



DOI: 10.22363/2313-2272-2019-19-1-20-30

China's human rights concept and its international promotion*

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Abstract. In the contemporary inter-state relations, human rights are not only a subject of disputes but also a lever of influence or pressure, a set of material and non-material structures, institutions and processes that determine the course of international life. Thus, human rights have become a full-fledged factor of international relations. In recent decades, the problem of human rights in China has been one of the most controversial issues in the relations of China and the Western countries. It is the specific nature of China's human rights concept that determines contradictions between China and the West. The authors argue that the concept of human rights in China is based on the national tradition of the primacy of the state over the interests of an individual. China's human rights concept rethinks Confucianism and Marxism emphasizing the need to respect the collective rights of the people to the socio-economic development as well as to ensure stability and security of the state and preserve its sovereignty. At the same time, as the authors point out, in recent years China, which traditionally takes a defensive position on the human rights issue in its international agenda, has promoted its own concept of human rights at the international level. In this regard, in the authors opinion, it is necessary to analyse the factors, which have affected the formation of China's human rights concept, as well as the position of China's authorities on this issue, and the purposes and tools of China's so-called 'human rights diplomacy'. At the conclusion the authors summarize the basic features of China's human rights concept, which form the theoretical basis of 'human rights diplomacy' of the PRC.

Key words: China; Western countries; human rights; political discourse; Confucianism; Marxism; diplomacy

Human rights are a comparatively new topic in the studies of China which has been influenced by the social-political events in China and by intra-disciplinary changes in sinology and human rights research. Before 1989, when the events in Tiananmen Square took place, human rights in China had not been an object of international scientific interest. Very few scholars considered human rights in China in philosophy, history, law, and international relations. In the post-1989 period, a number of scholars focused on such topics as the relations of human rights concept with Chinese culture and philosophy, the role of human rights in the democratic development of the country; China's perception of the international human rights system and the role of human rights in international relations in general.

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The research was supported by the Russian Foundation for Humanities. Project No. 17-27-21002.
The article was submitted on 21.11.2018.

According to Wenhui Zhong, the Chinese works on human rights are presented mainly by incriminating documents of abuses and lack theoretical-conceptual analysis [35]. However, there are scientific works with relevant information that consider the history of human rights in China and the current situation in the country. R. Edwards was among the first Western scholars that systematically studies the human rights concept in China. His theory and works of W. De Bary, S. Deklerck, S. Heilmann, A. Kent, S. Mueller, R. Weatherley and M. Svensson provided the historiographical basis for the article. The study is also based on the articles of Chinese scholars who have a different interpretation of the human rights concept as compared to Western scientists. The issues of integrating China in the international human rights system and the analysis of China's agenda in the field of human rights in the UN are considered in detail in the Chattham House's report *China and the International Human Rights System* (2012) that helped the authors to understand aims and mechanisms of the international realization of China's concept of human rights.

Human rights as a factor of international relations

Today the actors of international relations differ in terms of economic development, culture, historical traditions and religion, but they all are at the stage of strengthening the inter-civilizational interaction, i.e. globalization [31]. Globalization and democratization of international relations contribute to the fact that all political actors are influenced by international processes, including the states that previously protected their internal affairs from external interference [9]. On the one hand, human rights are an inherent part of domestic policy; on the other hand, they are regulated by the international norms, declarations and agreements supported by the UN, although their understanding is transformed under the globalization.

Primarily, it is the principle of human rights universality that is called into question. The idea of human rights universality is based on the Western idea of their natural origin [33]. The Western concept of human rights developed over centuries and is reflected in the works of J. Locke, S. Montesquieu, J. Rousseau, T. Jefferson, etc., and in such documents as 'Bill of Rights' (1689), 'Declaration of Independence' of the United States (1776), 'Declaration of the Rights of the Man and of the Citizen' (1789) etc. The Western origin of the idea of human rights universality makes it difficult to apply it in other regions where it did not follow the same course of historical development. As a result, there are certain difficulties with its universal application to the modern world for some rights are not accepted at the national level.

At the same time the expansion of human rights to the national level inevitably increases responsibility of the state to respect and protect them for both its citizens and international community. Therefore, human rights become more vulnerable and controlled for such a system can be imposed and be alien to the national interests. More successful are the states whose interpretation of human rights prevail, and they export their human rights concept, thus, creating levers of pressure on other states.

Today human rights are not only an object of debates but also a full-fledged factor of international relations. The institutional framework of the international human rights system is extensive and includes the UN Human Rights Council, United Nations Human Rights Treaty system, a number of NGOs (Amnesty International, Human Rights Watch) — they are elements of the system for implementation and protection of human rights based on the Universal Declaration of Human Rights (1948), international covenants on rights, UN treaties and conventions, and international legal practices. However, these institutions and normative documents mainly reflect the Western liberal understanding of human rights and call for its implementation by all countries of the world. All states-signatories of the Universal Declaration of Human Rights are to implement its provisions and to propagate human rights ideas but the lack of clear definition of the ‘jurisdiction’ of states and of mechanisms to monitor the implementation of Declaration obligations creates obstacles to ensuring the global rule of human rights.

Thus, there is a comprehensive system of international organisations, national governments, expert community, non-governmental organisations (in particular, in the sphere of human rights protection) that register human rights violations [24]. As the global nature of the contemporary international relations excludes the absolute isolation of an individual actor, every state takes a certain position in this system within a ‘group of like-minded states’. There is a powerful mechanism of influence on domestic and foreign activities of all states but its work is complicated by the fact that violation of human rights can be ambiguous due to the differences in national law systems and difficulties in finding consensus on this issue in international relations. Moreover, as a factor of international relations human rights are beyond the competence of special international institutions and become an object of debates for the UN Security Council, UN General Assembly, etc.

The positions of states on the human rights violations can differ significantly. In the article ‘Human rights in the context of international relations’ B. Fortman divides actors into two groups according to their political behaviour: on the one hand, there are offensive countries that focus on human rights violations in other states: on other hand, there are defensive states that integrate into their laws all kinds of human rights covenants and declarations [13]. Today there is another group of countries — they are accused of numerous human rights violations but stand for independence of their policy and partial isolation from the jurisdiction of international law. Official representatives of such countries appeal to the principles of sovereignty and non-interference in internal affairs and often do not recognize the supremacy of international law. This situation has negative consequences for such isolationism can be aggressive and go beyond public debates. The analysis of armed conflicts in the 2000s showed that most contemporary wars are waged under the pretext of protecting human rights and establishing liberal democratic regimes. Therefore, there are deep contradictions between different categories of international human rights laws, and in such a context China becomes one of the most powerful and controversial participants of the international relations system.

China's official human rights policy is criticised by Western countries. There are still sanctions against China imposed after the events in Tiananmen Square in 1989. The Chinese government is accused of violation of national minorities' rights and freedom of speech, corruption of judicial system, etc. [14]. In turn the Chinese authorities claim that states and regions differ in cultural and civilizational development, therefore, the Western human rights model cannot be considered universal. Moreover, China promotes its own human rights concept, and it is necessary to consider factors that affected the development of this concept and the Chinese authorities' position on human rights issue at domestic and international levels.

Traditional foundations of China's human rights concept

Today's human rights concept in China is based primarily on the traditions of Confucianism and Marxism. According to R. Weatherley, interpretation of individual roles and human rights in the Chinese society is rooted in the principles of Confucius that are still relevant in contemporary China [34]. The key idea of Confucius is that every individual has clearly defined duties [11]. First of all, these are self-improvement and law-abiding, ability to be satisfied with little and priority of common good. In Confucianism, collective/group rights prevail over individual rights, i.e. every individual has obligation to the group. Thus, in Confucianism there are no individual rights [8]. Furthermore, individual rights are inconsistent with Confucianism because rights are (necessarily) role-independent obligations and entitlements, whereas in Confucianism all obligations and entitlements are role-dependent [30]. Thus, individual rights threaten family-like community bonds and are incompatible with hierarchical social structures that Confucians value [20].

The main social aim in this context is the maintenance of order and respect for hierarchical relations [28]. According to this theory, an individual finds meaning of his life in his social roles. Confucianism emphasizes individual responsibility of both ordinary people and rulers to other people and society [2]. Thus, the issue of individual rights is directly related to one's position and duties in society, and the state is considered a large family headed by the father-ruler: he takes care of Chinese people that in turn treats him with due respect (the same applies to the relationship of the elderly and younger generation) [21].

In addition to Confucianism, it was Marxist interpretation of human rights that determined the human rights concept in contemporary China. R. Weatherley notes that Confucianism and Marxist ideas of human rights have many parallels, in particular in the belief that human rights have class and collective nature [34]. According to Marxism, human rights and freedoms are determined by the position of an individual in the social-economic structure of society and by its political system. An individual finds its worth through interaction with society. In the liberal human rights concepts, despite all individual duties, the relations between an individual and the state are based on individual freedom, and human rights are mainly meant to protect an individual from the state. Unlike the liberal human rights concepts, Marxism insists on an inextricable

link between individual rights and duties. Such a unity of rights and duties contributes to the consolidation of fair social relations, which excludes any privileges for individuals or communities together with any discrimination. The Marxist concept proceeds from the fact that the unity of individual rights and responsibility for one's actions ensure an individual freedom [5]. The Marxist concept recognizes the importance of all categories of human rights but emphasizes that only true economic rights create real conditions for the effective use of civil and political rights.

Chinese researchers add that under capitalism 'collective human rights' (affecting interests of millions of people) are infringed upon, so collective rights have priority over individual rights. Thus, the Chinese approach to the human rights issue differs from Western models: China does not recognize human rights as a 'universal concept' and refuses to separate them from the duties of a citizen, i.e. does not agree with the priority of human rights over national laws.

Chinese authorities' understanding of human rights

As Xin Chunying notes, "before the founding of the PRC in 1949, the term 'human rights' was used by the Chinese Communist Party to oppose rule by the Kuomintang. However, after the founding of the PRC, this term disappeared. 'Human rights' were replaced by 'citizen's rights' and 'people's rights' in order to make more explicit the socialist nature of the Chinese state" [1]. The Chinese government promotes its own human rights concept consisting of the following basic elements:

- The principle of non-interference and sovereignty: "Despite its international aspect, the issue of human rights falls by and large within the sovereignty of each country... China used the principles of sovereignty and non-interference in internal affairs to ward off foreign criticisms on its human rights situation. Human rights have been perceived as a part of domestic matters, which fall within the sole jurisdiction of individual countries" [10].
- Human rights and civil rights: in China, human rights are considered a domestic issue, and the overall importance is attached to 'citizen' rights' in the legislation. S. Muller argues that "there wasn't a single reference to 'human rights' in any of the Chinese laws, indicating that 'rights' only exist as something given by the state" [17].
- Rights and duties: the Chinese government stands for a very close connection between rights and duties. According to the Article 33 of the Constitution of the PRC, "every citizen is entitled to the rights and at the same time must perform the duties prescribed by the Constitution and the law" [7].
- 'Special' importance of collective rights: according to the Article 51 of the Constitution of the PRC, "citizens of the People's Republic of China, in exercising their freedoms and rights, cannot infringe upon the interests of the state, society or collective, or upon the lawful freedoms and rights of other citizens" [16].
- Right to subsistence and right to development (both will be analyzed further).

Since 1991, there have been many editions of the so-called ‘China’s White Papers on human rights’ [29]. The first White Paper published in November 1991 was a sort of response of the Chinese government to the criticism of Western countries on human rights violations in China after Tiananmen events in 1989 and to the subsequent sanctions imposed by the West. Since 1991, the State Council of China has published more than ten White Papers titled *Progress in China’s Human Rights*. The last White Paper on human rights was published in 2017.

It should be noted that the contents of White Papers differ not only statistically but also in the definition of human rights. According to the White Paper *Progress in China’s Human Rights in 1995*, ‘right to subsistence’ and ‘right to development’ are the most important human rights for the Chinese people. There is some contradiction to Western countries in the very interpretation of the basic rights of the Chinese people — ‘right to subsistence’ and ‘right to development’. In its description of the ‘right to subsistence’, the White Paper combined the independence of the Chinese nation from colonial domination and the right to development with the right of Chinese people to adequate food, clothing and shelter [23]. The 1995 White Paper argues that the Chinese authorities, guided by the aims and principles of the UN Charter on human rights protection, oppose some countries’ double standards to human rights in other countries, particularly the developing ones, and resists imposing some countries’ patterns on others, i.e. “oppose hegemonic attempts of interfering in the internal affairs of other countries by using ‘human rights’ as a pretext” [23].

At the same time the ‘right to subsistence’ and ‘right to development’ are related to the modernization of the Chinese economy, which is the main factor contributing to the implementation of these rights. There is a close connection between economic and social policies in China and a priority of individual social-economic rights over political ones. The Chinese leaders believe that for developing countries (China considers itself a developing country) the key criterion for respecting human rights can only be conformity of the political model to the requirements of the economic development and growth of citizens’ welfare, i.e. individual rights are connected to the basic interests of the entire Chinese society.

According to P. Potter, China’s interpretation of right to subsistence and development leads to the normative conflict with international standards of human rights [22]: China’s reliance on the development discourse to justify its policies and its concomitant rejection of universality of civil and political rights reflect the incompatibility of international liberal norms with the primacy of one-party rule in China’s governance system. Moreover, there are specific issues in the field of human rights in China such as fighting poverty and building a ‘xiaokang’ society (moderately prosperous) by the centenary of the Communist party of China (2021) that are associated with the implementation of the ‘Chinese dream’. Thus, based on the fact that China is a developing country, the Chinese leaders identify human rights as primarily the rights to subsistence and development which determine the relationship between economic and social policies in China.

Becoming a major power: Human rights diplomacy with Chinese features

The Chinese authorities make efforts to create a positive image of China as one of the main protectors of human rights not only within the country but also at the international level. In legal terms, China entered the international human rights system by signing a wide range of human rights treaties. In recent years China's government has also accepted the principle of human rights universality. According to the White Paper *New Progress in the Legal Protection of Human Rights in China*, China actively participates in creating a legal system of international human rights as a part of building 'a community of shared future for humanity' [19]. Thus, China's government admits the importance of global human rights in the 'new era' of international relations: China is engaged in more than 50 human rights dialogues with Western and developing countries.

One of the main international platforms that China uses to promote its human rights concept and to rebuff the accusations of human rights violations is the system of the UN bodies [28]. China's interaction with the UN began in 1971 when the UN General Assembly Resolution 2758 recognized the People's Republic of China (PRC) as 'the only legitimate representative of China to the United Nations': China became a member of all the UN bodies and structures [15]. The UN Commission on Human Rights was one of the last major UN bodies that China joined. China sent observers to the Commission in 1979 and became a full member of it in 1982.

In the 1990s, China started an active cooperation with the international community of human rights within the UN [18]. China acceded to a number of the UN human rights treaties such as the International Covenant on Civil and Political Rights (signed in 1998, not ratified), International Covenant on Economic, Social and Cultural Rights (signed in 1997, ratified in 1980), UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed in 1986, ratified in 1988), UN Convention on the Rights of the Child (signed in 1990, ratified in 1992), etc.

In 2006, China became a member of the UN Human Rights Council that replaced the UN Commission on Human Rights. In the following ten years, China was regularly re-elected as its member (in 2016, China received this status for the fourth time).

What are China's main goals in the UN Human Rights Council (HRC): to prevent adoption of resolutions accusing China of the human rights violations; to promote principles of sovereignty and non-interference in the internal affairs of the state in the Council's decision-making; to ensure China's membership in the HRC for subsequent periods; to focus on the principle of solidarity with the developing member-states of the HRC; to promote the Chinese human rights concept by adopting pro-Chinese HRC resolutions [25].

One of the main platforms for implementing China's human rights diplomacy and human rights concept is the Beijing Forum on Human Rights held annually. The first Forum took place in 2008 on the 60th anniversary of the Universal Declaration of Human Rights (1948). In addition to the Beijing Forum on Human Rights there is

the ‘South-South Human Rights Forum’ also hosted by China (the first forum was held in 2018). The key elements of the ‘human rights concept with Chinese characteristics’ are as follows:

- Development and peace: China’s officials declare that the rights to peace and development are basic rights of people all over the world. The right to peace is defined not only as the absence of war and conflicts but also as freedom from structural, institutional and other forms of pressure and coercion, i.e. China appeals to the solidarity with the developing world.
- Importance of collective rights, focus on the rights of the many: as the head of the Chinese delegation at the World Conference on Human Rights in Vienna Liu Huaqiu said, “nobody shall place his own rights and interests above those of the state and society, nor should he be allowed to impair those of others and the general public” [27].
- Priority of social-economic rights: according to the Chinese officials, in developing countries the priority of social-economic rights can lead to achieving sustainable development goals.

Despite the efforts of the Chinese authorities to create a positive image of the country as a human rights protector, human rights in China are one of the problem issues in China-West relations. At the international level, both within multilateral and bilateral relations with the West, China takes a tough stance on human rights: any criticism of China in the Human Rights Council by the UN officials or special procedures entails a tough response. China’s officials successfully use principles of sovereignty and non-interference in internal affairs to refuse all accuses of human rights violations [25]. At the bilateral level, the human rights issue has a negative impact on the relations between China, the USA and some European countries. Besides, Beijing uses various diplomatic measures: thus, in response to the annual Country Reports on Human Rights Practices issued by the U.S. State Department from 1998 the Information Office of the State Council of the PRC publishes annual reports on human rights violations in the United States entitled *Human Rights Record of the United States*.

The Chinese authorities react extremely negatively to some activities of the Europeans authorities [26]. Thus, the meetings of the Western European leaders with Dalai Lama whom China considers a separatist and extremist led to negative consequences in the relations with China. The meetings of Dalai Lama with the German Chancellor Angela Merkel in 2007 and French President Nicolas Sarkozy in 2008 led to the decline of trade turnover between China and these countries and to the Chinese cancellation of high-level visits and meetings [32]. Besides, after the Norwegian Nobel Prize Committee in 2010 awarded the Nobel Peace Prize to Liu Xiaobo for his long and non-violent struggle for basic human rights in China, China froze diplomatic relations with Norway (the parties announced the resumption of political contacts only in December 2016).

The interpretation of human rights in contemporary China differs greatly from the liberal concept of human rights in the West. The Confucian tradition and Marxist ideas had a great influence on the human rights concept in China. The definition of China

as a developing country allows the Chinese authorities to declare human rights as mainly the rights of the Chinese people to subsistence and development. At the same time, China, despite traditionally taking a defensive position on human rights in international activities, in recent years has promoted its own concept of human rights at the international level.

We believe that the basic features of the Chinese human rights concept can be summarized as follows:

- Priority of collective rights over individual rights: from antiquity to the present, human rights are basically defined as collective rights rather than rights of a man. The term ‘man’ refers to the singular ‘entity’ of people rather than individuals, i.e. no individual can claim his human rights to protest against the status quo [3].
- Priority of civil rights over human rights: the latter are to be recognized by the authorities and not to be claimed by or for oneself; moreover, ‘rights’ only exist as something given by the state.
- Priority of social-economic rights over other types of rights for the former contributes to the sustainable development of China and developing countries.
- Peace and development: the rights to peace and development are considered not only the most important universal rights but also as a freedom from structural, institutional and other forms of pressure and coercion.
- Non-intervention and sovereignty principles: human rights are defined as a part of domestic policies within the jurisdiction of national governments.

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DOI: 10.22363/2313-2272-2019-19-1-20-30

Китайская концепция прав человека и ее международное продвижение*

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В последние десятилетия проблема прав человека в Китае стала одним из наиболее спорных и противоречивых вопросов во взаимоотношениях Китая и Запада. Суть споров, по мнению авторов, заключается в непонимании западными странами специфики прав человека в «Поднебесной», которые во многом отличаются от либеральной концепции прав человека на Западе. Концепция прав человека в Китае основана на национальной традиции верховенства государственных интересов над личными. На формирование понятия прав человека в Китае большое влияние оказали древние философские течения (в первую очередь конфуцианство), а также марксизм. Китайская концепция прав человека придает особое значение необходимости уважать коллективные права и их верховенству над личными правами, преобладанию социально-экономических прав над политическими. Под правами человека руководство страны понимает гражданские права, отмечая их примат над естественными правами. По мнению руководителей КНР, подобное определение прав человека обеспечит стабильность и безопасность государства, защитит его суверенитет, будет способствовать созданию «среднезажиточного общества» *сяокан*. В то же время Китай, традиционно занимавший оборонительную позицию, которая сводилась к публикации с 1991 года Белых книг по правам человека в ответ на критику западных стран, а также к созданию двусторонних диалоговых механизмов по правозащитной проблематике со странами Запада, начал продвигать собственную концепцию прав человека на международном уровне, используя как институты международной системы защиты прав (в рамках Совета по правам человека ООН), так и форумы по правам человека, которые проходят в Китае (Пекинский форум и Форум «Юг—Юг»). По мнению авторов, необходимо изучать факторы, которые определили понимание прав человека руководством страны, а также цели, задачи и механизмы «дипломатии прав человека» в Китае. В частности, авторы обозначают особенности концепции прав человека, которую Китай продвигает на международной арене.

Ключевые слова: Китай; западные страны; права человека; политический дискурс; конфуцианство; марксизм; дипломатия

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Статья подготовлена при поддержке РФФИ. Проект № 17-27-21002.

Статья поступила в редакцию 21.11.2018 г.