmony between humanity and nature,” and “the modernization of peaceful development.”<sup>41</sup> It neither focuses only on a single material or cultural-ethical dimension, nor merely eyes the natural or social spheres, but adheres to the unity of Two-Point Theory and Key Point Theory from the strategic height of the overall protection of human rights, with an aim to shape a multi-dimensional, multi-faceted and holistic human rights protection system.

### **III. Definition of the Scope of Contemporary Chinese Outlook on Human Rights**

The international academic community has diversified views on the question of how many specific forms of rights are included in the concept of human rights, which has a high degree of maternal nature and probability. The Western liberal view of human rights constructs a mainstream discourse system on human rights with the right to freedom as the core; Developing countries advocate the right to development as a basic human right; *The Universal Declaration of Human Rights* (UDHR) and the United Nations International Covenants on Human Rights have divided human rights into two major categories: civil and political rights and economic, social, and cultural rights. The innovation that contemporary Chinese outlook on human rights made to the definition of the scope of human rights lies in that it critically inherits the existing theories of human rights and adapts them to China’s actual conditions, thus breaking through and developing the international authoritative concept of human rights in three aspects:

First, it clarifies the core of human rights theory, and puts forward for the first time the original proposition that “the rights to subsistence and development are the primary and basic human rights,” thus making clear the paramount status of the rights to subsistence and development as the basic categories of human rights for the first time in history.<sup>42</sup> Constructing a discourse system on human rights with the rights to subsistence and development as the core is an original contribution made by China to the global human rights governance system. From the perspective of the relationship between the right to subsistence and other human rights, “the right to life is the prerequisite for the enjoyment of all other human rights.”<sup>43</sup> However, the right to life is not only to satisfy people’s bottom-line needs and enable them to subsist, but also to contain a higher level of pursuit, so that people can live with health and dignity. The right to life can be divided into the following aspects: The first is the right to biological subsistence. Marx pointed out that “we should, first of all, establish the primary premise of the existence of all humans or the primary premise of all history, that is, in order to make history, people must be able to live; but in order to live, first of all, people need to have access to food, drink, shelter, clothing, and other necessities.”<sup>44</sup> Only when people’s rights to life and bodily integrity, which are the most fundamental rights, are guaranteed can their other human rights be realized. The second is the right to economic subsistence. Economic restraint is a basic attribute of human rights. Economic rights such as the right to labor, the right to rest, the right to employment, and the right to property are indispensable in the process of acquiring property through labor and meeting the basic needs for survival, which can provide material support for people’s subsistence. The third is the right to political subsistence. The right to subsistence is an open concept that “involves not only economic life,

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<sup>41</sup> Xi Jinping, “Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects,” *People’s Daily*, October 26, 2022, page 1.

<sup>42</sup> Xi Jinping, “Xi Jinping’s Congratulatory Letter to the International Seminar on the 30<sup>th</sup> Anniversary of the UN Declaration on the Right to Development,” *People’s Daily*, December 5, 2016, p. 1.

<sup>43</sup> “Firm Adherence to China’s Path of Human Rights Development to Promote Further Progress in Human Rights,” *People’s Daily*, February 27, 2022, page 1.

<sup>44</sup> Central Compilation and Translation Bureau, *Marx and Engels Selected Works*, vol. 1 (Beijing: People’s Publishing House, 2021), 158.

but also political, cultural and other aspects necessary for human survival.”<sup>45</sup> China has completed the building of a moderately prosperous society in all respects. Achieving greater material abundance and living a more decent and dignified life have become the new direction for the development of the right to subsistence. The fourth is the right to social subsistence. Viewed from the relationship between individuals and society, “the essence of man... is the ensemble of the social relations.”<sup>46</sup> In the complex network of social relations, people’s demands for the right to subsistence can only be realized in the interrelationship and social interaction between people. The fifth is the right to ecological subsistence. In the process of acquiring wealth, people cause environmental pollution and ecological damage, which poses a serious threat to human survival. “A good ecological environment is the fairest public good and the most inclusive well-being for the people.”<sup>47</sup> Creating a sound ecological environment and pursuing the harmonious unity of man and nature have become new requirements for the development of the right to subsistence. The sixth is the right to digital existence. With the rapid development of technologies such as the internet, big data, cloud computing, and blockchain, the breadth and depth of digital technology’s involvement in social life have been continuously expanded, and “digital existence is becoming an inseparable and significant part of basic human existence.”<sup>48</sup> How to strengthen the protection of digital rights such as the right to privacy, the right to personal information, and the right to data security in the digital era has become a new topic for the development of the right to subsistence. From the perspective of global human rights governance, the construction of a socialist discourse system on human rights with Chinese characteristics centered on the rights to subsistence and development recognizes the status of the right to development as a human right and injects Chinese strength into the mainstreaming of the right to development. Whether the right to development is a basic human right has been controversial in the international community. China has taken the lead in incorporating the right to development into the human rights discourse and has proved the legitimacy and necessity of taking the right to development as a primary basic human right through long-term practice. The country “strives to create conditions and opportunities for the people of all countries, especially those from developing countries, to share the fruits of development.”<sup>49</sup>

Second, it clarifies the logical starting point of human rights theory, and initiates the original proposition of “putting the people’s safety and health first,” thus formally establishing the status of the rights to life and health as the cornerstone of all human rights.<sup>50</sup> Such values as respect for life, freedom, equality, efficiency, and justice are essential in the value system of human rights. Subsistence is the primary need of humans. When it comes to the issue of human survival, the first issue facing us is personal safety and health. The safety and health of people are the basis for the enjoyment of all other human rights and for the realization of free and well-rounded development. At present, the main potential threats to people’s lives and safety are terrorism, extremism, public security emergencies, acute infectious diseases, and other external acts of infringement. The key to achieving people’s safety lies in establishing and improving the emergency management system, fully implementing a holistic approach to national security, advancing the construction of a “Peaceful China”, giving priority to protecting people’s personal rights and property rights,

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<sup>45</sup> Liu Huawen, “On the Core Concepts of Contemporary Chinese Outlook on Human Right — Based on the Interpretation of Xi Jinping’s Discourses on Human Rights,” *Journal of Comparative Law* 4 (2022): 9.

<sup>46</sup> Central Compilation and Translation Bureau, *Marx and Engels Collected Works*, vol. 1 (Beijing: People’s Publishing House, 2009), 505.

<sup>47</sup> The 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), 85.

<sup>48</sup> Chang Jian, “Digital Existence of Man and Human Rights Protection,” *Journal of Southeast University (Philosophy and Social Sciences)* 4 (2022): 47.

<sup>49</sup> Xi Jinping, “Xi Jinping’s Congratulatory Letter to the International Seminar on the 30<sup>th</sup> Anniversary of the UN Declaration on the Right to Development,” *People’s Daily*, December 5, 2016, page 1.

<sup>50</sup> Xi Jinping, “Speech During the Inspection Tour to Hubei Province for COVID-19 Prevention and Control,” *Qiushi* 7 (2020): 4-11.

and reducing all kinds of illegal and criminal acts. If people's right to health is fully realized, it can provide inexhaustible driving forces and support for the development of human rights in China. "People's health is the foundation of civilization and social progress."<sup>51</sup> The right to health plays a fundamental role in the human rights system. Without the right to health, the rights to labor and education would be impossible to be fully realized, and the goal to achieve well-rounded development of human beings would be like a river without the source or a tree without roots. Major measures to safeguard people's right to health include: implementing the Healthy China Initiative; promoting the reform of the medical and health system; strengthening the prevention of major diseases; establishing the medical insurance system that covers the whole population; building a public health service system; and comprehensively and fully protecting the health rights and interests of specific groups such as the elderly, the disabled, the poverty-stricken population, women, and children.

Third, it clarifies the future vision of human rights theory, and initiates the new proposition that "living a life of contentment is the ultimate human right," establishing the original and independent concept of "the right to a happy life" in the human rights concept system.<sup>52</sup> Among the original academic propositions of contemporary Chinese human rights theory, the most distinctive is the establishment of the concept of "the right to a happy life." The right to a happy life nurtured in China's human rights field is not a simple accumulation of the pursuit of individual happiness or the "greatest happiness of the greatest number" advocated by utilitarian jurisprudence. Rather, it is an "overlapping consensus" on happiness among the people under the guidance of Marxist human rights theory and view of happiness. Since the beginning of China's reform and opening-up, through the liberation and development of the productive forces, the people's rights to subsistence and development have been fully guaranteed, laying a solid material foundation for their happy life. With the changes of the principal contradiction in society, rights are manifested not only in the tangible material dimension, but also in the intangible but perceptible cultural-ethical dimension; The protection of rights not only involves the material and cultural fields, but also further expands to the field of living a better life; The value goal of rights not only focuses on the satisfaction of basic living needs, but also points to the free and well-rounded development of human beings. In this context, the concept of people's right to a happy life came into being. From the perspective of practice, the right to a happy life is a high-level form of the rights to subsistence and development. There are qualitative differences in the content composition between different types of human rights. Moreover, due to material constraints, there are fundamental differences between various discourse system on human rights. As a high-level human right, the right to a happy life, as a product of China's practice in human rights development, features a high degree of generalization; it does not exclude the right to subsistence, the right to development, and other specific forms of rights. Taking the white papers on human rights issued by China over the years as the examples: The white paper *Human Rights in China* issued in 1991 first put forward the idea that "the right to subsistence is the foremost human right that the Chinese people long fight for."<sup>53</sup> The white paper *The Right to Development: China's Philosophy, Practice and Contribution* issued in 2016 further stressed that "the right to subsistence and development are the primary, basic human rights."<sup>54</sup> In 2018, General Secretary Xi Jinping put forward the idea that "living a life of contentment is

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<sup>51</sup> The 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), 73.

<sup>52</sup> "Xi Jinping Reiterates the Adherence to the Human Rights Development Path in Line with China's National Conditions and Promoting Well-Rounded Development of People in His Congratulatory Letter to the Symposium Marking the 70<sup>th</sup> Anniversary of the *Universal Declaration of Human Rights*," *People's Daily*, December 11, 2018, page 1.

<sup>53</sup> State Council Information Office of the People's Republic of China, "Human Rights in China," *People's Daily*, November 2, 1991, page 5.

<sup>54</sup> State Council Information Office of the People's Republic of China, "The Right to Development: China's Philosophy, Practice and Contribution," *People's Daily*, December 2, 2016, page 10.

the ultimate human right,”<sup>55</sup> which was further confirmed in the white paper *Seeking Happiness for People: 70 Years of Progress on Human Rights in China* released subsequently. In the human rights system, it is difficult to distinguish between primary and secondary human rights, and different types of human rights all regard the free and well-rounded development of man as a common value goal. “The free and well-rounded development of man is manifested as people’s happy life under specific economic and social realities.”<sup>56</sup> From “the primary human right” to “the primary and basic human right” and then to “the ultimate human right,” these different statements on the right to a happy life reflect changes in the focus of China’s human rights practice in different periods, which together form an interdependent and inseparable progressive system of human rights practice. As a symbolic academic proposition, “the right to a happy life” has a higher positioning and richer forms, covering specific forms of the sub-rights to “a healthy, peaceful, and decent life.”<sup>57</sup> These three levels are progressive from low to high, represent a scientific and systematic theoretical analysis of the relations among basic human rights, bottom-line human rights, and superordinate human rights, endowing contemporary Chinese outlook on human rights with new connotations of the times based on a rigorous logic and scientific methods.

#### **IV. Construction of the Theory on the Operation of Contemporary Chinese Outlook on Human Rights**

On the basis of adhering to the principle of universality of human rights, the contemporary Chinese outlook on human rights has embarked on the path of human rights development with Chinese characteristics, and opened up a new “development-based human rights path” in the operation of human rights. In essence, this outlook transcends the “human rights-based development path” proposed by the international community, thus ensuring the steady and sustainable development of China’s human rights cause. Focusing on the relationship between human rights and development, whether to promote human rights through development or the other way around is a major controversy in the global discourse system on human rights. Some advocate prioritizing human rights over development, while others hold that development prevails over human rights, pitting human rights and development against each other. The “human rights-based development path” advocates that human rights are the precondition for development, placing the focus on human rights, and taking the right to freedom as the core content, which, to some extent, played a progressive role in history. However, in the current context of global human rights discourses, the human rights-based development path has become increasingly limited: it only views the right to freedom stipulated by law as the core of human rights protection and emphasizes the government’s passive duty of respecting human rights, thus ignoring the development of vulnerable groups; The overemphasis on individual freedom may cause conflicts between individuals in terms of human rights and contradictions between individual and public interests; Western countries use this theory as a criterion to judge the human rights development of developing countries, negating the important contributions of developing countries to promoting the right to development. The human rights-based development path with the right to freedom as the core is rooted in the West, so it doesn’t completely conform to the status quo of human rights development in developing countries. The “development-based human rights path” regards development as a means to realize human rights, a standard for measuring the human rights situation, and the goal of human rights development. It advocates that “human rights and development are inseparable from each other, and development itself is a human right; it is equally important to view development from the perspective of human

<sup>55</sup> “Xi Jinping Reiterates the Adherence to the Human Rights Development Path in Line with China’s National Conditions and Promoting Well-Rounded Development of People in His Congratulatory Letter to the Symposium Marking the 70<sup>th</sup> Anniversary of the Universal Declaration of Human Rights,” *People’s Daily*, December 11, 2018, page 1.

<sup>56</sup> Gao Changjian, “Theoretical Orientation and Practical Requirements of the Concept that ‘Living a Life of Contentment is the Ultimate Human Right’,” *Political Science and Law* 10 (2022): 7.

<sup>57</sup> As for the rights to a healthy, peaceful, decent, and happy life, see Wang Xigen, “On the Right to a Happy Life in Xi Jinping Thought on the Rule of Law,” *Zhengfa Luncong (Political and Law Tribune)* 5 (2021): 7.

rights and view human rights from the perspective of development.”<sup>58</sup> The 1969 UN *Declaration on Social Progress and Development* linked human rights to development. The 1979 UN resolution on the right to development clearly stated that “the right to development is a human right.” The 1986 UN *Declaration on the Right to Development* clarified the status of the right to development as a human right and made more specific provisions on its content. Subsequently, the right to development has also been repeatedly affirmed in UN official documents such as the *Vienna Declaration and Programme of Action*, the *United Nations Millennium Declaration* and the *2030 Agenda for Sustainable Development*.

While emphasizing the importance of human rights to development, the contemporary Chinese outlook on human rights focuses on the value function of development to human rights, and transcends the “human rights-based development path” with the “development-based human rights path.” Proceeding from the universality and particularity of human rights, General Secretary Xi Jinping has made a series of important statements on the theme of “development” and systematically expounded the new path of human rights development with Chinese characteristics — namely, promoting human rights with development, which essentially optimizes the value connotation of human rights theory. In 2015, in his congratulatory letter to the Beijing Forum on Human Rights, General Secretary Xi Jinping pointed out, “For a long time, China, by connecting the universality principle of human rights with China’s reality, constantly advances social and economic development, improves people’s well-being, promotes social fairness and justice, strengthens legal guarantee of human rights, and strives for a comprehensive and coordinated development of economic, social and cultural rights as well as civil and political rights. This has significantly elevated the guarantee level of people’s rights to subsistence and development, and paved a development path for human rights suitable to China’s national conditions.”<sup>59</sup> In 2016, in his congratulatory letter to the International Seminar on the 30<sup>th</sup> anniversary of the UN *Declaration on the Right to Development*, General Secretary Xi Jinping stressed, “China regards development as the key to solving all problems and the primary task for the Communist Party of China in governing and rejuvenating the country. China persists in combining the principle of human rights’ universality and the nation’s actual conditions, and sticks to the principle that the rights to subsistence and development are the primary and basic human rights.”<sup>60</sup> In 2017, General Secretary Xi Jinping put forward the important proposition of “emphasizing cooperation for development, promoting human rights through development, and calling for joint development of a community with a shared future for mankind”<sup>61</sup> in his congratulatory letter to the first South-South Human Rights Forum. In 2018, in a letter to the symposium marking the 70<sup>th</sup> anniversary of the *Universal Declaration of Human Rights*, General Secretary Xi Jinping clarified, “China has persisted in combining the principle of human rights’ universality with the reality of contemporary times and stayed committed to a path of human rights development that fits the national conditions. China adheres to a people-centered vision of human rights, considers the rights to subsistence and development as the primary and basic human rights, and works for coordinated development of the people’s economic, political, social, cultural and environmental rights through efforts to maintain social fairness and justice and promote well-rounded development of humans.”<sup>62</sup> In his congratulatory letter to the 2021 South-South Human Rights Forum, General Secretary Xi

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<sup>58</sup> Wang Xigen, et al., *Report on the Research of the Right to Development in China: Discourse System Construction* (Beijing: People’s Publishing House, 2020), “Foreword,” 5.

<sup>59</sup> Xi Jinping, “Xi Jinping’s Congratulatory Letter to the 2015 Beijing Forum on Human Right,” *People’s Daily*, September 17, 2015, page 1.

<sup>60</sup> Xi Jinping, “Xi Jinping’s Congratulatory Letter to the International Seminar on the 30<sup>th</sup> Anniversary of the UN Declaration on the Right to Development,” *People’s Daily*, December 5, 2016, page 1.

<sup>61</sup> Xi Jinping, “Congratulatory Letter to the First South-South Human Rights Forum,” *People’s Daily*, December 8, 2017, page 1.

<sup>62</sup> Xi Jinping, “Xi Jinping Reiterates the Adherence to the Human Rights Development Path in Line with China’s National Conditions and Promoting Well-Rounded Development of People in His Congratulatory Letter to the Symposium Marking the 70<sup>th</sup> Anniversary of the Universal Declaration of Human Rights,” *People’s Daily*, December 11, 2018, page 1.

Jinping called for “promoting humans rights through development” and “advancing the free and well-rounded development of people.”<sup>63</sup> On February 25, 2022, General Secretary Xi Jinping delivered an important speech at the 37<sup>th</sup> group study session of the Political Bureau of the 19<sup>th</sup> CPC Central Committee, in which he pointed out, “We must fully, accurately and comprehensively implement the new development philosophy, and uphold the people-centered development approach; We must promote development for the people and by the people, and ensure the fruits of development are shared by the people; We must strive to address the fundamental issues that most concern the interests of the people, to solve the problem of unbalanced and insufficient development, and to achieve higher-quality, more efficient, fairer, more sustainable and safer development, so as to ensure that the people have a stronger and more sustainable sense of gain, happiness and security in the process of development.”<sup>64</sup> In 2023, in his congratulatory letter to the Forum on Global Human Rights Governance, General Secretary Xi Jinping reiterated that “China advocates for promoting human rights with development, putting into action the Global Development Initiative, enhancing the inclusiveness, accessibility, and sustainability of development, and ensuring fair entitlement to human rights by people of all countries through modernization paths with their own characteristics.”<sup>65</sup> The human rights development path with Chinese characteristics has overcome the historical limitations of the Western discourse system on human rights that places “human rights over development” and injected new vitality into the development of the global human rights cause. Whether it is to implement the new philosophy of innovative, coordinated, green, open, and shared development or to build a new development paradigm and achieve high-quality development, the ultimate goal is to meet the needs of the people for a high-quality life through development, promote the all-around development of the human rights cause, and continuously improve the level of human rights protection.

The “development-based human rights path” emphasizes the need to continuously expand the space for the operation of rights, enrich the types of existing rights, and promote the in-depth development of human rights in the process of two-way interaction between development and human rights. With the change of the principal contradiction in social development in the new era, the demand for basic human rights has also extended from the traditional material and cultural aspects to the fields of democracy, rule of law, fairness, justice, security and environment. In addition, amid the wave of digitalization, the operation of rights has also expanded from tangible and sensible real life to complex and virtual cyberspace. It is difficult for the existing types or contents of rights to be completely and accurately applied to the new fields of rights. General Secretary Xi Jinping pointed out, “Only development can protect the basic rights of the people, and only development can satisfy the people’s ardent aspirations for a better life.”<sup>66</sup> Therefore, we must adhere to promoting human rights through development, broadening the coverage of human rights, and deepening the connotations of human rights in the process of development. For one thing, the “development-based human rights path” puts forward the quantitative requirements for human rights protection from a horizontal perspective. In the existing rights system, we need to “ensure that all citizens enjoy a wide range of rights in accordance with the law, that their personal rights, property rights, basic political rights, and other rights are free of infringement, and that their economic, cultural, social, and other rights are fulfilled.”<sup>67</sup> In the new fields of rights, we need to “build China into a great modern socialist country that is prosperous, strong, democratic,

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<sup>63</sup> Xi Jinping, “Xi Jinping Sends Congratulatory Letter to the 2021 South-South Human Rights Forum,” *People’s Daily*, December 9, 2021, page 1.

<sup>64</sup> Xi Jinping, “Steadfastly Following the Chinese Path to Promote Further Progress in Human Rights,” *Qiushi* 12 (2022): 4-10.

<sup>65</sup> Xi Jinping, “Xi Jinping Sends Congratulatory Letter to the Forum on Global Human Rights Governance,” *People’s Daily*, June 15, 2023, page 1.

<sup>66</sup> The 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), 165.

<sup>67</sup> The 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), 136.

culturally advanced, harmonious, and beautiful<sup>68</sup> “through a two-step strategic plan, and meet people’s demand for a better life at a higher level; We also need to vigorously develop digital technologies, advance the Digital China Initiative, fully release the innate potential of digital technologies in promoting human rights development, and respect and protect people’s “right to digital development.”<sup>69</sup> For another, the “development-based human rights path” has enhanced human rights protection from a vertical perspective and realized a shift from focusing on the quantity, type, and scope of human rights in the past to attaching importance to the quality and standard of human rights. After China completed the building of a moderately prosperous society in all respects, the people’s requirements for the realization degree and quality of their rights have also greatly increased, and they are aspiring for “better education, more stable jobs, more satisfactory incomes, more reliable social security, higher levels of medical and health services, more comfortable living conditions, and a more beautiful environment.”<sup>70</sup> China is working to meet the people’s new needs for rights in education, work, social security, health care, housing, environment, etc., and improve the quality of their lives through the development of people’s livelihood undertakings, the optimization of the distribution structure and system, the expansion of domestic demand, and the advancement of supply-side structural reform.

## **V. Construction of the Theory on the Practice of Contemporary Chinese Outlook on Human Rights**

The Western liberal view of human rights holds that the government plays the role of “night watchman” in human rights protection, and that human rights can be automatically realized as long as the government takes passive action not to infringe upon human rights. Since the start of modern society, under the influence of state interventionism, the focus of human rights protection has gradually shifted from the right to freedom to social rights. However, this has not changed the passive legal view of human rights with the right to freedom as the focus, and the core of law-based human rights protection lies in ex-post judicial remedy. The emphasis on the obligation of passive respect and ex-post judicial remedy fails to urge the government to take the initiative in strengthening human rights protection. As a result, specific groups such as the elderly, the disabled, women, children, and the poverty-stricken rural population cannot fully enjoy their rights and freedoms. In fact, human rights protection not only involves passive respect for human rights, but also requires the government to take positive action to protect and promote human rights. In practice, the contemporary Chinese outlook on human rights upholds a concept of positive human rights protection, and calls for comprehensively developing human rights through strategic planning, development outlines, action plans, policies, and laws. It emphasizes the protection of human rights throughout every stage, which is fundamentally different from the Western liberal view of human rights. China regards law-based promotion of human rights protection as the basic principle for the formulation and implementation of relevant plans and policies. To date, it has successively issued four human rights action plans to strengthen the protection of citizens’ economic, social, and cultural rights, civil and political rights, and environmental rights, and to promote the sharing of the fruits of development by specific groups such as ethnic minorities, women, children, the elderly, and the disabled. The fourth Human Rights Action Plan of China takes “promoting the free, well-rounded and common development of all individuals as the general goal”<sup>71</sup> of the country’s human rights cause. The free, well-rounded, and common development of people couldn’t be achieved if the state and the government

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<sup>68</sup> Xi Jinping, “Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects,” *People’s Daily*, October 26, 2022, page 1.

<sup>69</sup> Wang Xigen and Duan Yun, “Chinese Experience in the Protection of the Right to Digital Development and Its Global Implication,” *Xuexi Yu Shijian (Study and Practice)* 7 (2023): 21-29.

<sup>70</sup> Central Compilation and Translation Bureau, *Selected Works of Xi Jinping*, vol. 1 (Beijing: People’s Publishing House, 2023), 60.

<sup>71</sup> State Council Information Office of the People’s Republic of China, “Human Rights Action Plan of China (2021-2025),” *People’s Daily*, September 10, 2021, page 1.

didn't fully fulfill their basic obligation to respect, protect and promote human rights. In the practical plan system, the rule of law is the most effective guarantee for the realization of human rights.<sup>72</sup> The third plenary session of the 18<sup>th</sup> CPC Central Committee put forward the requirement of "improving the system of judicial protection of human rights,"<sup>73</sup> attaching importance to exercising power and enforcing the law for the people; The fourth plenary session of the 18<sup>th</sup> CPC Central Committee emphasized the need to "provide stronger judicial protection of human rights,"<sup>74</sup> and the *Report to the 19<sup>th</sup> National Congress of the Communist Party of China* pointed out that we should "strengthen legal protection for human rights."<sup>75</sup> In the *Report to the 20<sup>th</sup> National Congress of the Communist Party of China*, the statement further evolved, stating that "We will follow a Chinese path of human rights development, actively participate in global human rights governance, and promote all-around advancement of human rights."<sup>76</sup> The contemporary Chinese outlook on human rights has built a complete human rights protection system, with the construction of the legal system as the general goal. Based on the model of the rule of law, China is working to form its unique institutional standards and practical mechanisms for law-based human rights protection, with promotive legislation as the foundation, protective legislation as the core, and remedial legislation as the bottom line.

Promotive legislation can urge the government to take active action to provide conditions for free and well-rounded development of humans. Unlike compulsory and punitive legislation, promotive legislation adopts a relatively flexible adjustment method to make a positive evaluation of people's behavior in the form of encouragement, support, advocacy and promotion, gives full play to the positive incentive function of the law, and stimulates people's autonomy and initiative to participate in legal affairs by strengthening external driving forces. At present, China has promulgated promotive laws that involve a wide range of fields including economics, culture, environment, education, medical and health care, rural affairs, and agriculture, and covers all vertical levels of statutory rules including laws, administrative regulations and rules, local regulations, and normative documents. Promotive legislation contains the value orientation of protecting basic rights. It can achieve full respect for people's principal position through external incentives, "restrain the inertia of human beings, strengthen the intrinsic motivation of their behavior, and allow members of society to make independent choices and take active actions,"<sup>77</sup> so as to create conditions for ensuring people live a decent and dignified life. This is embodied in the following aspects: First, it responds to people's demands for basic rights. Promotive legislation proceeds from the vital interests of the people and creates a favorable external environment for solving public concerns in fields such as "education, culture, health care, social security, social security, human settlements, etc."<sup>78</sup> For instance, the *Law on the Promotion of Rural Revitalization* promotes equal access to basic public services in both urban and rural areas by building a service system for left-behind children, women, and the elderly, as well as the disabled and children with difficulty in rural areas, developing inclusive and mutual-aid elderly care services, and effectively protecting the rights and interests of farmers; The *Basic Healthcare and Health Promotion Law* emphasizes the state's obligation to provide basic medical and

<sup>72</sup> Xi Jinping, "Firm Adherence to China's Path of Human Rights Development to Promote Further Progress in Human Rights," *Qiushi* 12 (2022): 4-10.

<sup>73</sup> "Decision of the CPC Central Committee on Major Issues Concerning Comprehensively Deepening Reform," *People's Daily*, November 16, 2013, page 1.

<sup>74</sup> "Decision of the CPC Central Committee on Major Issues Concerning Comprehensively Advancing Law-based Governance," *People's Daily*, October 29, 2014, page 1.

<sup>75</sup> Xi Jinping, "Secure a Decisive Victory in Building a Moderately Prosperous Society in All Respects and Strive for the Great Success of Socialism with Chinese Characteristics for a New Era," *People's Daily*, October 28, 2017, page 1.

<sup>76</sup> Xi Jinping, "Hold High the Great Banner of Socialism with Chinese Characteristics and Strive in Unity to Build a Modern Socialist Country in All Respects," *People's Daily*, October 26, 2022, page 1.

<sup>77</sup> Liu Fengjing, "Practical Forms and Theoretical Reflection of Promotive Legislation," *Science of Law (Journal of Northwest University of Political Science and Law)* 6 (2022): 20-21.

<sup>78</sup> The 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), 94.

health services and promote public health, which is conducive to enhancing the protection of the right to health of all people; The *Employment Promotion Law* includes an independent chapter titled “Fair Employment” to eliminate employment discrimination and protect people’s equal right to work. Second, it seeks a balance between government intervention and market economy. “A market economy must be a law-based economy.”<sup>79</sup> When market regulation is inefficient or even fails, the sustainable development of cultural, environmental, medical and health care industries or undertakings, which feature high costs, long cycles, and a weak foundation and are closely related to public welfare, cannot solely depend on market regulation. It is needed to give play to the government’s role in macroeconomic regulation through legislation, thus achieving reasonable distribution of various factors. “Promotive legislation is a new type of legislation that can remedy market failures.”<sup>80</sup> In order to address problems related to the environment and resources caused by market failures, the *Circular Economy Promotion Law*, revised in 2018, aims to encourage waste minimization, reuse and recycling of resources in the whole process of production, circulation and consumption, so as to promote sustainable development; The *Cleaner Production Promotion Law*, revised in 2012, helps reduce pollution, improve resource utilization efficiency, and promote cleaner production through measures such as commendations, rewards, financial support, and tax incentives.

Protective legislation can realize the transformation of moral human rights into legal human rights, and strengthen legal protection for human rights. From the perspective of logical form, moral human rights do not depend on a specific state or law, but idealistic rights based on people’s moral identity, which carry the common moral ideals of all members of society and demonstrate the dignity and value of human beings. However, without the state and law, it is difficult to fully protect moral human rights. Only through transforming moral human rights into legal human rights with legal procedures and clarifying the government’s obligation to protect human rights in the form of law can human rights be effectively protected. Based on the legislative principle of respecting and protecting human rights, social security legislation concretizes the basic rights of citizens as well as the government’s obligation to protect such rights stipulated in the *Constitution*, which is conducive to promoting the rule of law in social security. General Secretary Xi Jinping pointed out that, “we must step up efforts in social security-related legislation, move faster to formulate or revise laws related to social insurance, social assistance, and social welfare, and ensure related rights, obligations, and responsibilities of governments at all levels, employers, individuals, and society are fulfilled in accordance with the law.”<sup>81</sup> In terms of social insurance legislation, there is only a comprehensive law called the *Social Insurance Law* in China. It is necessary to further refine the relevant provisions of the *Social Insurance Law* and steadily advance legislation in such important areas as work-related injury insurance, unemployment insurance, maternity insurance, and old-age insurance, so as to enhance the pertinence and operability of human rights legislation; In terms of social assistance, China mainly relies on the administrative regulation *Interim Measures for Social Assistance* to regulate relevant issues, which is weak in legislative force and has a low position in legislation ranking. It is necessary to transform administrative regulations with mature legislative conditions into laws at appropriate time and formulate the *Social Assistance Law* to provide legal basis for further improving the social assistance system and ensuring the protection of the right to subsistence; In terms of social welfare legislation, China has established a relatively mature legislative system covering fields like food security, protection of the rights and interests of women, the elderly, and the disabled, and public cultural services. Efforts should be made to further strengthen social welfare legislation in key areas of human rights, such as housing, medical

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<sup>79</sup> Xi Jinping, *Zhejiang, China: A New Vision of Development* (Hangzhou: Zhejiang People’s Publishing House, 2007), 203.

<sup>80</sup> Li Yanfang, “Research on Promotive Legislation,” *Law Review* 3 (2005): 101.

<sup>81</sup> Xi Jinping, *Understanding the New Development Stage, Applying the New Development Philosophy, and Creating a New Development Dynamic* (Beijing: Central Party Literature Press, 2021), 530.

care, and children's welfare, so as to ensure that vulnerable groups enjoy the right to an adequate living standard and achieve social inclusiveness and justice. Social preferential treatment legislation is a type of social security legislation used to commend military personnel who have made remarkable contributions to the country or society and their families. Currently, China's social preferential treatment legislation remains relatively weak, with administrative regulations and rules as the main form, lacking supervision, responsibility provisions, and supporting regulations.<sup>82</sup> In general, China's legal system for social security hasn't been perfect yet and suffers problems such as one-sidedness, decentralization, and duplication. "To advance healthy development of social security on a legal footing, we should bolster efforts in all aspects of legislation, law enforcement, judicial practice, and observance of the law,"<sup>83</sup> enhance the rights and capabilities of human rights subjects, create a new model of empowering human rights development through protective legislation, and pursue substantive justice and equitable outcomes.

Remedial legislation can strengthen judicial remedies and build up the last line of defense for human rights protection. As a Chinese saying goes, "In this world, law enforcement is much harder than legislation."<sup>84</sup> Promotive legislation and protective legislation have realized the transformation from human rights to basic rights and then to specific rights, while remedial legislation helps bring rights stipulated in laws into practice through all-around protection of substantial rights, procedural rights, and comprehensive rights, realizing the transformation of legal human rights into real human rights. In terms of substantial rights, judicial application focuses on personal dignity, personal safety, and property security. As a law-related proverb goes, "Where there is a right, there is a remedy." Remedial legislation highlights the national protection obligation, and "the judiciary is the last line of defense for human rights relief."<sup>85</sup> Taking criminal proceedings as an example, we should strengthen the protection of the right of personality, right to health, and property rights of criminal suspects, detainees, and defendants, and focus on cracking down on illegal acts such as violent activities, criminal gangs, drug production and trafficking, abduction and trafficking of women and children, and infringement of the rights and interests of minors, so as to enhance enforcement of judicial protection of human rights. In terms of procedural rights, the transformation from human rights to litigation rights has been realized through remedial legislation, ensuring the rights of involved parties are fulfilled throughout the process of case filing, investigation, prosecution, trial, and sentence enforcement. We should implement the case filing registration system, follow basic principles of legality, presumption of innocence, and exclusion of illegal evidence, ensure that everyone enjoys the right to a fair trial, and "strive to make the people feel fairness and justice in every judicial case."<sup>86</sup> In terms of comprehensive rights, remedial legislation strengthens the obligation of the state or social organizations to provide legal assistance, and enhances the rights and behavioral capacity of special parties to seek judicial remedies for human rights. We should improve the state compensation system and the public interest litigation system, intensify legal aid and judicial assistance, give play to the key role of lawyers in safeguarding the legitimate rights and interests of parties involved, and provide them with multiple channels to seek judicial remedies for human rights.

## VI. Conclusion

<sup>82</sup> Administrative regulations related to social preferential treatment include the *Regulations on Pensions and Preferential Treatment for Servicemen*, and departmental rules related to social preferential treatment include the *Measures on Preferential Treatment for Injured and Disabled Servicemen*.

<sup>83</sup> Xi Jinping, *Understanding the New Development Stage, Applying the New Development Philosophy, and Creating a New Development Dynamic* (Beijing: Central Party Literature Press, 2021), 530.

<sup>84</sup> Zhang Juzheng, *Collection of Zhang Juzheng's Memorials to the Throne*, vol. 1, compiled and annotated by Pan Lin (East China Normal University Press, 2014), 232.

<sup>85</sup> Wang Xigen, "On Strengthening Judicial Protection of Human Rights — An Interpretation of the Guiding Principles of the Fourth Plenary Session of the 18<sup>th</sup> CPC Central Committee from the Perspective of Human Rights," *Law Science Magazine* 1 (2015): 1.

<sup>86</sup> Xi Jinping, *On Comprehensively Advancing Law-based Governance* (Beijing: Central Party Literature Press, 2020), 5.

The contemporary Chinese outlook on human rights is a theoretical expression of the construction of China's independent human rights knowledge system. From the two dimensions of legal basis and theoretical origin, ontological research traces the deepest legal source of human value, human dignity and people-centeredness. It offers scientific answers to the question of "why" we need to establish the contemporary Chinese outlook on human rights, and lays a theoretical foundation for the construction of the theories on its essential elements, scope, operation, and practice. The theory on essential elements builds the overall framework of contemporary Chinese outlook on human rights in terms of the subjects, objects, and contents of human rights, while the theory on the scope of human rights builds the core pillar of contemporary Chinese outlook on human rights based on expounding the rights to subsistence, development, life and health as well as the people's right to a happy life. The theories on the essential elements and scope of human rights systematically interpret the question: "What is the contemporary Chinese outlook on human rights," and play a fundamental supporting role in the construction of the theories on its ontology, operation and practice human rights. The theory on operation reveals the dynamic mechanism and operational direction of the contemporary Chinese human rights theory system with the "development-based human rights path," while the theory on practice expounds the strategic choice of contemporary Chinese outlook on human rights with the focus on positive rule of law. The two theories explore the question of "how to realize the contemporary Chinese outlook on human rights" and demonstrate the transformation process from idealistic human rights to legal human rights and then to real human rights, together with theories on its ontology, essential elements, and scope, they present the basic characteristics of contemporary Chinese outlook on human rights that integrate the internal and the external and combine the dynamic and the static. The contemporary Chinese outlook on human rights is an open and complex theoretical system, which cannot be achieved overnight or once for all. Instead, it is bound to increasingly improve and evolve along with the continuous advancement of Chinese modernization and the great rejuvenation of the Chinese nation.

(Translated by *LIU Haile*)