

Discussion on the *Charter of the United Nations* and the Advancement of the Human Rights Cause

The Status of the *Charter of the United Nations* in the History of Human Rights Development

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World War II constituted a pivotal turning point in the history of human law. It prompted human society to re-examine the legitimacy and rationality of law, thus consigning the idea that an unjust law is nonetheless a law to the dustbin of history. The laws of all countries ought to be formulated in accordance with the philosophy of sound law. Adopted in the aftermath of World War II, the *Charter of the United Nations* (hereinafter referred to as the *UN Charter*) not only established a functional organizational structure for an authoritative international organization, but more importantly, from a legal perspective, it upheld “human rights” as its guiding principle and laid down the most important normative source of international law for the development of human rights. As one scholar observed, “In the period since the end of the Second World War, there has emerged what never before existed: a truly global morality — specifically, a global political morality. That morality, which I call ‘the morality of human rights,’ consists both of a fundamental imperative, which serves as the normative ground of human rights, and of various human rights — of various rights, that is, recognized by the great majority of the countries of the world as human rights.”¹ This paper briefly expounds on the status of the *UN Charter* in the history of human rights development to commemorate the 80th anniversary of its adoption and entry into force.

I. The *UN Charter* Inaugurated a New Paradigm for the Protection of Human Rights in the International Community

A. The protection of human rights has become the foundational purpose

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¹ Michael J. Perry, *Human Rights in the Constitutional Law of the United States*, translated by Xu Shuang and Wang Bencun (Beijing: The Commercial Press, 2016), 1, “Introduction.”

for the formulation of the *UN Charter*

At the very outset of the *UN Charter*, when elaborating on its purposes, it states: “We the Peoples of the United Nations determined” to achieve the following objectives: “to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and; to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and; to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained; and to promote social progress and better standards of life in larger freedom.” A careful interpretation of this statement reveals that the fundamental rationale for enacting the *UN Charter* lies in the protection of human rights. This is not only because the *UN Charter* has explicitly pledged to “reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” In fact, the root cause for war that “twice in our lifetime has brought untold sorrow to mankind” in the first half of the 20th century was the disregard and blatant violation of human rights. As a scholar pointed out with regard to the situation in Nazi Germany: “The Nazi state was a regime of unjust law, for it brutally imposed state coercion on national, social, and private life, and enforced ideological creeds without moral or legal restraint... Human beings became tools serving the ends of the state (‘You are nothing, your nation is everything’). Individual human rights and civil rights simply did not exist (in concentration camps).”² When human beings are reduced to objects rather than masters of the state, they are enslaved as instruments of the state, and also more likely to be reduced to cannon fodder sacrificed for aggressive wars instigated by the state. It is in this sense that the *UN Charter* upheld the banner of human rights, reaffirmed human dignity, and solemnly defined the purpose of the founding of the United Nations as the protection of human rights. It has carried forward the achievements of human civilization and propelled the vigorous development of the global human rights cause in the post-war era.³ It is precisely for this reason that the *UN Charter* has been acclaimed as “the first treaty in world history to recognize universal human rights,”⁴ providing the most authoritative source of international law for the development of the global human rights cause in the post-war world.

² Bernd Rüthers, *Rechtstheorie*, translated by Ding Xiaochun and Wu Yue (Beijing: Law Press • China, 2003), 249.

³ For illustrative purposes only, domestic compilations of human rights law literature include as many as 179 international and regional human rights instruments. See Bai Guimei and Liu Xiao, *Selected Reference Materials for the Teaching of Human Rights Law (2nd Edition)* (Beijing: Peking University Press, 2021), 1-749.

⁴ David P. Forsythe, *Human Rights in International Relations*, translated by Gao Deyuan, Hongzhi (Taipei: Cultural Enterprise Co., Ltd., 2002), 54.

B. The *UN Charter* has become the direct source of the three core human rights instruments

The so-called three core human rights instruments refer to the *Universal Declaration of Human Rights* (UDHR), adopted by the United Nations General Assembly on December 10, 1948, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) and the *International Covenant on Civil and Political Rights* (ICCPR), adopted on December 16, 1966. All three core human rights instruments make explicit reference to the *UN Charter* and take it as the legal basis for their formulation.

The “Preamble” of the UDHR states:

“Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world,

...

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom, ... Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.”⁵

Moreover, the “Preamble” to both the ICESCR and the ICCPR is identical in content. Both emphasize that the States Parties to the Covenants, “Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world, Recognizing that these rights derive

⁵ Bai Guimei and Liu Xiao, *Selected Teaching Reference Materials on Human Rights Law (2nd Edition)* (Beijing: Peking University Press, 2021), 3.

from the inherent dignity of the human person... Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,... Agree upon the following articles...”⁶

It should be pointed out that the theories and institutions of human rights have a relatively long history in human civilization. England’s *Magna Carta* of 1215 has been widely recognized as a foundational instrument for the protection of human rights.⁷ Nevertheless, the *Magna Carta* only protected the rights of the nobility, and the rights and freedoms of ordinary people could not derive any protection from it. The American Declaration of Independence of 1776 was hailed by Marx as “the first human rights declaration in the world.” Although the Declaration of Independence proclaimed that “all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness,” the category of “all men” did not include slaves. What is more important is that the aforementioned *Magna Carta*, the *Declaration of Independence*, and other legal norms for the protection of human rights enacted in individual countries prior to the World War II were all confined to the scope of national sovereignty. In other words, human rights were treated as a purely domestic affair. In stark contrast, the *UN Charter* has transcended the boundaries of national sovereignty and established the global human rights goal that “everyone is entitled to all human rights,” and also authoritatively laid down that all State Parties bear the fundamental obligation to protect human rights. It is for this reason that scholars argue that “the idea of international human rights only took shape after the Second World War — above all within the framework of the United Nations.”⁸ This idea is embodied in the fundamental human rights and human dignity affirmed by the *UN Charter*. Such a proclamation of human rights and dignity has also served as the direct legal basis for the formulation of the three core human rights instruments, propelling the development and advancement of the global human rights cause.

C. Since the adoption of the *UN Charter*, the protection of human rights has become a new trend of the international community

The *UN Charter* is a legal instrument reflecting the profound reflection of the peoples of all countries on the scourge of war, and also embodies the collective will of the international community to pursue world peace from the

⁶ Ibid., 6-7 and 18-19.

⁷ Errol Mendes, “The Legal and Constitutional Foundations of Human Rights, the Right to Development and Balanced Law: A Canadian Attempt to Bridge the Gap between Chinese and Western Concepts of Human Rights,” in *International Human Rights and Development: Chinese and Canadian Perspectives*, Bai Guimei ed. (Beijing: Law Press • China, 1998), 52.

⁸ Manfred Nowak, *Introduction to the International Human Rights Regime*, translated by Liu Huawen (Beijing: Peking University Press, 2010), 12.

perspective of human rights and human dignity. Since the adoption of the *UN Charter*, a universal consensus on respecting and protecting human rights has taken shape in the international community, and the international human rights cause has thus developed rapidly, evolving into an irresistible global trend. Its major manifestations can be elaborated in three aspects.

First, it explicitly stipulates that all State Parties bear an inescapable obligation and responsibility to protect human rights. The United Nations Human Rights Committee explicitly stated in its General Comment No.31 (80th Session, March 29, 2004) that the ‘rules concerning the basic rights of the human person’ are erga omnes obligations,” and that “there is a United Nations Charter obligation to promote universal respect for, and observance of, human rights and fundamental freedoms.”⁹ The concept of “erga omnes obligations” embodies the sacredness and absoluteness of human rights, and also places a state as a duty-bearer for human rights protection, which are required to make unremitting efforts to expand the scope of human rights enjoyed by its people and advance the quality of such rights protection. Respecting and protecting human rights are not a bounty bestowed by the state or a benevolence of the law, but an inescapable responsibility of the state. Moreover, the level of compliance with this obligation serves as a criterion for evaluating the legitimacy of a state. This is because the fundamental stance of international human rights law is that a government may no longer act antagonistically toward its people merely to effectively achieve its own objectives or expand its power, nor may it act arbitrarily on the grounds that its actions target its own nationals and fall within the scope of its sovereignty. To be worthy of the name “government,” it must meet certain standards, including restricting the exercise of power, prohibiting torture, forbidding cruel practices, refraining from deprivation of property, rejecting state terrorism, prohibiting racial, religious, or gender discrimination, and not barring citizens from leaving the country.¹⁰ In other words, a state is not merely an organization endowed with coercive power to maintain social peace and order, but a virtuous state that cherishes human rights as its core tenet at all times. It should be noted that the state’s obligation to protect human rights has also given rise to an important human rights principle known as the state-like action principle. This principle means that “when a human rights violation occurs between private individuals, if such violation is connected with the operation of the state, it shall be deemed a violation of an individual by state-like power, and the constitutional protection of human rights shall apply thereto.”¹¹ Thus, the state’s obligations extend to

⁹ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR commentary (Revised 2nd Edition)*, translated by Sun Shiyan and Bi Xiaoqing (Beijing: SDX Joint Publishing Company, 2008), 1267.

¹⁰ Michael J. Perry, *Human Rights in the Constitutional Law of the United States*, translated by Xu Shuang and Wang Bencun (Beijing: The Commercial Press, 2016), 7.

¹¹ Xu Qingxiong, *Introduction to Constitutional Law (3rd Edition)* (Taipei: Yuedan Publishing Co., Ltd.,

public law relations, and also to private law relations.

Second, human rights have become the most legitimate political discourse of the present age. Undoubtedly, countries across the globe differ in their development processes and cultural traditions, which have inevitably given rise to a diversity of ideologies and values. It is precisely these ideological divergences that led to the Cold War, and the diverse propositions and policies adopted by all countries in the world today. Fortunately, however, “a universal language that has developed during the extraordinary era of attention to civil and human rights in the wake of World War II.”¹² It can be reasonably argued that it was the formulation of the *UN Charter* that established human rights as “their rightful claim today is to be the only universally recognized system of values.”¹³ It is also in this sense that no country can claim the right to disregard and fail to protect human rights; nor can any country appear on the stage of the international community except as a subject bound to respect and protect human rights. In China, “the Communist Party of China and the Chinese government have always respected and protected human rights. China has long been committed to applying the principle of the universality of human rights in the Chinese context. While promoting economic and social development, we have improved people’s well-being, promoted social fairness and justice, and strengthened legal protections for human rights. We have worked to promote all rights — economic, social, and cultural as well as civil and political — in a holistic and balanced way, and have markedly improved protections for people’s right to subsistence and their right to development. Our efforts have enabled us to blaze a path of human rights development well-suited to our national conditions.”¹⁴ In terms of the evolution of policies and laws, the 16th National Congress of the Communist Party of China (CPC) incorporated “respecting and protecting human rights” as a key objective of advancing political civilization into its report in 2002. When the *Constitution* was amended in 2004, the clause “The State respects and protects human rights” was added as the third paragraph of Article 33 of the *Constitution*. This act constitutes a solemn commitment to the country’s people, and also a rational response to the global trend of human rights development.

Third, individuals have emerged as new subjects of international law in human rights matters. International law has long been regarded as a legal regime governing relations between states. Nevertheless, with the advancement

1997), 61.

¹² Mary Ann Glendon, *Rights Talk: The Impoverishment of Political Discourse*, translated by Zhou Wei (Beijing: Peking University Press, 2006), 3, “Preface.”

¹³ Manfred Nowak, *Introduction to the International Human Rights Regime*, 1.

¹⁴ Xi Jinping, “Congratulatory Message to the 2015 Beijing Forum on Human Rights (September 16, 2015),” in *Xi Jinping on Respecting and Protecting Human Rights*, Institute of Party History and Literature of the Central Committee of the Communist Party of China ed. (Beijing: Central Party Literature Press, 2021), 4.

of the international human rights cause, individuals have risen to become new subjects under international law. As Jürgen Habermas put it, international agreements on civil, political, economic, social, and cultural rights have established a worldwide system for monitoring and reporting human rights violations, and they have also provided individual citizens with a channel to institute legal proceedings against crimes committed by their own governments. The significance of this fact is fundamental, for it means that individual citizens are now recognized by international law as its direct subjects.¹⁵ Human rights are inherently attached to human beings. Therefore, the genuine realization of human rights depends on statutory provisions, and also on the capacity of individuals to claim and defend their rights in their own name. Today, an individual is a subject entitled to assert rights under domestic law, while also holding the standing to exercise litigation rights under international law. As Manfred Nowak stated, the ICCPR enshrines human rights that are directly enforceable by individuals or groups through domestic remedies. If a state has ratified the First Optional Protocol, victims of human rights violations may avail themselves of the individual communication procedure to submit petitions to the Human Rights Committee after exhausting domestic remedies.¹⁶ The prominent elevation of such subject status constitutes a remarkable hallmark of the development of human rights.

II. The *UN Charter* Highlights the Fundamental Status of Human Dignity in Human Rights

The term “human dignity” has been variously phrased in academic circles as dignity of humankind, dignity of human nature, dignity of the human personality, and individual dignity. It should be pointed out that the expression “dignity of the human personality” in the “Preamble” to the *UN Charter* essentially refers to human dignity in its general sense. In a narrow sense, the dignity of the human personality generally denotes that a person’s name, portrait, honor, and reputation shall not be profaned, and that one’s personal information and privacy shall be inviolable. By contrast, human dignity connotes the inherent dignity possessed by human beings as an integral whole, with the dignity of the human personality being merely a subordinate concept of human dignity in this context. As one scholar noted, granting primacy to the individual over advances in biology and genetics is embodied in the principle of respect for human dignity, a principle referred to in the Preamble to the *UN*

¹⁵ Jürgen Habermas, “International Law: From the Nation-State to the Post-Nation-State,” translated by Lu Ding, in *Annual Academic Review 2003: Human Imagination of the World*, Zhao Tingyang ed. (Beijing: Renmin University of China Press, 2004), 335-336.

¹⁶ Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary (Revised 2nd Edition)*, translated by Sun Shiyang and Bi Xiaoping (Beijing: SDX Joint Publishing House, 2008), 7-8, “Introduction.”

Charter of June 26, 1945.¹⁷ It is precisely on this basis that the *UN Charter* seeks to underscore the paramount status of human dignity in human society. This also indicates that, from the perspective of written normative instruments, human dignity has served as the universally recognized general legal and ethical principle of the international community ever since 1945.

Naturally, the exploration of dignity in human society has a long history. Broadly speaking, there are five major viewpoints that attempt to provide theoretical justification for human dignity, which are as follows: First, humans are created in God's image. According to Christian doctrine, when God created humans, God fashioned them in God's own likeness, and also endowed them with wisdom and rationality. Thus, unlike all other creatures in the world, humans possess intrinsic value and dignity, enabling them to become masters of all things and rule over the earth. Second, humans are endowed with freedom. In the eyes of scholars, unlike the mechanical reactions of animals, humans are beings with free will. This means that every individual can independently and spontaneously make sound judgments and choices according to their inner convictions, thereby advancing toward the fulfillment of selfhood. As such, "freedom constitutes the fundamental underpinning for people to realize their life plans and fulfill the dignity of their humanity."¹⁸ Third, humans are capable of thinking. This line of argument emphasizes that humans possess dignity precisely because they are thinking beings. The relationship between thought and human dignity is most succinctly expressed in the words of the French thinker Blaise Pascal: "Man's greatness lies in his power of thought." On the surface, "Man is but a reed, the most feeble thing in nature"; yet, he is "a thinking reed." Endowed with a soul that can comprehend and grasp all things in the world, human self-awareness is sufficient to make humans tower above all other creatures and become masters of the universe: "All our dignity consists then in thought."¹⁹ Fourth, humans possess rationality. This is a long-standing argument dating back to ancient Greece regarding the source of human dignity. In short, unlike all other entities in the world, humans are rational animals, and this rational essence distinguishes them from other species. During the Enlightenment, by exploring and exalting human rational capacity, scholars introduced the image of a rational subject — endowed with natural rights and capable of autonomous choice — into the threshold of modern society. This also marked the transformation of discourses on human dignity from the Christian tradition to secular philosophical justification. Fifth,

¹⁷ Noëlle Lenoir, "Bioethics: Constitution, and Human Rights," in *New Trends in Western Academia: The Quest for a New Humanism*, Lu Xianggan ed. (Beijing: Social Sciences Academic Press, 2005), 217.

¹⁸ Xu Zhenxiong, *A Theory of Justice from the Perspective of Rule of Law* (Taipei: Hongye Cultural Enterprise Co., Ltd., 2005), 61.

¹⁹ Blaise Pascal, *Pensées: Thoughts on Religion and Other Subjects*, translated by He Zhaowu (Beijing: The Commercial Press, 1985), 157-158.

humans are ends in themselves. Regarded as the most classic theory on the justification of human dignity, this viewpoint originated from the renowned German philosopher Immanuel Kant. Kant argued that humans are moral beings who act autonomously and also take responsibility for their actions — a fact that suffices as a sound foundation for human dignity. He stated that morality is the only condition under which a rational being can be an end in himself, since only through morality is it possible for him to be a legislating member in the kingdom of ends; consequently, only morality and humanity, insofar as it is capable of morality, possess dignity.²⁰ Endowed with reason governed by morality, humans are capable of weighing the pros and cons and making prudent choices, thereby aligning the values they pursue with the universal values of humanity, and in so doing, achieving their own greatness and dignity. On this basis, Kant put forward a pivotal conclusion in the history of human studies: every rational being must abide by the following principle — no one, at any time, should treat themselves or others merely as a means, but should always regard each person as an end in themselves. When a person, by upholding the principle of “being an end in themselves,” exercises reason properly and takes “respect” as the criterion for interacting with others, such an individual possesses absolute dignity. Furthermore, human dignity is irreplaceable by any other values; it is priceless and absolute. It is impermissible to deprive anyone of their life on the grounds that they are deemed to have no value to society, for they are beings with life who equally possess dignity. Under no circumstances should we destroy the bodies that embody their dignity in the name of so-called promoting social progress.

The connotation and significance of human dignity have been elaborated by the author in numerous papers, and only several core viewpoints are enumerated herein: Human dignity denotes the nobility and solemnity inherent in every individual by virtue of his or her intrinsic worth. It affirms that all human beings, regardless of their capacities or the scale of their contributions, are endowed with an inviolable and sacred dignity. Human dignity is not a privilege exclusive to certain groups or individuals, but an entitlement possessed by every member of society. In this regard, human dignity in the collective sense can never supersede the dignity of the individual. Human dignity constitutes the fundamental premise of modern law: it underpins the establishment of legal subjectivity, serves as the criterion for evaluating the legitimacy of legal content, and represents the ultimate purpose of law, thus acting as the ethical cornerstone of modern legal systems. The conception of dignity embodied in the *UN Charter* holds momentous significance in the history of modern human rights development, which is manifested in two

²⁰ Immanuel Kant, *Foundations of the Metaphysics of Morals*, translated by Miao Litian (Shanghai: Shanghai People's Publishing House, 2002), 55.

aspects. First, dignity serves as the foundational premise for justifying human rights. Everyone is entitled to all such rights; and a human being's possession of personality and entitlements to rights is, in turn, predicated on their inherent dignity. In this sense, human dignity is the prerequisite and bedrock for the very existence of human rights. The major distinctions between human dignity and human rights are as follows: To begin with, they are grounded in different starting points. Human dignity is conceived from the perspective of human essence, emphasizing that a human being is a moral subject with intrinsic worth. By contrast, human rights are framed from the perspective of human conduct, signifying the legal practices that a subject may pursue by virtue of such entitlements. Next, their specific connotations diverge. Human dignity embodies the fundamental and privileged status of an individual vis-a-vis the state, government, or society, whereas human rights represent a legal qualification that demands equal treatment of every person by the state.

Finally, they occupy disparate hierarchical positions. Human rights are the means to safeguard the realization of human dignity, and their existence is fundamentally geared to this end. Second, dignity embodies the irreplaceable intrinsic worth inherent in human beings. In light of the emphasis that human dignity places on the intrinsic worth of humans, Ronald Dworkin put forward two fundamental principles of human dignity: the principle of intrinsic value and the principle of personal responsibility. The principle of intrinsic value holds that every human life bears a distinctive objective worth, and that how a person lives their life carries intrinsic and objective importance.²¹ The principle of personal responsibility asserts that every individual bears a special duty to strive for the fulfillment of their own life, a duty that entails exercising one's judgment to define the criteria for a meaningful life. As Dworkin argued, these two principles — that every human life has intrinsic potential value, and that each person is responsible for realizing that value in their own life — together form the foundation and conditions of human dignity.²² In short, under the principle of human dignity, every individual exists as a subjective being endowed with unique intrinsic worth, which also lays a philosophical foundation for human rights. Third, human dignity occupies the basic normative status of an ethical criterion. Human dignity is not a basic concept created by law; on the contrary, it is a foundational concept forged by thinkers throughout the ages. It transcends positive law and constitutes a pre-existing norm that exists independent of statutory law. Law merely proclaims and protects human dignity, rather than creating or inventing it. Similarly, human dignity serves as the basic norm for integrating the legal system and regulating

²¹ Ronald Dworkin, *Is Democracy Possible Here? Principles for a New Political Debate (2nd Edition)*, translated by Lu Nan and Wang Qi (Beijing: Peking University Press, 2014), 8 and 10.

²² *Ibid.*, 8-9.

the hierarchical order of laws. The term basic norm is adopted from Hans Kelsen's concept of the same name (in German: *Grundnorm*), referring to the supreme norm of a legal system. The British scholar Steven Lukes even asserted that this idea of individual dignity enjoys the status of a moral (or religious) law that is fundamental, ultimate, and overriding, furnishing an indisputably universal principle for judging moral right and wrong.²³ In the legislative history of the post-World War II era, human dignity has also been recognized as a perpetual norm that may not be arbitrarily amended by legislative organs through legislative procedures. For instance, Article 1 of the *Basic Law for the Federal Republic of Germany* stipulates that: "(1) Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authorities." With regard to the amendment of federal laws, Article 79 (3) provides that: "Amendments to this Basic Law affecting the division of the Federation into Länder, their participation on principle in legislative process, or the principles laid down in Articles 1 and 20 shall be inadmissible." Human dignity has thus become an unamendable legal provision. It is evident therefrom that human dignity embodies three core attributes in a country's legal system: precedence (it does not depend on statutory provisions), foundationality (it constitutes the normative bedrock for the establishment of a legal system), and perpetuity (it may not be altered through constitutional amendment). These attributes have laid the most solid ideological and institutional foundation for the existence of human rights. Human rights rest upon human dignity, and the inviolable status of human dignity is precisely the bedrock that renders human rights inviolable.

III. The *UN Charter* Breaks Through the Individualist Paradigm in Human Rights Theories

The birth of human rights theories is inextricably intertwined with the philosophy of individualism. As stated in the entry on individualism in *Encyclopedia Britannica Concise*, individualism refers to a set of doctrines that "attach high importance to individual freedom and extensively emphasize self-determination, self-control, and the individual or self free from external constraints." According to the summary in this work, the concept of individualism in the context of human rights encompasses three fundamental principles: All values are centered on the individual, for all values are ultimately experienced by individuals; The individual is an end in itself, and possesses inherent supreme value, while society is merely a means to achieve individual ends; All individuals are morally equal, and no one should be treated as a tool for another person to attain happiness.²⁴ Such a summary can be said

²³ Steven Lukes, *Individualism*, translated by Yan Kewen (Nanjing: Jiangsu People's Publishing House, 2001), 48.

²⁴ Liu Gengzi and Yang Baicheng, "Two Traditions, One Story: A Brief Discussion on Individualism in

to epitomize the essence of the individualist view of human rights. The human rights theories of the Enlightenment era took individualism as their philosophical foundation, regarding human beings as isolated atoms with no subordination to one another, and viewing rights merely as tools for safeguarding one's own interests. While this individual-centered philosophy and conception of rights undoubtedly played an extremely important role in the transition from authoritarian societies to capitalist societies — as scholars have summarized, it was a decisive weapon for defeating traditional privileges and hierarchical systems, dismantling various outdated social orders, and establishing universal human rights in the form of legal rights. The formal legal system of modern democratic societies serves as the protector of abstract individuals, providing formal equality (before the law) and formal freedom (against illegal or arbitrary treatment). These are important and indispensable achievements.²⁵ Such a view on human rights, on the other hand, while affirming human autonomy, self-governance, and independence, further exacerbated the compartmentalization of rights, creating a clear dividing line between “my rights” and “your rights,” which in turn led to social fragmentation and isolation. Furthermore, although the individualist view of human rights ostensibly acknowledges the inalienable and unrestrictable natural rights inherent in every human being, it disregards the practical conditions required for the enjoyment and exercise of such rights, thereby fundamentally reducing human rights to entitlements that only a minority can truly realize. As the economic base determines the superstructure, the classical model of human rights disseminates the ideology of possessive market individualism, and its conception of human rights actually evolves into the rights of economic or consumer man, emptying human beings of their responsibilities to the community and their loyalty to the enduring spiritual traditions that transcend the market and the state.²⁶ In short, the individualist view of human rights overlooks the fact that human beings are members of society and that the human rights of each individual are interconnected with those of others, thus resulting in the incompleteness of human rights theories and the inequality of human rights systems.

Precisely because of the profound recognition of the progressive significance and inherent flaws of the individualist view of human rights, the communitarian view of human rights emerged as the times required.

Western Political Traditions,” in *Freedom and Community*, Liu Junning et al. eds. (Beijing: SDX Joint Publishing Company, 1998), 235-236.

²⁵ Steven Lukes, *Individualism*, 138.

²⁶ Upendra Baxi, *Human Rights Education: A Promise for the Third Millennium?* in *Human Rights Education for the 21st Century (vol. 1)*, translated by Wang Zhihong et al., edited by George J. Andreopoulos and Richard Pierre Claude (Beijing: Higher Education & Culture Enterprise Co., Ltd., 2004), 236-238.

Communitarians claim that a society is not merely an aggregation of individuals bound by some kind of contract; rather, it is a community where people are united by shared customs and beliefs. Political philosophy is therefore not just a doctrine concerned with protecting or advancing individual rights, but one that ensures a common good or common purpose.²⁷ A comparison between the individualist view of human rights and the communitarian view of human rights reveals three key differences: (1) In terms of the goals of human rights: The individualist view focuses solely on the expansion of individual rights and freedoms, with human independence, autonomy, and self-governance as the sole objectives of human rights. By contrast, the communitarian view regards human rights as a bond for solidarity and collaboration among people. Under a communitarian human rights regime, all members of society work together to create a happy and prosperous life. (2) In terms of the anthropological presuppositions of human rights: The individualist view conceives of humans as isolated individuals, and the bestowal of all human rights is intended to endow people with the qualifications and capacities to pursue a happy life. The communitarian view, however, regards humans as integral members of society, holding that the exercise of individual rights must be aligned with the promotion of the public interest. This is enshrined in Article 153 of the *Weimar Constitution*, which stipulates that: “Property entails obligations. The use of private property shall not overlook the public good.”²⁸ (3) In terms of the value pursuits of human rights: The individualist view frames the individual as an entity in opposition to the state, with the core content of human rights being the defense against infringements by the state. The communitarian view, on the other hand, organically integrates the state, society, and the individual. It holds that the state and society bear a sacred mission to protect human rights, while human rights also serve the development of the state and the progress of society.

The *UN Charter* largely aligns with the essence of the communitarian view of human rights. Opening with the phrase “We the Peoples of the United Nations,” it emphasizes “to practice tolerance and live together in peace with one another as good neighbours,” which distinctly embodies the lofty ideals of “one world” and “universal harmony.” Moreover, its purposes explicitly stipulate that the UN is established “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace”; and “to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in

²⁷ Deng Zhenglai, “A Study of Hayek’s Methodological Individualism,” in *Individualism and Economic Order*, translated by Deng Zhenglai, edited by F. A. von Hayek (Beijing: SDX Joint Publishing Company, 2003), 19, “Translator’s Preface.”

²⁸ The *Weimar Constitution*, translated by Zhang Junmai (Beijing: The Commercial Press, 2020), 40.

promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” The conception of human rights thus defined transcends the limitations of the individualist view, and instead bears the theoretical and institutional hallmarks of the communitarian perspective. The vision of humanity enshrined in the *UN Charter* is more explicitly reflected in the Preamble to the UDHR. Article 1 of the UDHR states: “All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.” The notion of “brotherhood” equates to the idea that “All the people in the world are brothers and sisters,” thereby rendering human rights a lubricant for harmonious relations among people. In summary, the “human being” as the subject of human rights in the *UN Charter* is not a socially disconnected, isolated wanderer, but rather a social individual integrated into society and endowed with profound social sensibilities. This transformation in the conception of human rights breaks the shackles of the individualist paradigm, enabling the bestowal of human rights to directly serve such social objectives as solidarity, collaboration, and mutual assistance. Meanwhile, it lays the foundation for the emergence of social rights and social law. Taking shape from the late 19th century onwards, social rights and social law represent new categories of rights and law, grounded in the collaboration, solidarity, and mutual aid of all members of society to share risks collectively and build a prosperous life in common.

Furthermore, the *UN Charter* also identifies two fundamental factors that impact human rights, namely peace and development. War is the gravest scourge of human rights, and the UN was established to “save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind.” In accordance with this objective, the purposes of the UN are explicitly defined as “to maintain international peace and security,” “to strengthen universal peace,” and “to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” It follows that there can be no human rights without peace. Similarly, progress in human rights hinges on development. Only when all countries possess adequate material conditions and a free environment can human rights be truly realized. The *UN Charter* attaches great importance to development in its Preamble and directly links it to human rights. To this end, it emphasizes the need “to promote social progress and better standards of life in larger freedom” and “to employ international machinery for the promotion of the economic and social advancement of all peoples.” Guided by the *UN Charter*, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR) has formulated comprehensive and detailed provisions on people’s social and

cultural rights, thereby advancing the well-being of people across the globe.

(Translated by *LI Donglin*)