

# The Generation Logic and Value Dimension of the Right to Digital Development

HUANG Anjie\*

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**Abstract:** *The right to digital development, rooted in the fundamental right to development, emerges in response to the transformations of our era and serves as a catalyst for Chinese modernization. Building upon the traditional right to development, the right to digital development aims to meet the people's aspirations for a better life in the context of digital development. By integrating a technological perspective, this concept advances the theoretical evolution of the right to development in line with contemporary realities. In terms of generation logic, the right to digital development is grounded in policies supporting Chinese modernization, guided by the development of new quality productive forces, and oriented toward addressing the people's aspirations for a better life and society's sustainable digital transformation. Ultimately, this framework constructs a normative structure encompassing the right to digital development opportunity, the right to digital development condition, and the right to digital development realization as a cohesive whole. From a value-oriented perspective, the right to digital development adheres to a people-centered philosophy of development, grounded in practical considerations. It addresses the digital divide as a focal point, gradually mitigating digital exclusion and circumventing digital malpractices, thereby fostering digital sharing. Integrating the right to digital development into the conceptual framework of the right to development can complete the institutional construction of digital development through the theoretical architecture of "condition-opportunity-realization." This integration helps to better safeguard people's rights and interests in digital development and promotes the free and comprehensive development of individuals.*

\* HUANG Anjie (黄安杰), Doctoral Candidate at the School of Law of Jilin University. This paper is a phased achievement of the National Social Science Fund's major project "Research on the Generation Background, Construction Logic, and Value Orientation of China's Human Rights Knowledge System" (Project Approval Number 24&ZD129).

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As the digital era continues to advance, digital technology has gradually become a core element for optimizing global resource allocation, reshaping the global economic framework, and even changing the global competitive landscape. In February 2023, the Central Committee of the Communist Party of China (CPC) and the State Council jointly released the *Plan for the Overall Layout of Building a Digital China*, underscoring that building a digital China is important for “the advancement of Chinese modernization” and “the development of new advantages in the country’s competitiveness.”<sup>1</sup> In this context, the right to digital development has emerged within the human rights framework to facilitate better development and utilization of digital technology, the building of a digital China, and the protection of citizens’ rights and interests in digital development. The right to digital development, rooted in the fundamental right to development and grounded in policies, is oriented toward addressing practical needs and ultimately succeeds in establishing its own jurisprudential framework. It will provide intelligent knowledge and jurisprudential support for the development of digital technology, the construction of a digital China, and the establishment of a digital ecological civilization.

## **I. The Right to Development and the Right to Digital Development**

The right to development is a conceptual manifestation of human rights in the field of development, while the right to digital development is the digital form of the right to development. Human rights and development have always been inseparable, reciprocally causal, and mutually reinforcing. The process and outcome of development realize their value through human rights, while the ultimate goal of human rights is the free and comprehensive development of

<sup>1</sup> Official website of the Government of the People’s Republic of China, accessed August 6, 2024, [https://www.gov.cn/zhengce/2023-02/27/content\\_5743484.htm?eqid=9d91c05100112f9200000004646d6f55](https://www.gov.cn/zhengce/2023-02/27/content_5743484.htm?eqid=9d91c05100112f9200000004646d6f55).

individuals. The right to development solidifies and promotes the interaction between human rights and development during this process. As the digital era continues to advance, the right to development has evolved in response to the call of the times by giving birth to the right to digital development.

### **A. The fundamental concept of the right to development**

The right to development did not emerge overnight. Instead, it originated from a moral discourse and achieved a gradual transformation from moral principles to legal norms. “Rights must be established before development can be possible” and “exercising rights promotes development” are the logical propositions of this concept. Therefore, the right to development focuses more on the multi-dimensional interaction between development and rights (power). It aims to obtain, realize, and safeguard individuals’ or collectives’ rights and interests in development, which is accomplished by the effective exercise of rights.

According to Jeremy Bentham, private ethics and the art of legislation go hand in hand. Private ethics teaches how each man may dispose himself to pursue the course most conducive to his own happiness, by means of such motives as offer of themselves: the art of legislation teaches how a multitude of men, composing a community, may be disposed to pursue that course which upon the whole is the most conducive to the happiness of the whole community, by means of motives to be applied by the legislator.<sup>2</sup> The right to development stemmed from the private ethics of individuals pursuing their own growth, which takes realizing individual development benefits as the practical goal. As the social community gradually took shape, such private ethics could neither fully meet the basic development needs of individuals, nor did they conform to the objective development laws of society. As a result, the right to development began to gradually transform from private ethics to social legal norms. This transformation began with discourse and progressively translated into practice.

From the perspective of its development trajectory, the discourse on the right to development follows the generation logic of “should have-should enjoy-actually enjoy.” Discourse is a theoretical summary of the subject’s behavior and its framework. To a certain extent, it can reflect and construct the

<sup>2</sup> Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, translated by Shi Yinhong (Beijing: The Commercial Press, 2000).

behavioral patterns of the world in which the subject exists. In essence, the discourse on the right to development is a moral affirmation of the subject's self-shaping and self-realization. It is based on the moral capacity of people as human beings and provides internal legitimacy for the subject's behavior.<sup>3</sup> Specifically, the value of the discourse on the right to development lies in human beings' needs for individual development, their desire to participate in social development, and their pursuit of sharing the fruits of development. The concept of the right to development and its discourse expression thus possesses a strong attribute of natural law, emphasizing the empowerment of individuals and the repayment by individuals within the social system. For example, Marx and Engels once proposed in *The Communist Manifesto*: "the free development of each is the condition for the free development of all."<sup>4</sup> The proposal of the discourse on the right to moral-based development not only fully reflects the need for a social framework, but also points out the direction for the normative transformation of this discourse. This transformation began in the field of international law. With the rise of the decolonization movement, a large number of developing countries gradually realized the fundamental value of collective human rights in realizing individual human rights, and began to advocate for the realization of individual development through collective human rights.<sup>5</sup> As a result, the right to national self-determination was established based on the global human rights values of freedom, democracy, equality, and autonomy advocated by the *Universal Declaration of Human Rights*. This right aims to gradually grant individuals the rights to political participation, free expression, self-development, and independent decision-making. As the "seesaw battle" between "individual human rights" and "collective human rights" persists, the concept of the right to development has been successively accepted by countries around the world and has been incorporated into their domestic legal systems. Although there is a trend of "North-South divide" in its normative framework, the bundle of rights under the right to development, such as the right to education and the right to work, remains a common concern of legislators in the

<sup>3</sup> Tang Mingze, "Why Do Rights Protect Free Will of Human Beings — History of Ideas of the Will to Power," *Law Science* 4 (2024): 33-46.

<sup>4</sup> Marx and Engels, *The Communist Manifesto* (Beijing: People's Publishing House, 2018), 51.

<sup>5</sup> Nico Schrijver, "A New Convention on the Human Right to Development: Putting the Cart before the Horse?" *Netherlands Quarterly of Human Rights* 2 (2020): 84-93.

North and South.

The right to development, to its core, refers to the right of individuals or collectives to actively, freely, and equally participate in the development processes of political, economic, cultural, social, and other fields and to enjoy the corresponding fruits of development in accordance with the law. This concept takes people as the subject, and “participation in development” and “sharing of development” as the objects. It features a three-level hierarchy of value from participation in development to promotion of development and to realization of development, outlined by a logical structure of “one subject, two elements, and three cores.” First, the right to development is a universal human right that governs both individuals and collectives, and people-centeredness is the core of this conceptual framework. In addition, the universal nature of the right to development also implies that the development demands of individuals apply to everyone in this world, so other individuals, society, and the country should show appropriate respect and provide assistance and even protection in this regard. Second, requesting to participate in development is a formal requirement for realizing the right to development, while sharing the fruits of development is its substantive requirement. By leveraging the framework of the right to development, individuals or collectives can extensively participate in the construction processes in the political, economic, cultural, social, and other fields, and the rights and interests of “participation in development” are thus realized. Finally, in the practice of the right to development, “participation-promotion-realization” constitutes a complete value chain. The exercise of the right to development not only means that individuals or collectives participate equally in development, but also secures the necessary support for development activities, and the resulting development fruits are thus guaranteed.

“Human dignity” is the value content of the right to development, and achieving “the free and comprehensive development of individuals” is its value goal. Human rights refer to the basic rights that people enjoy as human beings. In this value logic, the right to development manifests itself in the rights and interests of people regarding how they “live as human beings.” The value foundation of the right to development can be divided into three aspects as far as the subject is concerned: the first is the fundamental pursuit of individuals for

self-realization. For individuals, the right to development means that they can participate in the development process of various fields of society and enjoy the fruits of such development. “Request-defense” constitutes the value trajectory for realizing the rights and interests of individual development. Due to the needs for development, individuals have the right to request to be a part of the life and production in various fields of society, such as entering the workforce and participating in political activities, etc. At the same time, it is also necessary to defend the rights and interests that individuals enjoy against infringements. In this case, individuals possess a dual identity as both the participant and beneficiary in the process of development, which is precisely the necessary and sufficient condition for self-realization. The second is society’s fundamental protection of individual development. The social value of the right to development lies in the orderly running of social production and life as well, as the empowerment of individuals. According to Rawls, the basic structure of society should conform to the two major principles of justice, namely the principle of equality and freedom, and the difference principle. Among them, the principle of equality and freedom advocates equal rights for individuals, while the difference principle implies the value concept of common participation and common enjoyment.<sup>6</sup> The third is the necessary assistance from the country for individual development. For the entire country, the value of the right to development lies in enabling all citizens to exercise their rights equally and in establishing the legitimacy of governance. No matter whether it was Locke, Rousseau, or Hobbes, they all agreed that human beings achieved the transition from the state of nature to the state of society through the formation of political communities. During the transition, the form of a country gained recognition and support from the people. To be specific, a country creates a peaceful environment conducive to individual development,<sup>7</sup> thereby consolidating the legitimacy of its own governance.

### **B. The right to digital development**

As a new round of global technological revolution and industrial

<sup>6</sup> John Rawls, *A Theory of Justice*, translated by He Huaihong and others (Beijing: China Social Sciences Press, 1988).

<sup>7</sup> The “peaceful environment” here has multiple implications. Specifically, at the macro level, countries maintain a peaceful and stable development landscape; at the micro level, individuals enjoy freedom and equality, sustaining a “state most suitable for human nature to live.”

innovation accelerates, digital technology, during its leapfrog development, has integrated deeply with the economic, social, cultural, and political fields. This development process is also called the “digital revolution.” The “digital revolution” has innovated the way of production and life. While empowering social modernization, it has also brought some challenges. Data in the *Digital China Development Report 2023* shows that although Digital China has experienced rapid development, it still faces problems such as unbalanced regional development, uneven resource allocation, and digital security malpractices.<sup>8</sup> Among them, “digital exclusion” is a prominent problem found in practice during the progress of the digital era. Digital technology empowers individuals and institutions mainly through digital access, digital skills, and usage.<sup>9</sup> As a result, “digital exclusion” arises naturally from the digital divide caused by a lack of digital knowledge, the digital barriers created by uneven distribution of digital resources, and the digital discrimination attributable to insufficient publicity of digital culture. It can be seen that “digital exclusion” is not merely a technical issue, but rather a “field-related problem” with digital technology and its application. In the face of this problem, the traditional concept of the right to development is no longer sufficient to address the challenges brought about by emerging technology. In this context, the right to digital development has emerged as a new form of the right to development.

The right to digital development is an important theoretical framework for addressing “digital exclusion.” “Digital exclusion” arises within the digital environment and is essentially a practical manifestation of “digital inequality,” which presents itself as “unable to obtain,” “unable to use,” and “unable to enjoy” digital technology and its fruits. In practice, this inequality is mainly manifested in the fact that digitally disadvantaged groups are discriminated against, rejected, and even excluded by society. In this regard, the United Nations *Pact for the Future* states that in today’s world, there are still billions of people, especially those in developing countries, who do not have meaningful access to critical life-changing technologies. Digital exclusion is exacerbating social inequalities,

<sup>8</sup> Official website of Digital China, accessed August 9, 2024, <https://www.digitalchina.gov.cn/2024/xwzx/szcx/202406/P020240630600725771219.pdf>.

<sup>9</sup> G. Wilson-Menzfeld et al, “Identifying and Understanding Digital Exclusion: A Mixed-Methods Study,” *Behaviour & Information Technology* 43 (2024): 1649-1666.

hindering sustainable development, and ultimately undermining human rights.<sup>10</sup> That's because the digital society is no different from the traditional society; it is still a modern social form powered by technology. Therefore, the emergence of "digital exclusion" will erode the development order established by traditional society, leading to obstructed individual development and disordered social development.

To solve this problem, it is feasible to approach it from the perspective of the right to digital development. Some scholars believe that although digital rights have one or more "parent rights," they protect unique needs and interests that are not fully and adequately covered by the parent right(s).<sup>11</sup> The traditional concept of the right to development adheres to a people-centered approach, which underlines individual self-realization and sharing the fruits. The right to digital development builds on this to incorporate a technological perspective. The right to development goes in the same path as various fields, such as society, economy, culture, and politics, whereas a virtuous interactive mechanism has formed in practice where "rights promote actions and actions boost rights." The emergence and application of digital technology have further broadened the application scope of the right to development. From the establishment of rights for digital citizens to the building of digital relationships, and then to the construction of digital government, digital technology has gradually been integrated with the right to development in the political, economic, cultural, and social fields where the latter is exercised. Under the framework of the right to digital development, the development-based human rights theory serves as the value basis for digital development. It helps to reshape the social development order in the digital era and clarify the positioning of digital technology as a tool, thereby avoiding problems, such as digital exclusion, arising from allocating digital resources.

"Digital sharing" represents the future practice of the right to digital development. Just like the traditional right to development, the right to digital

<sup>10</sup> Official website of the United Nations Official Document System, accessed November 9, 2024, <https://documents.un.org/doc/undoc/ltd/n24/252/88/pdf/n2425288.pdf>.

<sup>11</sup> Dafna Dror-Shpoliansky and Yuval Shany, "It's the End of the (Offline) World as We Know It: From Human Rights to Digital Human Rights — A Proposed Typology," *European Journal of International Law* 32 (2021): 1249-1282.



development also applies both to individuals and collectives. It features a framework where individuals have their respective rights while collectives possess combined rights. As an *erga omnes* right, the right to digital development encompasses a wide range of subjects of duty, covering individuals, society, and the state. It focuses on the digital development of individuals and collectives, and defines and clarifies the boundaries of the rights, powers, and responsibilities of different subjects. For individuals or collectives, digital development means respecting others' digital identity and their digital behaviors, and safeguarding their legitimate rights to participate in and share the fruits of development; for society, the construction of a digital society cannot be accomplished without a favorable, stable digital order, and all of this requires a digital culture based on digital ethics; and for the state, it relies on the construction of a digital government to develop a high-level, high-quality digital economy and to ensure that citizens achieve equal and adequate digital realization. Following these three paths, the right to digital development can be realized step by step, ultimately contributing to the framework of a digital ecological civilization.

Within this digital ecological civilization, people are the subject of the digital ecology, around whom digital development revolves. The traditional concept equates development with only economic growth and advocates human rights based on development. With the development of human rights practice, the concept of the right to development has begun to adopt a people-centered approach, emphasizing development based on human rights.<sup>12</sup> At its core, the ultimate goal of digital development is to achieve “the free and comprehensive development of individuals,” whereas “digital sharing” is one of the values derived from it. From the perspective of the right to digital development, “free development” means that the subject independently chooses his or her path of self-realization without any restrictions, regardless of the digital divide, digital barriers, and digital discrimination. “Comprehensive development” means that although individuals have different paths of self-realization, they should still have equal access to digital resources and enjoy equal permissions to acquire them, and ultimately share the fruits of digital development.

<sup>12</sup> Roman Girma Teshome, “The Draft Convention on the Right to Development: A New Dawn to the Recognition of the Right to Development as a Human Right?,” *Human Rights Law Review* 22 (2022): 1-24.

## II. The Generation Logic of the Right to Digital Development

With the continuous advancement of digital development, “digital exclusion” has received increasing attention from the general public, and the actual need for “digital sharing” has gradually come into being. To “improve the institutions and mechanisms for promoting high-quality economic development and foster new quality productive forces,, at the third plenary session of the 20<sup>th</sup> Central Committee of the CPC, it was put forward that “it is essential to apply the new development philosophy to steer reform,” so as to “create new growth drivers and strengths.”<sup>13</sup> So it is necessary to form the jurisprudential logic system of the right to digital development by following the new development philosophy of digital development, adhering to supporting policies, and addressing the practical needs of digital development.

### A. The policy logic of the right to digital development

Policy tools refer to the methods or means used by the government to address a certain issue or achieve a certain goal. It helps to understand the policy framework of the right to digital development by approaching it from the perspective of policy tools. According to the policy tool theory proposed by Rothwell and Zegveld,<sup>14</sup> the policy tools for the right to digital development can be divided into three categories: supply-side, demand-side, and environment-side. Supply-side policy tools expand the supply of digital productive factors and promote the output of digital fruits for high-quality digital development. Demand-side policy tools stimulate the demand for digital productive factors and propel supply-side structural reforms to drive digital development. Environment-side policy tools outline the long-term plan for digital development and clarify the long-term development goals of digital sharing to secure digital development. The policy logic of the right to digital development is mainly reflected in the following aspects.

First, develop new quality productive forces to promote the digital evolution of the right to development. In September 2023, Xi Jinping, general secretary of the CPC Central Committee put forward the concept of “new quality

<sup>13</sup> Xinhua News Agency official website, accessed August 19, 2024, <http://www.news.cn/politics/leaders/20240718/a41ada3016874e358d5064bba05eba98/c.html>.

<sup>14</sup> Rothwell, R. and Zegveld, W., *Reindustrialization and Technology* (London: Longman, 1985), 15.

productive forces” during his inspection tour in Heilongjiang Province. New quality productive forces, in which innovation plays a leading role, are productivity in an advanced form that has superseded the traditional economic growth pattern and productivity development path. Under these instructions, new quality productive forces provide policy impetus for digital development by supplying digital resources, contributing imperceptibly to the emergence of the right to digital development. “Innovation, an essential feature of new quality productive forces, means bringing change not only to technology and business forms, but also to management and systems.”<sup>15</sup> As digital technology gains widespread application, data factors are integrated into the traditional production chain, leading to the evolution of workers, means of production, and the mode of production. During this process, data, as a new factor of production, not only reshapes workers, means of production, and the objects of labor, but also facilitates, along with traditional factors of production, the formation and development of new quality productive forces.<sup>16</sup> While expanding the digital supply and transformation of the factors of production, the development of new quality productive forces improves the output efficiency of digital development fruits. In the tide of digital development, individuals’ “participation in development” and “sharing of fruits” can only be achieved through acquiring and utilizing digital technology and digital factors of production, and guaranteed through the framework of the right to digital development. In the context of accelerated Chinese modernization, the emergence of digital development has spurred the iteration of people’s development needs and propelled the digital evolution of the conceptual framework of the right to development. This has also become the internal driving force for the right to digital development.

Second, protect citizens’ rights and interests in digital development and build a digital governance ecosystem. On February 27, 2023, the Central Committee of the CPC and the State Council jointly released the *Plan for the Overall Layout of Building a Digital China*. According to the plan, China will boost “digital infrastructure construction” and “digital resource system

<sup>15</sup> Xi Jinping, “Advancing New Quality Productive Forces Is Essential and a Key Priority for Fostering High-Quality Development,” *Qiushi* 11 (2024): 4-8.

<sup>16</sup> Jiao Fangyi and Du Xuan, “The Political Economy Analysis on Data Elements Accelerating the Development of New Quality Productive Force,” *Modern Economic Research* 8 (2024): 1-13 and 43.

construction” for the sake of the deep fusion of digital technology with politics, economy, culture, society, and ecological civilization construction.<sup>17</sup> To achieve this goal, it is essential to unleash the potential value of digital factors of production and empower the mechanism of the digital mode of production. Protecting the right to digital development is an important link in this process. An analysis on the policy logic of the right to digital development reveals that the rights and interests in digital development can be protected through three ways: First, secure the institutions that protect citizens’ rights and interests in digital participation by guaranteeing their rights to possess and use digital resources, digital technology, and digital facilities and to dispose of their earnings. The right to digital development is essentially a bundle of various private rights that citizens enjoy over digital means of production, including the rights to qualification and use. Both the right to digital development and the right to development originated from the right to self-determination and thus possess a strong “self-determined” attribute. Therefore, the realization of digital participation means that citizens independently exercise their right to development to participate in the “digital infrastructure construction.” This right is premised on individual participation in development and non-interference from others. Granting citizens full powers and functions in digital participation requires protecting their “right to digital development” in the political, economic, cultural, and social fields. Second, ensure the basic protection of citizens’ rights and interests in digital participation by establishing a complete digital resource system to expedite hierarchical management and categorized utilization of government data, public data, and social data. Digital development is highly revolutionary, incremental, and cross-field. It can push forward the construction and improvement of the digital economy, digital culture, digital government, digital society, and even digital ecological civilization. As an element of policy support, the digital resource system can optimize the allocation of digital resources to foster their sharing and efficient development and utilization, encourage citizens’ participation in digital development, and stimulate the inherent driving force for sustainable digital development of society. The right to digital development runs through this process by defining the value principles

<sup>17</sup> Official website of the Government of the People’s Republic of China, accessed September 21, 2024, [https://www.gov.cn/zhengce/2023-02/27/content\\_5743484.htm](https://www.gov.cn/zhengce/2023-02/27/content_5743484.htm).

for allocating digital resources and promoting the establishment of a digital governance order, thereby safeguarding citizens' rights and interests in digital development. Third, reinforce the driving force for releasing the value of digital resources. On the premise of ensuring the supply of digital resources, there is a need to gradually transform the factors of production for digital resources and empower the mechanisms of utilizing digital resources in the course of digital development. All of this is based on a sound ecological order for digital governance and supported by a solid digital resource system. Digital governance can enhance the digital sustainable development capabilities of the entire society and help develop citizens' ability to deal with digital risks. Digital governance is conducive to better protecting the digital ecosystem, deepening the reform of allocating digital factors, and facilitating regional data collaboration, thereby laying a practice-enabled foundation for individuals and collectives to develop digital resources and participate in the digitalization process.

Third, raise the level of digital development and lay a solid foundation for the right to digital development. In the context of Chinese modernization, protecting the right to digital development goes hand in hand with high-quality development, both contributing to the construction of a digital ecological civilization. In 2025, "building a green and smart digital ecological civilization" was included in the *Plan for the Overall Layout of Building a Digital China*. It is not only an important goal of building a Digital China but also an integral part of Chinese modernization. The right to digital development is a special product derived from the right to development in the digital era. By encouraging citizens to participate in digital development and share its fruits through digital empowerment, it aims ultimately to achieve the free and comprehensive development of individuals. China's 14<sup>th</sup> Five-Year Plan makes it clear to build a digital society and a digital government by applying digital technology and acquiring digital resources.<sup>18</sup> In recent years, the State Council and other government agencies have successively issued documents, such as *Guiding Opinions of the State Council on Strengthening the Construction of Digital*

<sup>18</sup> Official website of the National People's Congress of the People's Republic of China, "Outline of the 14<sup>th</sup> Five-Year Plan for Economic and Social Development and Long-Range Objectives through the Year 2035 of the People's Republic of China," accessed September 21, 2024, [http://www.npc.gov.cn/npc/c2/c30834/202312/t20231227\\_433830.html](http://www.npc.gov.cn/npc/c2/c30834/202312/t20231227_433830.html).

*Government*, the *Digital Economy Development Strategy Outline*, and the *Special Action Plan for Digital Empowerment of SMEs (2025-2027)*, to empower the mechanisms of digital technology and enable the construction of a digital, smart ecological civilization. In addition, achieving high-level digital development also requires a stable digital environment. It is essential to utilize digital technology to support digital governance, establish a digital ecological perspective, and create a secure, stable, and open digital ecological environment. To this end, the Chinese government has promulgated documents, such as the *Outline for the Implementation of the Cyber Power Strategy*, to guide digital activities and regulate digital order.

### **B. The realistic logic of the right to digital development**

The right to digital development is a basic right that originates from and serves the digital era and thus has a definite, realistic foundation. On the one hand, the right to digital development is oriented toward meeting the digital development needs of individuals and society, ensuring citizens' digital participation and enjoyment of the fruits, and driving the sustainable digital development of society. On the other hand, the right to digital development emerges in response to people's aspirations for a better life and aims to resolve the contradiction between the subjects' digital development needs and their balanced, high-quality digital realization for the ultimate goal of the free and comprehensive development of individuals. Specifically, its realistic logic includes at least the following aspects.

First, the value legitimacy of the right to digital development stems from the natural need of individuals to achieve high-level, high-quality digital development. The realization of human rights usually requires a process of transformation from individual needs to social consensus, that is, from abstract moral ideas or claims into a particular set of legal rights and obligations or concrete social expectations.<sup>19</sup> In the process of building a digital society, each subject exists as both a natural person and a "digital person," with the latter increasingly overriding the former. This phenomenon is also called "digital dependence." As "digital dependence" becomes more and more prominent, the core essence of an individual as a subject is simply quantified into digital

<sup>19</sup> Yuval Shany, "Digital Rights and the Outer Limits of International Human Rights Law," *German Law Journal* 24 (2023): 461-472.

subjectivity, while those concepts that are difficult to quantify are left aside or even abandoned. As a result of this, the object of citizens' right to development has begun to exhibit a flattened, de-identified, and coded "dual-vector foil form." Furthermore, the alienation of digital practice has also led to the alienation of the rights forms of rights holders. In the digital society, the rights structure has gradually transformed from the traditional two-dimensional structure of "power-right" to a three-dimensional framework dominated by public power, namely "public power-private power-private right."<sup>20</sup> The three-dimensional nature of the rights (power) framework not only reflects the empowerment of subjects brought about by digital technology but also implies the potential concerns regarding protecting the subjects' rights.<sup>21</sup> In the new social rights (power)-obligations relationship, the insufficient, unreasonable, and unbalanced resource acquisition, technology application, and fruits distribution have led to problems such as the digital divide, digital exclusion, and digital malpractices, making it difficult for individuals to fully realize their rights and interests in digital development. Therefore, optimizing the practice chain of digital technology to secure the subjects' needs in the digitalization process is the primary source of the value legitimacy of the right to digital development.

Second, the value legitimacy of the right to digital development extends from individuals to society, that is, to promote the sustainable digital development of society. Sustainable development is an approach to growth and human development that aims to meet the needs of the present without compromising the ability of future generations to meet their own needs.<sup>22</sup> As a new development model, digital development should follow the requirements of sustainable development for a sustainable orientation. From the perspective of its logical structure, the sustainable digital development of society is mainly

<sup>20</sup> Gong Xianghe, "Digital Human Rights: Concept, Origin, and Its Constitutional Basis," *ECUPL Journal* 3 (2023): 6-21.

<sup>21</sup> To be specific, while the de-identification techniques of digital technology expand the distribution of digital resources, it makes "digital exclusion" hardly avoidable to some digitally disadvantaged groups, hindering equal participation and fair enjoyment of digital development in the real sense. In addition, the unequal distribution of rights and obligations exposes private power governance to the risk of rights infringement.

<sup>22</sup> Official website of the United Nations Sustainable Development, "Our Common Future: Report of the World Commission on Environment and Development," accessed April 11, 2025, <http://www.un-documents.net/wced-ocf.htm>.

composed of three core elements, namely “development power,” “development quality,” and “development equity.”<sup>23</sup> Combined with what has been said above, problems, such as the digital divide, digital exclusion, and digital malpractices, are essentially practical manifestations of digital inequity. Such digital inequity problems will not only be detrimental to individuals’ digital development, but also hinder society’s sustainable digital development progress. That’s why promoting society’s sustainable digital development is also a value concern of the right to digital development. To this end, the first thing to do is to guarantee the driving force for digital development, that is, sufficient digital resources and corresponding training in digital skills and knowledge. It is then necessary to improve the construction of digital platforms or facilities to ensure the quality of digital development practice. Finally, it is to realize interpersonal equity by adhering to the fair principle of equal participation in digital development and the distributive justice of sharing digital fruits. In the context of the right to digital development, all these requirements reflect individuals’ development logic of “opportunity-condition-realization,” which can be guaranteed in different phases and ultimately realized through the right to digital development.

Third, the legitimacy of the right to digital development comes from satisfying the subjects’ digital development needs, while achieving balanced, adequate digital development constitutes its rationality basis. From the perspective of functional differentiation, digital society is not a completely new form of social development. Essentially, it remains a collection of self-producing and clearly demarcated, functionally autonomous systems. Digital technology has not had an impact on this functional differentiation; instead, it has further strengthened the functional attributes of various social systems through technological empowerment.<sup>24</sup> Digital development, at its core, is a form of social development empowered by technology. This model also faces the drawback of unbalanced, insufficient practice. In essence, unbalanced, insufficient digital development means that inequality still exists in development links such as the supply of digital resources and the utilization of digital

<sup>23</sup> Niu Wenjuan, “The Theoretical Connotation of Sustainable Development: The 20<sup>th</sup> Anniversary of UN Conference on Environment and Development in Rio de Janeiro, Brazil,” *China Population, Resources and Environment* 5 (2012): 9-14.

<sup>24</sup> Wu Dezhi, “Rethinking Digital Human Rights: From the Perspective of Functional Differentiation,” *The Jurist* 2 (2024): 158-172 and 196.



technology, and that people's rights and interests in digital development are not fully guaranteed and realized. Therefore, to achieve balanced, sufficient development, it is necessary to start from protecting the right to development to meet people's social needs for higher-level development, that is, from the basic needs for equal development opportunities to actual participation in development and sharing of its fruits. Apart from that, this form of social development also faces the problem of poor coordination between demand and practice. As a researcher has pointed out, "The development of production leads to the development of needs, and needs and production are in the contradictory structure of development."<sup>25</sup> Unbalanced, insufficient digital development can hardly meet people's aspirations for a better life. Therefore, the right to digital development is rooted in the inherent need of individuals or collectives for development in the digital era and oriented toward addressing unbalanced, insufficient development. "The essence of legal rights lies in the harmonious coordination of the freedoms among different entities, thereby forming universal laws. Legal rights ensure that individuals enjoy extensive freedom."<sup>26</sup> For example, the *European Declaration on Digital Rights and Principles* underscores that the realization of digital development should put people at the center, ensuring that it "benefits everyone" and "leaves nobody behind."<sup>27</sup> As Chinese modernization accelerates, digital development remains an effective path to achieving balanced, sufficient development. While development is a major road toward a better life, digital development should avoid the drawbacks of imbalance and insufficiency and better meet people's needs for a better digital life. The right to digital development is promising in optimizing the allocation of digital factors of production and improving the level of digital new quality productive forces, thereby achieving balanced, sufficient digital development for individuals, society, and the entire country. In short, the practical goal is to achieve balanced, sufficient digital development, and the value orientation is to meet people's needs for a better life, while regulation is in place through the

<sup>25</sup> Tian Pengying, "Taking Historical Initiative through Accurately Understanding Society's Principal Contradiction," *Studies on Socialism with Chinese Characteristics* 4 (2022): 10.

<sup>26</sup> Chen Sibin, "Two Aspects of Dignity and Its Constitutional Significance," *Journal of Tsinghua University (Philosophy and Social Sciences)* 1 (2025): 236.

<sup>27</sup> Official website of the European Commission, accessed November 11, 2024, <https://digital-strategy.ec.europa.eu/en/library/european-declaration-digital-rights-and-principles>.

enforcement power of “equal participation” and “fair enjoyment” norms.

### **C. The jurisprudential logic of the right to digital development**

How can moral rights be given the force of law? In this regard, Bodenheimer stated: “Those tenets of moral rightness which are considered basic and imperative for social intercourse will be endowed in all societies with an obligatory character of great strength. This strengthening of their binding force is accomplished by converting them into rules of law.”<sup>28</sup> Therefore, the realization of the right to digital development should not rely too much on its moral binding force; instead, it should earn its legal enforceability by converting moral rights into legal norms. In view of this, the jurisprudential justification of the right to digital development must include the following aspects: clarify the basic concept of the right to digital development by approaching from the attribute of right; identify the value requirements of digital development for the right to digital development based on protecting the right; finally, with the realization of the right as the goal, define the normative form for realizing the free and comprehensive development of individuals through the right to digital development.

The right to digital development is derived from the digital evolution of the right to development, and it develops its unique digital characteristics. According to Item 1 of Article 1 in the *United Nations Declaration on the Right to Development*, “every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development.”<sup>29</sup> In the context of the right to digital development, the “people-centered” subject-based approach remains the guiding principle for digital development. From a subject-based perspective, the right to digital development places greater emphasis on protecting the development rights of various subjects under the premise of following the laws of digital development. Therefore, the intensional logic of the right to digital development can be summarized as follows: Based on the characteristics of digital development practice, it aims to secure individuals’ or collectives’ participation in and

<sup>28</sup> Edgar Bodenheimer, *Jurisprudence: The Philosophy and Method of the Law*, translated by Deng Zhenglai and Ji Jingwu (Beijing: Huaxia Publishing House, 1987), 361.

<sup>29</sup> Official website of the United Nations, accessed September 24, 2024, <https://www.un.org/zh/events/righttodevelopment/declaration.shtml>.

contribution to development and the realization of development fruits, ultimately orienting toward the free and comprehensive development of individuals.

The realization of the right to digital development is a dynamic process, which is mainly manifested in participating in, contributing to, and enjoying development. Under this practical logic, the structure of the right to digital development is mainly divided into three levels, namely, the right to digital development opportunity, the right to digital development condition, and the right to digital development realization.

Firstly, the right to digital development opportunity serves as the logical starting point for digital development and is an underlying component of the right to digital development. It is of great significance in eliminating digital inequality. The *Global Digital Compact* proposed that: “To fully harness the benefits of digital connectivity, we must ensure that people can meaningfully and securely use the internet and safely navigate the digital space.” China’s *Constitution* and laws have also made principled provisions to establish a participation mechanism for digital development in the country. Specifically, Articles 2, 42, and 48 of the *Constitution* have established principles for protecting citizens’ rights to participate in digital development. Building on this, Article 3 of the *Civil Code*, Article 3 of the *Law on the Protection of Persons with Disabilities*, and Article 40 of the *Law on the Protection of the Rights and Interests of Women*, among other laws and regulations, have made specific provisions regarding the right to development opportunity of different groups in various social fields. Based on this value foundation, the connotation of the right to digital development opportunity can be broken down into the following three parts: First, the right to digital development opportunity refers to equal treatment of digital identity. Digital identity is a theoretical projection of citizenship in the digital world, integrating the virtual and the real. One of the researchers upholds that “digital citizenship, as an integrated legal identity, not only encompasses the meanings of identification and recognition, but also concerns human dignity, freedom, rights, and development.”<sup>30</sup> In a broad sense, equal treatment of digital identity includes its equal acquisition. In a narrow sense, equal treatment of

<sup>30</sup> Liu Zegang, “Essence, Basics and Difficulties of Constructing Digital Citizenship in the Era of Artificial Intelligence,” *Law Review* 5 (2024): 107-108.

digital identity means equal enjoyment of the rights and interests represented by the digital identity. For instance, Article 24 of the *Personal Information Protection Law* stipulates that unreasonable differential treatment is prohibited in information-based automatic decision-making. Equal and open channels for participating in digital development, with digital identity as the core, should be established under the framework of the right to digital development opportunity for the sake of an equal starting point for digital development. In addition, the right to digital development opportunity also represents equal access to digital resources. In the digital economy environment, digital resources, as a new factor of production, require payment of a corresponding price to obtain, but the mechanism for acquiring them should be open and inclusive. This form of right is mainly manifested in that all subjects, regardless of gender, ethnicity, or age, have the right to acquire the basic digital resources necessary for their development. Since digital resources have diverse forms, digital facilities or digital platforms can also be included in the broad category of digital resources. Therefore, the right to digital development opportunity also means equal availability of digital facilities. This right not only highlights citizens' rights to use public digital facilities, but also requires these facilities to remain open and non-discriminatory during operation. In the construction and maintenance of digital facilities or platforms, their public nature should be underlined.

Secondly, the right to digital development condition aims to regulate the order of digital development and boost its progress. Promoting digital development requires protecting the resources and facilities necessary for digital development. The right to digital development condition, as a transitional right of the right to digital development, builds on the right to digital development opportunity and lays the foundation for the right to digital development realization. First, the right to digital development condition refers to the right to utilize digital resources, that is, users have equal access to these resources. Users can utilize relevant digital resources independently within the legal framework and without violating the rules of reasonable utilization established by the digital resource providers. Relevant laws have also made principled provisions in this regard. For example, Article 3 of the *Labor Law* stipulates that laborers have the "right to training in vocational skills." In addition, Item 1, Article 43 of the *Education Law* also has similar provisions that education recipients shall enjoy

the right to use “educational or teaching facilities, equipment or books and materials.” The relevant rights provisions also imply the principle of human rights due diligence for the government and enterprises. As business operators, enterprises should assume their social responsibility and maintain open, non-discriminatory digital resource platforms. The government needs to supervise the aforementioned enterprises and should build necessary public platforms for digital resources to secure the supply of basic resources for realizing digital development. Second, the right to digital development condition refers to the right to protect digital facilities, that is, citizens have the right to request the government or enterprises to maintain digital facilities, thereby ensuring the basic condition for digital development. As mentioned above, no matter whether it is an entity of public power or private power, the digital facilities it builds and maintains, especially public digital facilities, all have a public nature to a certain extent. This means that the right to digital development condition is not merely a right, but a social obligation of the entity that manages the digital facilities. Relevant entities are obliged to provide certain public digital products to the public to meet the needs of digital development. Third, the right to digital development condition refers to the right to request assistance for digital activities, that is, digitally disadvantaged groups have the right to request the government or enterprises to provide necessary and appropriate assistance for their digital activities. The *United Nations Declaration on Future Generations* states that “the pursuit and enjoyment of... the right to development” for all must be respected, protected, and promoted. In practice, the pursuit and enjoyment of the right to digital development often requires the execution of various digital activities. However, the emergence of digital exclusion makes it difficult for digitally disadvantaged groups to engage in digital activities and thus hinders their digital development. Therefore, it is necessary to grant digitally disadvantaged groups the right to request assistance, so as to truly make the right to digital development an open, universal right. For example, Article 64 of the *Law on the Protection of Minors* stipulates that the state, society, schools, and families should “protect the lawful rights and interests of minors in cyberspace.”

Thirdly, the right to digital development realization is the ultimate guarantee for achieving digital development. It is a right enjoyed by citizens at

the late stage of digital development, with the ultimate goal of making digital sharing a reality. The right to digital development realization refers primarily to the right to digital identity. Individuals have the right to participate in digital development, exercise their rights, and fulfill their obligations in their digital identity. Identity is a relational concept that emerges through social exchanges and cultural interaction, and is determined by shared norms that define the rights of members of a particular society.<sup>31</sup> Natural identity is determined by natural laws, while digital identity is defined by the laws of digital space. It can be seen that the digital identity and natural identity of citizens are of the same origin and coexist in harmony. The digital identity-based approach enables citizens' responsibilities, rights, and interests to extend to the digital world.<sup>32</sup> Therefore, realizing digital development is premised on the establishment of rights for digital identity. Establishing the rights for digital identity contributes to the "people-centered" logic for digital governance, which serves as the value orientation for achieving digital sharing. Throughout the process of digital development, the establishment of digital identity and the processing of corresponding data should adhere to an open and equal principle. "Whereas in the past discrimination focused on characteristics like gender, ethnicity, religion and other sensitive characteristics, now also zip codes and empty phone batteries can be criteria for automated decision-making."<sup>33</sup> Therefore, neither an individual's level of digital knowledge and skills, nor other personal characteristics should be grounds for digital discrimination, in order to fundamentally ensure equal development; moreover, the right to digital development realization refers to the right to enjoy digital fruits, where individuals participate in digital development and enjoy an equitable share of digital fruits. One of the scholars believes that "balanced distribution is a necessary condition for common prosperity. It does not refer to equal distribution of income or wealth in terms of quantity. Instead, it emphasizes that everyone should do their best and get what they deserve, while maintaining

<sup>31</sup> Sanja Ivic, "European Citizenship and the Concept of Digital Self," *Internet of Things* 27 (2024): 101-274.

<sup>32</sup> Ma Changshan, "Identification of Digital Citizens and Protection of Their Rights," *Chinese Journal of Law* 4 (2023): 21-39.

<sup>33</sup> Bart Custers, "New Digital Rights: Imagining Additional Fundamental Rights for the Digital Era," translated by Huang Anjie, *Journal of Human Rights Law* 5 (2023): 121.

moderate distribution differences, relatively fair distribution, and a reasonable distribution structure.”<sup>34</sup> For this reason, the right to enjoy digital fruits does not mean equal distribution of digital development fruits, but rather accentuates the logical connection between participation in development and distribution of fruits.

### **III. The Value Dimension of the Right to Digital Development**

In the new era, changes of historical significance are unfolding in unprecedented ways across the world. To seize the trend of digital development in this era, it is necessary to take people-centered values as the core and the new development philosophy as a practical guide to gradually circumvent, mitigate, and overcome the digital divide, digital exclusion, and digital malpractices in the application of digital technology. The value of the right to digital development lies in building an open, inclusive digital environment, respecting people’s demands for digital development, safeguarding their rights and interests in digital development, and promoting their participation in digital development and their equitable enjoyment of the fruits. Its ultimate goal is the free and comprehensive development of individuals, which will be accomplished through digital sharing empowered by the sustainable digital development of society.

#### **A. Guiding objective: bridging the digital divide**

In the early stage of internet development, the digital divide was mainly used to refer to the inequality faced by users in internet access, and thus was also called the digital access divide or the first-level digital divide. As the internet became more and more popular, the focus of the digital divide has shifted from internet access to the application of digital technology, referring to the unequal acquisition, possession, and use of digital technology by users. A U.S. Department of Commerce report defines the digital divide as “the divide between those with access to new technologies and those without.”<sup>35</sup> One of the researchers further points out that the digital divide is changing with the

<sup>34</sup> Zhang Shouwen, “Common Prosperity: Economic Path and Legal Guarantee,” *Research on Rule of Law* 5 (2022): 10.

<sup>35</sup> Official website of the U.S. Department of Commerce, accessed November 9, 2024, <https://www.ntia.gov/page/falling-through-net-survey-have-nots-rural-and-urban-america>.

advancement of the digital era, with the divide in digital skills gradually taking shape and the divide in digital fruits emerging.<sup>36</sup> The three-level structure of the digital divide has finally come into being at this point: the acquisition of digital resources is the first level, namely the access divide; the application of digital technology is the second level, also known as the behavioral divide; and the enjoyment of digital fruits is the last link in the logical chain, referred to as the fruit divide. Regardless of the level of the digital divide, its emergence suggests the lack or even absence of digital inclusiveness, from which digital inequality will arise.<sup>37</sup> In the context of digital development, digital inequality refers to both the insufficient allocation and uneven distribution of digital resources and the difficulty in acquiring and learning digital technology. Development is a fundamental need for human survival, and equality is one of the essential conditions for development. These inequalities have become a hidden obstacle to individual survival in the digital society. With the advent of a digital intelligence-powered society, problems in digital resource allocation have gradually emerged and begun to erode the foundation of development equality established by the framework of the right to development.

The value of bridging the digital divide lies in redefining the principle of equality in the social supply of digital resources by clarifying the nature of the right to digital development as a social right and establishing the universal and public nature of digital development. As a derivative of social rights, the theory of the right to digital development is always people-centered, emphasizing participation, contribution, and enjoyment by all. Therefore, digital development is neither guided by pure utilitarianism nor blindly follows absolute moralism. Instead, it is people-centered. On the premise of respecting the basic demands of individual digital development and considering the objective circumstances of social digital development, it optimizes the allocation mechanism of social digital resources and enhances the overall efficiency of new quality productive factors for the ultimate goal of uniting the right to digital development between individuals and collectives. In short, digital

<sup>36</sup>Anique Scheerder et al, "Determinants of Internet Skills, Uses and Outcomes. A Systematic Review of the Second and Third-Level Digital Divide," *Telematics and Informatics* 34 (2017): 1607-1624.

<sup>37</sup> Shu-Chun Liao, Tzu-Chuan Chou and Chen-Hao Huang, "Revisiting the Development Trajectory of the Digital Divide: A Main Path Analysis Approach," *Technological Forecasting and Social Change* 179 (2022): 121-607.



development should not only promote the free and comprehensive development of individuals but also achieve the balanced development of collectives. Because no matter whether it is in access, behavior, or fruit, the existence of the digital divide poses a real obstacle to realizing the right to development. The United Nations Committee on the Rights of the Child stressed in its *General Comment No. 25 on Children's Rights in Relation to the Digital Environment*: "If digital inclusion is not achieved, existing inequalities are likely to increase, and new ones may arise."<sup>38</sup> Bridging the digital divide is exactly a necessary step toward achieving digital inclusion and promoting equal development. On the one hand, bridging the digital divide means building a complete, efficient digital resource system to upgrade the supply of digital resources; on the other hand, bridging the digital divide requires respecting and protecting the digital development needs of individuals. For this reason, it is necessary to leverage the right to digital development, especially the right to digital development opportunity contained therein, to ensure that individuals or collectives can acquire, access, and utilize digital technology, products, and facilities, and enjoy the fruits created with them. Therefore, the primary goal of the right to digital development condition remains to push forward the supply-side reform of digital resources by expanding their supply and optimizing the order of their distribution; and to gradually achieve equal access, equal utilization, and fair enjoyment among individuals or collectives at the stages of accessing, applying, and enjoying digital resources. It is worth noting that during this process, digitally disadvantaged groups, such as the elderly, children, and people in less developed areas, deserve particular attention. In short, the core value of the right to digital development lies in eliminating the technological divide in the process of digital development, thereby enabling the free and comprehensive development of individuals.

### **B. Implementation method: mitigating the digital exclusion**

Digital exclusion refers to a social phenomenon during the process of digital development where some digitally disadvantaged groups face obstacles in their development and suffer damage to their development rights and interests

<sup>38</sup> Official website of the United Nations Treaty Body Database, accessed November 11, 2024, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=zh&TreatyID=5&DocTypeID=11](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?Lang=zh&TreatyID=5&DocTypeID=11).

due to their lack of digital knowledge and skills. If the digital divide actually refers to unequal initial distribution of digital resources, digital exclusion and the resulting digital malpractices represent unequal utilization of digital resources. The digital divide has led to uneven distribution of digital resources, leaving some digitally disadvantaged groups unable to access sufficient digital resources. This scarcity of digital resources has prevented these groups from accessing or utilizing the necessary digital technology, thus hindering their digital development. At the same time, the continuous development of digital technology has widened this divide, resulting in digital exclusion.

In general, digital exclusion originated from the differences demonstrated by individuals in the process of digital development. It emerged at the practice level as digital discrimination or even exclusion, and ultimately manifested as resource exclusion at the social level and self-exclusion at the individual level. During the process of digital development, it is difficult to achieve balanced digital development among different individuals due to the uneven distribution of digital resources and differences in utilization efficiency. Concurrently, the lack of digital literacy and skills has led to the emergence of digital exclusion at the cultural level. Under the influence of cultural exclusion, digitally disadvantaged groups, such as the elderly, have gradually become self-excluded, lacking digital recognition and the motivation to participate in digital development. Driven by the pursuit of digital benefits, the provision of digital services is not inclusive enough in society. Under the influence of these factors, digital exclusion exists not only among individuals but also, to some extent, becomes a social problem, hindering the digital development of individuals and the digital progress of society.

The key to mitigating digital exclusion is to, on the basis of deepening the supply-side reform of digital resources, establish a value realization mechanism for digital resources and technology to set up a legal framework, optimize the economic environment, and cultivate cultural awareness, thereby creating a digitally inclusive environment for society. First of all, a legal system should be designed for cultivating and developing a digitally inclusive culture. In this regard, one of the researchers believes that “the development and changes of the information society have brought about many risks to human rights, but the benefits and opportunities brought about by them are enormous... This will

promote the development of human rights education and human rights ideology, and facilitate the realization and protection of human rights.”<sup>39</sup> The right to digital development is a legal response to individual demands for high-quality digital development. The “concept of equal development” embodied in the right to digital development plays a vital role in mitigating digital exclusion and is an important “conceptual framework” for the free and comprehensive development of individuals. To achieve the free and comprehensive development of individuals and the balanced development within collectives, it is necessary to approach from the framework of the right to digital development to gradually mitigate digital exclusion. This will help establish a scientific and reasonable order for digital governance, and enable individuals and collectives to participate in development and enjoy its fruits. Within the framework of the right to digital development, on the one hand, an open, inclusive digital culture should be developed to popularize the concept of digital development and to encourage, guide, and help digitally disadvantaged groups to master and utilize digital resources and technology and participate in digital development. This can prevent digital barriers caused by the narrow scope of digital technology application; on the other hand, the right to digital development condition should serve as a regulation to clarify the human rights responsibilities of the government, enterprises, and other entities that build digital platforms and provide digital services. This secures equal digital qualifications, open digital facilities, and assistance in digital activities, and effectively protects the development rights and interests of digitally disadvantaged groups.

### **C. Implementation path: circumventing digital malpractices**

Durkheim argued that individuals are the product of communal living within the context of social governance. Because of this, “if we are to seek the reasons for the imbalance in social development, we cannot merely focus on the imbalance in individual capabilities.”<sup>40</sup> In the process of social digitalization, digital exclusion has directly led to varying progress of individual digital development, and a landscape of unbalanced, insufficient digital development

<sup>39</sup> Petro S. Kornienko et al, “Contemporary Challenges and the Rule of Law in the Digital Age,” *International Journal for the Semiotics of Law-Revue internationale de Semiotique juridique* 136 (2023): 991-1006.

<sup>40</sup> Émile Durkheim, *The Division of Labour in Society* (Beijing: SDX Joint Publishing Company, 2000), 297.

has emerged. From a social perspective, the digital governance issues caused by digital malpractices are also the crux of unbalanced, insufficient development.

Digital malpractices refer to a state of disorder in individual and social values and practices when digital governance norms are unclear or imperfect. This state of disorder began with the malpractices in technical ethics, gradually spread to the digital practice field, and ultimately hindered the realization of individual digital development. In the “translation” of digital technology, single human individuals are replaced by data, and a trend of subject alienation gradually emerges. Due to the collection and analysis of big data, the social connections between people have gradually been simplified into data connections, and individual differences and defects are magnified exponentially. “From an individual perspective, the differences between individuals cannot be hidden because they are fully recorded, excavated, and digitally profiled. From an organizational perspective, the value, contribution, and potential of employees are directly defined through digital analysis. Employees who are not efficient, contributive, or versatile enough will have no room for development and may even lose their jobs.”<sup>41</sup> The emergence of digital malpractices invisibly erodes the overall foundation of society, violates the requirement of just value in social system construction, and poses a risk of subject value alienation. In practice, this problem occurs more frequently in the later stages of digital development, hindering people from enjoying the fruits of digital development.

The key to circumventing digital malpractices lies in delineating the behavioral boundaries of digital development and establishing a new order of digital governance by leveraging the right to digital development realization to clarify the digital development rights, responsibilities, and obligations of different subjects. First of all, circumventing digital malpractices should be approached by focusing on digital identity equality. The root cause of digital malpractices is the absence or deficiency of digital value ethics, which is mainly manifested as the alienation of human subjective value by digital technology. In this regard, some researchers pointed out that from the perspective of productivity, digital technology represented by large models is an externalized form of human ethics, which lacks value neutrality and poses a risk of ethical

<sup>41</sup> Xie Xinhui, “Analysis of Human by Digital Technology: Social Function and Social Anomie,” *Zhejiang Academic Journal* 3 (2021): 53.

malpractices.<sup>42</sup> Taking algorithmic price discrimination as an example, platform enterprises ignore their due social responsibilities and the technology-neutral ethics they should abide by during the stages of data collection, consumer profiling, personalized marketing, and pricing, thereby infringing on consumers' right to fair trade, right to know, and other rights.<sup>43</sup> Therefore, the key to solving this problem lies in overcoming the weak neutrality of technological logic and re-affirming the fundamental position of "digital subjects" in the operation of the digital society; in addition, on the basis of digital qualification acquisition justice and digital labor justice established by digital identity equality, it is still necessary to reshape the justice in digital dividend distribution through a multiple-distribution mechanism for digital development fruits.<sup>44</sup> In the digital era, the concept of "common enjoyment" contained in the right to digital development realization features a prominent attribute of public awareness. Guided by this principle of justice, the distribution of digital development fruits should not only consider efficiency but also attach equal importance to fairness. Following the theory of the right to digital development realization can effectively guide individuals, platform enterprises, and the government to improve the mechanisms for supplying and utilizing digital resources, thereby establishing a fair, just, open, and inclusive digital social order and avoiding the various risks brought about by digital malpractices.

#### **D. Future outlook: achieving digital sharing**

With the continuous progress of digital development in recent years, while the development of new quality productive forces is being advanced and the social development pattern is being innovated, problems, such as the digital divide, digital exclusion, and digital malpractices, have also emerged one after another. The emergence of the right to digital development will effectively bridge the gap in digital resource supply caused by the digital divide, eliminate the obstacles that digital exclusion brings to the realization of individuals' digital development rights, and avoid digital malpractices in the process of digital

<sup>42</sup> Xiao Hongjun and Zhang Lili, "Theoretical Deconstruction and Governance Innovation of Ethical Misconduct in Large Model," *Research on Financial and Economic Issues* 5 (2024): 15-32.

<sup>43</sup> Chen Zhibin and Dawa Zhuoma, "Algorithmic Price Discrimination by Platform Enterprises and Its Collaborative Governance," *Jianghai Academic Journal* 5 (2024): 111-119.

<sup>44</sup> Zhang Shiqing, "The Justice Requirement for the Realization of Common Prosperity in the Digital Age and the Optimization of Social Policy," *Probe* 4 (2024): 79-91.

social governance, thereby improving and perfecting the digital governance order. However, as a basic right, the value of the right to digital development is not limited to the above-mentioned behavioral values. Instead, under the policy guidance of the Chinese modernization strategy, its value lies in striving toward the goal of “achieving digital sharing” and taking the development of “new quality productive forces” as a practical approach to gradually promote the construction of a digital ecological civilization and ultimately realize the free and comprehensive development of individuals.

Achieving digital sharing is an integral part of Chinese modernization and the ultimate value guideline for the right to digital development. Digital sharing refers to a situation where different subjects participate equally in the process of digital development, jointly utilize public digital facilities, and share public digital products to gradually realize the common enjoyment of digital development fruits. As a new theory of development, the concept of digital sharing is derived from the idea of shared development. It takes digital development as its practice field, and common prosperity is the ultimate form of digital development. In this regard, one of the scholars thinks that there is a logical inter-construction relationship between “common prosperity” and “digital sharing.” Semantically, although the two have different parts of speech, they both fall within the “people first” discourse system and are highly consistent in terms of the scope of subjects and objects, the means of realization, and the progress of implementation.<sup>45</sup> Therefore, why the right to digital development should take digital sharing as its long-term goal can be explained from the following perspectives.

First, from the perspective of the subject, the right to digital development is integrated into the Chinese modernization framework. It centers around the people and aims to gradually realize the free and comprehensive development of individuals in the form of digital sharing. Specifically, the realization of digital sharing relies on digital development. It requires adhering to the people-oriented principle and gradually advancing the modernization processes of individuals, society, and the state. The framework of the right to digital development should be used to realize development equity in the process of Chinese modernization.

<sup>45</sup> Tang Zixi, “A Study of the Conceptual History of the Sinicization of the Marxist View on ‘Sharing’,” *Journal of Yunnan Normal University (Humanities and Social Sciences Edition)* 2 (2024): 61-72.

It is necessary to take people-orientedness and justice as the guidelines for action to gradually eliminate the gap between groups via equal qualifications, open opportunities, fair competition, and shared values, and to build the subject dimension of new productive relations.<sup>46</sup>

Second, from the perspective of the object, digital sharing, through the right to digital development, runs through the digitalization process in various fields, aiming to protect the rights and interests of all subjects in participating in digital development and enjoying the fruits. This process is primarily accomplished by adjusting the distribution of digital resources and their utilization outcomes. In the initial distribution stage, the supply-side reform of digital resources should be promoted to ensure equal opportunities for access to digital resources; in the redistribution stage, the allocation order of public digital products should be optimized and public digital facilities be improved and maintained to avoid substantive inequalities caused by digital exclusion and digital malpractices; in the tertiary distribution stage, the problem of backward, uneven supply of digital resources should be resolved to achieve the goal of common prosperity.

Third, from the perspective of practice, digital sharing is premised on participation and aims for sharing. Chinese modernization is not only the modernization of a huge population but also a modernization that features common prosperity in all respects. In the process of Chinese modernization, digital development will take into account the country's large population in its practice, where people will extensively participate in digital development with the aim of achieving common prosperity. To achieve common prosperity in the real sense, it is necessary to ensure that the broad masses of people possess the conditions and capabilities to participate in digital development, thereby unleashing the vitality of the digital economy and accelerating the progress of Chinese modernization.

Fourth, from the perspective of the path, digital sharing is a progressive, upward process that cannot be achieved overnight. From participation in development at the elementary level to sharing of development fruits at the advanced level, the realization of the right to digital development is a phased

<sup>46</sup> Chen Guisheng and Wu Heqing, "How Digital New Quality Productivity Promotes Common Prosperity: From the Perspective of Digital Empowerment and Digital Equity," *Journal of Chongqing University* 5 (2024): 131-143.

process. During this process, ensuring a fair supply of digital resources and unblocking the channels for participating in digital development requires taking into account the local level of digitalization.

#### **IV. Conclusion**

The right to digital development is the digital evolution of the right to development. During the accelerated progress of Chinese modernization, the dilemma of unbalanced, insufficient digital development has driven the iterative evolution of the framework of the right to development, and the right to digital development has thus emerged. The right to digital development is a powerful means for achieving scientific allocation of digital resources, efficient utilization of digital technology, and universal sharing of digital fruits. Under the guidance of Chinese modernization, the right to digital development, in the form of new quality productive forces, drives the supply-side reform of digital resources, integrates itself into the building of Digital China, and contributes to the construction of a digital ecological civilization. Within this policy logic, the right to digital development is oriented toward addressing the people's aspirations for a better life by gradually perfecting the jurisprudential framework of the rights to digital development opportunity, condition, and realization, and fostering effective participation, strong promotion, and fruit sharing concerning digital development. The generation logic of "policy-reality-jurisprudence" determines the practical characteristics of the right to digital development, which is grounded in policies, oriented toward realities, and supported by jurisprudential principles. Overall, the right to digital development addresses the digital divide as a focal point, gradually mitigating digital exclusion and circumventing digital malpractices, thereby fostering digital sharing. The right to digital development emerges in response to the transformations of our era to serve the Chinese modernization practice and promote the free and comprehensive development of individuals.

(Translated by *LI Rong*)