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## The Concrete Conditions of Human Rights: Western and Chinese Approaches

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### ABSTRACT

Based on the principle that universals are valid if they are concrete universals, this article provides a comparison between Western liberal and Chinese Marxist approaches to human rights. It does so in three steps. First is the analysis of the foundations, or roots, of the Western liberal emphasis on an individual's mastery over a "right" understood in terms of private property, and the Marxist tradition's emphasis on anti-hegemonic sovereignty in light of anti-colonial struggles for national liberation. Second is the contrast between the development of the Western approach to the core human rights in terms of freedom of expression, movement, and assembly, and the Marxist emphasis on the right to socioeconomic well-being, or common prosperity. Third is the comparison between the fruits of either tradition, one in terms of identity politics, and the other in the emphasis on civil, political, cultural, and environmental rights. The article concludes by asking whether the two approaches are able to come to an understanding of each other, and proposes that such an understanding may need to take place in light of the concept and reality of concrete universals.

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The premise of this paper is that the only valid universals are concrete universals, arising from and applicable to the concrete conditions in which societies function. I begin with this premise, since it applies directly to human rights and underlies this study as a whole. In contrast to the tendency in the few Western countries of the world to proclaim the "universal values" of human rights, which happen of course to be their own understanding of human rights, this study undertakes a comparison of two major traditions: the Western and the Chinese. It does so by means of three comparisons: the roots of human rights in each approach; the trunk or core human right arising from the roots; and the fruits of what will turn out to be two quite distinct emphases. A caveat before I begin: within each tradition—Western and Chinese—there are many internal variations, and they are by no means monolithic entities. It is only when we view them from a wider perspective do the commonalities—as with human rights—begin to appear. Indeed, at the close of this study I ask what may be needed for mutual understanding of different approaches to human rights from a global perspective.

## The Roots: Individual Mastery versus Anti-hegemonic Sovereignty

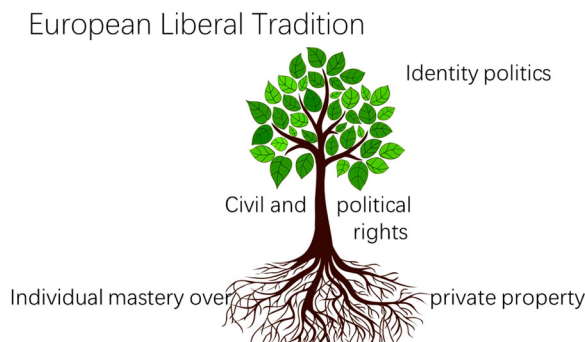
In order to begin the comparison, let me use two images that provide the framework for what follows: [Figures 1](#) and [2](#).

Each image provides a rather schematic, but nonetheless clear, articulation of two quite distinct traditions and their approaches to human rights. We will need to return from time to time to these images, for I move forward by comparing the roots, trunk, and fruits of each approach to human rights.

### The Western Emphasis on Individual Mastery over Private Property

To begin with the roots: the Western tradition begins in Western Europe of the eleventh century. During this period, the fabled “lawyer popes” began the process of a thorough transformation of the European legal and political framework. These lawyer popes and their advisers made a crucial rediscovery: the ancient Roman concept of absolute private property. In Rome of the second century BCE, they were faced with a legal conundrum that concerned slaves. Was a slave a human being or a “thing” (*res*)? If the former, then the relation between a master and a slave would be one between human beings; if the latter, then the relation would be one between a human owner and an object or a “thing.” Given that slaves had gradually been reduced to the same level as cattle and material objects, it was the relation between a master and a “thing” that constituted the legal problem to be solved.

Roman jurists—legal theorists—came up with an ingenious solution that would come to have repercussions they could never have imagined. This was the category of absolute private property,<sup>1</sup> in which the primary relation of the owner of private property was to the “thing” that he—and it was invariably a “he”—owned.<sup>2</sup> This may seem like a somewhat strange way to formulate the solution, since those who are immersed in the Western tradition tend to think of private property in terms of the relations with other owners: I own this object, which means that you do not own it. Not so for the Romans. Instead, absolute private property was constituted as the relation between the owner and the object owned. Why? Because the object owned was a slave. The various ways in which this relation was expressed are telling: the slave was seen as simply an extension of the master, an automaton that acted as though it were a part of the master, as the hand of



**Figure 1.** The Western liberal approach to human rights.



**Figure 2.** The (Chinese) Marxist approach to human rights.

the master.<sup>3</sup> A specific term was coined (111 BCE) to designate this new concept: *dominium*, derived from *dominus*, or master. I cannot emphasise enough that the origins of the Western liberal idea of private property are inescapably connected with slavery in its origins. The breakthrough had immense repercussions. As Graeber observes:

In creating a notion of *dominium*, then, and thus creating the modern principle of absolute private property, what Roman jurists were doing first of all was taking a principle of domestic authority, of absolute power over people, defining some of those people (slaves) as things, and then extending the logic that originally applied to slaves to geese, to chariots, barns, jewellery boxes, and so forth—that is, to every other sort of thing that the law had anything to do with. (Graeber 2011, 201; see also Patterson 1982, 32)

It was precisely this legal concept and its economic reality that was rediscovered by the lawyer popes of the eleventh century in Europe. By adapting Roman law to feudalism, the popes—through their legal representatives (*legates*)—sought to clear up the murky question of property in terms of land claims and due process for every minute detail of daily life. This rediscovery fed into many strands, including the Enlightenment, the French Civil Code of Napoleon, and the first stirrings of capitalism in the sixteenth century—a development first noted by none other than Proudhon ([1840] 1994).<sup>4</sup>

This background becomes crucially important for the next step, which concerns the category of *ius*. As Kilcullen (2011) shows, the concept of *ius* (right) began to take on a specific meaning: the core of the term’s semantic field denoted a natural innate force or power that leads human beings to act rightly. This “natural” force was seen to arise from the innate power of reason. It is precisely this concept that provides the Western foundations for “subjective rights,” which pertain to a person as human being. For that sense to emerge, *ius* needed to be connected with *dominium*, or mastery. *Ius* could be exercised only through *dominium*: a right can work only if one has power to enact it. By this time we have the necessary framework for what became the Western tradition’s approach to human rights: a right is the mastery of rational and free-willing human beings over their actions.

The reader will have noted the crucial role that *dominium* plays in this concept of human rights. As we saw, *dominium* was the term invented by Roman jurists of the second century BCE to describe absolute private property, initially in terms of the ownership of slaves as “things” (*res*). The term would come to describe all forms of private

property, and it was precisely this term that was closely connected with *ius* in Western Europe. In other words, *dominium* is the mastery (from *dominus*) that an individual human being exercises over property. The implication is obvious: if one has the power to exercise mastery (*dominium*) over one's actions, then *ius* itself is inescapably framed in terms of private property.

The modern Western concept of human rights would undergo significant further development to arrive at the idea that the rights to freedom of expression, freedom of movement, and freedom of assembly—the three core rights (see below)—are the absolute and inalienable properties of human beings. A major contribution came from the Dutch lawyer Hugo Grotius (1583–1645), who argued that a right is “a moral quality annexed to the person, enabling him to have, or do, something justly” (Grotius [1625] 2005, I.i.4). Thus, a right is something owned and exercised by an individual human being who has the power and means to do so. True to the tradition's connection with slavery, Grotius also argued that this right included mastery over others, such as children and slaves, so much so that a person or a state could freely decide to sell its freedom to another.

In sum, the roots of the specific European history of human rights concern mastery over private property: a right becomes the absolute property of an individual human being. This is the understanding of human rights in countries that count as part of “the West”—a dozen or so countries that comprise only 14 percent of the world's population. In other words, this foundation of human rights is specific to the concrete conditions of these few parts of the world.

### **The Marxist Emphasis on Anti-hegemonic Sovereignty**

One would hardly expect the Marxist tradition to affirm the central role of private property in defining the roots of human rights. In fact, Marx and Engels are quite scathing of the bourgeois “rights of man,” pointing out that they are inescapably connected with the bourgeois right to private property and the related right to inheritance (Marx and Engels [1846] 1976, 208, 361–363; [1848] 1976, 498, 504). To identify the foundations of a Marxist approach, we need to look elsewhere, to the anti-colonial struggles for national liberation of the twentieth century. It was in this context that a distinct notion of sovereignty began to emerge, predicated on a resolute resistance to colonialism and hegemony.

Some background: while the European idea of sovereignty arose out of conflicts internal to Europe and entailed mutual recognition of the power of states,<sup>5</sup> it was only applied within Europe and even there was often breached through pretexts and excuses. Outside Europe, the practice was routinely ignored as European powers sought to colonise the rest of the world. It is precisely in response to colonial exploitation that the anti-hegemonic concept of sovereignty arose.

To understand how the Marxist tradition provides the basis for anti-hegemonic sovereignty, we need to go back to Marx and Engels. As the Italian Marxist philosopher Domenico Losurdo (2016, 7–52) has pointed out, Marx and Engels saw anti-colonial struggles as part of the worldwide struggle against capitalism and thus as a species of class struggle. The next step in the development of anti-hegemonic sovereignty took place in the context of the immensely creative debates in the early years of the Soviet Union. The debates began with the “national question,” with minority nationalities within the vast territories of the Soviet Union.<sup>6</sup> These debates were of course much older, but a realisation dawned

on the communist party: in the same way that communism is a champion of the rights of minorities within a country, so also should it promote the rights of colonised and subjugated peoples everywhere for independence and sovereignty. In other words, the internal realities of the Soviet Union began to be seen as a microcosm of the global struggle against colonialism. By 1921, it could be observed that it was “the Communists who first revealed the connection between the national question and the question of the colonies, who proved it theoretically and made it the basis of their practical revolutionary activities” (Stalin 1921, 53). How so? Three points are important: (1) the struggle of the proletariat in “advanced” capitalist countries was only one aspect of a global struggle against capitalist oppression, for in semi-colonised and colonised countries, the struggle became one of anti-colonial struggle; (2) in freeing the many minorities in Russia from Tzarist exploitation, the Russian Revolution could also be seen as an anti-colonial revolution; (3) the support for struggles of national liberation was undertaken in light of the internationalism of the communist movement. Thus, it should be no surprise that the Soviet Union set out to “support—resolutely and actively . . . support—the national liberation movement of the oppressed and dependent peoples” (Stalin [1924] 1953, 147), providing financial, logistical, and military support for these anti-colonial movements, from the Chinese Revolution to liberation movements in Africa and Latin America.

The Soviet Union was also active in the United Nations, initially proposing in the 1950s a statement that became the *Declaration on the Granting of Independence to Colonial Countries and Peoples* (UNGA 1960). The declaration was taken up by a coalition of Asian and African states in the growing non-aligned movement. Only after a number of newly liberated countries were admitted to the UN was the critical voting majority achieved and the declaration was adopted on 14 December, 1960. Let us see how this brief but pointed document speaks of sovereignty. First, sovereignty itself is a right, for it is equated again and again with the “inalienable right” to freedom. It follows that “subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights.” Second, sovereignty provides the necessary conditions for human rights, for these rights can be exercised only in the context of the “self-determination of all peoples.” Colonialism is therefore an “impediment” to freedom, to “the social, cultural and economic development of dependent peoples.” Third, territorial integrity is inescapably part of what is now a redefinition of sovereignty: “Any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations” (UNGA 1960).

We have arrived at a clear articulation of anti-hegemonic sovereignty. The concept and its practice have clear Marxist origins, but it is also one that was taken up and is shared by the majority of countries around the world, especially those that have suffered under the yoke of European colonialism, as also those who continued to suffer underdevelopment due to the economic neo-colonialism and coercion exercised by capitalist countries and the international bodies they used to control, such as the International Monetary Fund and the World Bank. Many are the expressions of this anti-hegemonic sovereignty with its resolute emphasis on mutual non-interference: the Bandung—or Asian-African—Conference of 1955, of which the famous “Ten Points” stressed sovereignty, territorial integrity, mutual non-interference, world peace, and economic and cultural co-operation; the “five principles of peaceful coexistence,” as in “mutual respect for

sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence" (Zhou [1953] 1989); in the principle of being "neither dependent [*yifu*] on others, nor plundering [*lüeduo*] others," and insisting that—quoting from the *Book of Rites*—"all living things grow side by side without harming one another, the sun, moon and seasons rotate according to their own laws without hindering each other" (Xi 2020, 504). For Chinese specialists, it is precisely anti-colonial sovereignty that is the foundation for any practice of human rights (Li and Wang 1995; Wan 2017, 42; Jiang 2018, 36; Wu 2018, 17).

### The Core: Civil and Political Rights or Socioeconomic Well-Being

Thus far we have two quite different roots for human rights, the one concerned with the individual's mastery of private property and the other with anti-hegemonic sovereignty. This section sets out to compare the core human rights—the "trunk" in the figures with which I began—that arise from these different foundations. In parts of the world influenced by the Western liberal tradition the core human rights are freedom of expression (opinion, political orientation, religion, press, and so on), freedom of movement, and freedom of assembly. They are often summed up as "civil and political rights," and are regarded as core items of the intangible and inalienable property of the private individual. These assumed rights in Western countries have come to the fore again recently in the context of the COVID-19 pandemic. The measures taken to curb the pandemic in such countries entailed restrictions on freedom of movement and freedom of assembly, as were thus branded by many as "authoritarian."<sup>7</sup> Freedom of expression suffered as well, with struggles over conspiracy theories in the context of deep systemic lack of trust in Western governments and public institutions (Edelman 2020). These struggles were framed in terms of Western human rights.

Let us step back for a moment and ask how these few rights came to be articulated. Three specific examples will highlight the history of their emergence. To begin with, Hugo Grotius in the early seventeenth century identified the right to liberty (in relation to oneself and thereby without hindrance from an outside authority like the state), the right to maintain control over others (such as children and slaves), the right to private property (especially of the things useful for life), and the right to demand what is due to one or owing (Grotius [1625] 2005, I.i.5). By the time of John Locke (1632–1704), the rights were those of life, liberty, and property, with the rights assumed to be "natural." While Grotius's right to assert control over others was vociferously dropped, the right to property remains a core right. Here both Grotius and Locke are quite explicit concerning the intimate connection between the emergent liberal notions of rights and private property. Locke in particular reveals how the old concepts of *ius* and *dominium* (see above) have a continued value:

The freedom then of man, and liberty of acting according to his own will, is grounded on his having reason, which is able to instruct him in that law he is to govern himself by, and make him know how far he is left to the freedom of his own will. (Locke 2003, 309)

And for the erstwhile mild revolutionary, Thomas Paine, the individual was paramount, in terms of the rights to freedom of thought, expression, and action. These rights supposedly would lead to equality between individuals, and also between nations (Paine 1791;



see also Lamb 2015).<sup>8</sup> By the time of Paine, we begin to see the contours of what passes for human rights in the West. For Paine, they were freedom of thought, expression, and action, which have by now become freedom of expression and the acts of movement and assembly.

These developments are all very well, but they have three crucial structural components that need to be kept in mind. First, they assume the developing framework of bourgeois civil society as a zone that is semi-autonomous from the state. To be clear, as the German terminology assessed in detail by Marx and Engels shows, this is *bürgerliche Gesellschaft*, bourgeois society (Boer 2018). We need to keep this reality in mind whenever we hear the relatively neutral sounding “civil society,” for it is a specific structural formation of Western capitalism that is by no means a universal. Second, there is an inherent limitation on the rights proposed by the liberal tradition, which is determined by a systemic exclusion. As Losurdo points out, liberalism is defined as the small “community of the free and its dictatorship over peoples unworthy of liberty” (Losurdo 2011, 248). Many are the examples one could cite concerning this systemic limitation, especially in terms of liberalism’s process of self-definition in relation to the unfreedom of slavery, but let me quote here John Stuart Mill: “Despotism is a legitimate mode of government in dealing with barbarians,” since liberty is only for “human beings in the maturity of their faculties” (Mill [1859] 1977, 224). Here is the theoretical justification for colonialism, for the ignoring of (Westphalian) sovereignty outside Europe. And it gives voice once again to the idea of *ius* that had already emerged much earlier in the European tradition: a right is the mastery of rational and free-willing human beings over their actions. For Mill, those with the ability to have such rights were a very small group indeed.

This reality has, of course, not prevented the assertion that these Western human rights are “universal” and may be used to judge others. I will return to this problem below in terms of the falsity of abstract universals, for here we need to ask: what is left out? The rights promoted by the Western tradition are few indeed: the rights to freedom of expression, movement, and assembly are very sparse. Much is left out and excluded: the right to life,<sup>9</sup> and—most notably—the right to subsistence or what may now be more fully described as the right to socioeconomic well-being, or common prosperity.

### **Socioeconomic Well-Being**

It is precisely this right—to socioeconomic well-being—that is the core of the Marxist approach to human rights, which also includes the rights to development and work (Lin 2013, 76–78; Wan 2017, 42–43; Guo and Zhao 2018, 27–28; Jiang 2018, 37–38; Wu 2018, 13–14).<sup>10</sup> Using the terminology of human rights, it is clear that Marxism and the communist movement have always had the achievement of socioeconomic well-being for all—especially for the vast majority of urban and rural workers—as the primary goal. While we may already see this emphasis emerging in Hegel’s “positive rights” or “material rights”—manifested in terms of self-preservation, subsistence, freedom from want, work and life itself (Hegel 1986, 109; Losurdo 2004, 69, 89, 186)—it clearly emerges for the first time in Engels’s earlier draft that led to “The Manifesto of the Communist Party” (Marx and Engels [1848] 1976):



Question 17: What will be your first measure once you have established democracy?

Answer: Guaranteeing the subsistence of the proletariat. (Engels [1847] 1976, 102)

Over time, this key point would come to be articulated in terms of the proletarian movement's activism, revolution, and an ensuing socialist system that would focus on managing production and watching over the true interests of society (Engels [1873] 1988, 425). The development of a Marxist approach to human rights made another significant step in the comprehensive new constitution of the USSR in 1936, which was widely regarded at the time as the most forward-looking of all constitutions. In reflections upon the constitution, we encounter the crucial distinction between formal and proactive rights, or between abstract and exercised rights. Formal or abstract rights are to be found in capitalist constitutions, which are nothing more than statements without the means for realisation. By contrast, the Soviet constitution of 1936 contained proactive or exercised rights, meaning that measures were included to ensure that these rights were enacted for the vast majority: the right to work for both women and men, the right to adequate housing, to state-funded holidays, to cultural and educational activities, to comprehensive crèche and day care facilities for children, and so on. The crucial question concerns the benchmark for these rights:

There cannot be real equality between employer and workman, between landlord and peasant, if the former possess wealth and political weight in society while the latter are deprived of both—if the former are exploiters while the latter are exploited. (Stalin [1936] 1978, 169; see also Lin 2013, 75–76)

In short, the freedom from capitalist exploitation was the key, or—to put it in positive terms—the right to socioeconomic well-being.

When we come to the further development of this Marxist approach to human rights in China, there are many possible angles. In an earlier work, I focused on liberating the forces of production (*jiefang shengchanli*), minority nationalities policies (*shaoshu minzu youhui zhengce*), and the Belt and Road Initiative (Boer 2021, 179–183), but here I would like to focus on the policy of “common prosperity (*gongtong fuyu*).” On the one hand, this is an ancient Chinese approach, embodied in the observation of Guan Zhong (720–645 BCE), an influential reformer during the Warring States Period: “When the granaries are full, the people follow appropriate rules of conduct, and when there is enough to eat and wear, the people know honour and shame” (Sima 2014, 2695, 3952).<sup>11</sup> In terms of the Marxist tradition, this saying is echoed in Engels's observation at Marx's funeral: “humankind must first of all eat, drink, have shelter and clothing, before it can pursue politics, science, art, religion, etc.” (Engels [1883] 1989, 467). However, socialism seeks to supply for all not simply the subsistence items of food, drink, shelter, and clothing, but ultimately common prosperity.

We find this core feature of socialism already in Engels's “Anti-Dühring,” where he writes of the

possibility of securing for every member of society, by means of socialised production, an existence not only fully sufficient materially, and becoming day by day more full, but an existence guaranteeing to all the free development and exercise of their physical and mental faculties. (Engels [1894] 1987, 269–270)

This potential for socialism's liberation of the productive forces is, according to Engels, "for every member of society." In the Soviet Union of the 1930s, after much arduous struggle, we find the following observation:

There was no point in overthrowing capitalism in October 1917 and building socialism all these years if we are not going to secure a life of plenty for our people. Socialism does not mean poverty and privation, but the abolition of poverty and privation; it means the organisation of a prosperous and cultured life for all members of society. (Stalin [1934] 1954, 365)

Indeed, the phrase "prosperous and cultured life" would become so common that it was included in Article 131 of the famous 1936 constitution.

In regard to China, we find Mao Zedong on the eve of the foundation of the People's Republic of China calling on the "great collective strength of the masses" to lift China out its dire poverty so as to create a "new China, independent, democratic, peaceful, unified, prosperous and strong" (Mao [1949] 1977, 21). Indeed, Mao Zedong was already using the phrase "common prosperity" by at least mid-1950s (Mao [1955] 1999, 496). However, it fell to Deng Xiaoping to point out that no-one would find socialism satisfactory if it entailed poverty. Indeed, this would not be socialism at all, for socialism concerns the improvement of the material and spiritual lives of the vast majority. As Deng observed, "we do not want capitalism, but neither do we want to be poor under socialism (*pinqiong de shehuizhuyi*)." Further: "What we want is socialism in which the productive forces are developed and the country is prosperous and powerful" (Deng [1979] 1995, 235). In his clearest statement:

There cannot be poor communism, nor can there be poor socialism. So to become prosperous [*zhifu*] is no sin. However, what we mean by becoming prosperous is different from what you [the interviewer] mean. Wealth [*caifu*] in a socialist society belongs to the people. To become prosperous [*zhifu*] in a socialist society means common prosperity [*gongtong zhifu*] for the entire people. The principles of socialism are: first, development of production and second, common prosperity [*gongtong zhifu*]. (Deng [1986] 1994, 174)<sup>12</sup>

It is precisely this concept—common prosperity (*gongtong zhifu* and then *gongtong fuyu*)—that would come to be promoted by Xi Jinping. Already from the first days after Xi's election as General Secretary of the CPC Central Committee, the theme of common prosperity appears: "

Common prosperity is the fundamental principle of Chinese socialism—this is why we must ensure that all the people share the fruits of development in a fair way, and move steadily towards common prosperity" (Xi 2018, 14). However, a whole new phase of the project of common prosperity began with the publication of a talk originally given to the tenth session of the CPC's Financial and Economic Commission, on August 17, 2021. It was subsequently published in part in *Qiushi*, the CPC Central Committee's journal, in October 2021 and is entitled "Make Solid Progress in Promoting Common Prosperity" (Xi 2021). The article begins by reiterating Deng Xiaoping's point that poverty is by no means socialism, and that with the overcoming of absolute poverty and the achievement of a *xiaokang*—moderately well-off, peaceful, healthy, and stable—society, the time has come to begin the serious work of promoting common prosperity. Many are the points made in this article, with concerns for all of the aspects required for attaining common prosperity, but let me quote the following:

Common prosperity is the essential requirement of socialism and an important feature of Chinese-style modernisation. When we talk about common prosperity, we mean the common prosperity of all the people, the material and spiritual well-being of the people, not the prosperity of a few people, nor uniform egalitarianism . . . common prosperity is a long-term goal, which requires a process and cannot be achieved overnight . . . like completing the building of a moderately prosperous society in all respects, common prosperity for all is a general concept that applies to the whole of society. (Xi 2021, 2, 3, 5)

In sum, common prosperity is a step-by-step approach that needs to be implemented across many dimensions. It is clearly the fullest manifestation of the core Marxist human right to the socioeconomic well-being of all.

A question remains: what is the purpose of the drive to common prosperity? It is nothing less than communism. Let me put it this way: since communism entails the principle of “from each according to ability, to each according to needs,” then it requires significant economic prosperity to be achieved. In the Chinese situation, the proletarian revolution took place in a country that was extremely undeveloped and exceedingly poor. “Poor socialism” was no answer. As Deng Xiaoping observed, “in building socialism we must do all we can to develop the productive forces and gradually eliminate poverty, constantly raising the people’s living standards.” Only when this outcome is achieved and then, when common prosperity is achieved, will it become possible to begin the transition to communism. Thus, in the “advanced stage of communism, when the economy is highly developed and there is overwhelming material abundance, we shall be able to apply the principle of from each according to his ability, to each according to his needs” (Deng [1982] 1994, 21; see also Deng [1986] 1994, 174; Cao 1998, 17).

To sum up, common prosperity—all the way from the founders of Marxism to China today—is one of the most significant manifestations of the core human right to socioeconomic well-being for all.

### **The Fruits: Identity Politics or the Flowering of Civil, Political, Cultural, and Environmental Rights**

When we consider the fruits of the two figures with which I began, we see yet again a divergence. In terms of the Western liberal tradition, the product of a resolute emphasis on freedom of expression assumes the crucial category of “choice.” An individual, according to this tradition, should be able to choose for him or herself. Of course, the image that immediately comes to mind is the plethora of commodities a person may choose in the shop or online, or indeed in terms of politics. It goes without saying that such choice is always formal and not real, for the range of choices is limited by the system in question: as Lenin ([1918] 1965, 74) already pointed out, the real freedom to change the whole system itself is not permitted.

“Freedom of choice” has taken on a whole new dimension in light of the post-structural argument that gender and sexuality too are matters of choice. This argument proposed that gender and sexuality are discursive constructs,<sup>13</sup> produced by ideological systems and their language structures to ensure that its members adhere to certain ideas and practices in terms of sexual preferences, behavioural patterns, and social identity (Butler 1990). It was proposed that the “radical” choice is to refuse these discursive constructs, to reject “essentialism,” and choose to “perform” another identity. From this

background arose the whole framework of identity politics based on choice. To be very clear: the emphasis in the preceding observations is on individual choice. The physical, social, and cultural experience of LGBTQBI human beings is a concrete reality, and should not be reduced to individual choice.

Clearly, the whole movement of identity politics is thoroughly liberal, based as it is on the personal choice of the private individual. Two repercussions are relevant here. First, identity politics has come increasingly to define what is “progressive” or “radical” in Western countries. If a political party or leader espouses such ideals, it has come to be seen as “Left,” and would garner “progressive” votes. This is an extraordinary distortion of language in the political landscape, and obscures the crucial matters of class and economic exploitation in capitalist systems (Pateman 2021). Second, identity politics has come to be linked with the liberal tradition’s emphasis on civil and political rights. Freedom of expression now includes freedom of a choice in terms of gender, sex, ethnicity, and so on. And a country or a society that is wary of such identity politics is criticised in terms of such “human rights.” In many respects, this is the ultimate outcome and indeed bankruptcy of the Western liberal tradition.

By contrast, the Chinese Marxist approach to human rights sees the fruits in terms of civil, political, cultural, and environmental rights. Clearly, these fruits are richer and more resplendent. But how do they emerge? As Fang Ning (2015, 107–111) points out, human rights are historical rather than innate, are granted by society rather than by nature, and are practical rather than ideal. In other words, they become possible not merely when a country has achieved anti-hegemonic sovereignty, but also when socioeconomic well-being—or common prosperity—is achieved. Or rather, these rights are not held back until the full achievement of common prosperity, but become more and more possible during the long process of achieving common prosperity.

What is meant by civil and political rights in this context? Are they the same as those of the Western liberal tradition? Superficially, freedom of expression may seem similar, but it takes place in a qualitatively different context. This context is of course the socialist system, and so it becomes a freedom from want, exploitation, and capitalism, and a freedom *for* socialism, for the socialist path. In other words, they take place within the context of the whole of the socialist system. More specifically, these human rights are intimately connected with the full panoply of the socialist democratic system and the enrichment of a socialist rule of law.

### Conclusion: Concrete Universals

In conclusion, two points need to be made. To begin with, I have emphasised two approaches and indeed traditions concerning human rights. One begins from individual mastery over private property, grows into civil and political rights, and flowers in terms of identity politics. The other begins from anti-hegemonic sovereignty, upon which grows socioeconomic well-being, and flourishes in term of civil, political, cultural, and economic rights in a socialist system. But a question remains as to whether they have any common ground. By way of an answer, let us consider two documents from the United Nations, the *International Covenant on Civil and Political Rights* (UNGA 1966a) and the *International Covenant on Economic, Social, and Cultural Rights* (UNGA 1966b). In many ways, these two documents embody the two traditions I have analysed in this study,

although it is notable that the Marxist tradition's emphases are also to be found in most developing—and formerly colonised—countries, who also are signatories to the right to development (UNGA 1986). The history of the writing of these documents is instructive: the two main declarations were initially planned to be one document. However, due to disagreement in emphasis between countries that espouse the Western liberal tradition and the majority of countries that were formerly colonised by such countries and strongly advocate anti-hegemonic sovereignty, the declaration was divided into the two we have now. They were initially published in 1966, and they both came into effect in 1976. If one considers the countries that have signed and ratified the declarations (not difficult to determine), it is clear that a divide still exists and mutual recognition of distinct traditions and emphases on human rights still requires considerable work (Sun 2014; Li et al. 2015, 68–69; Zwart 2020).

This brings me to the second final point concerning concrete universals, and indeed takes us back to the beginning of this study. Here an observation from Mao Zedong is pertinent:

There is no such thing as abstract Marxism [*chouxiang de makesizhuyi*], but only concrete Marxism [*juti de makesizhuyi*]. What we call concrete Marxism is Marxism that . . . is applied to the concrete struggle in the concrete conditions prevailing in China, and not Marxism abstractly used. (Mao [1938] 1991, 658)

This theoretical point also applies to human rights: there is no such thing as abstract human rights, promoted as “universal values,” for this is an empty type of human rights, without content. Instead, the only valid universal is a concrete universal. Thus, concrete human rights are those that emerge from and are applied to the concrete conditions prevailing in any country or region of the world in light of its history, culture, and the realities of its conditions today. A greater understanding of this fact would be a major step forward in the mutual recognition of approaches to human rights and thereby constitute true common ground.

## Notes

1. The Latin term is *dominium ex jure Quiritium*—the right of absolute ownership for any individual Roman citizen. For a useful treatment, see Diósdí (1970, 56–59).
2. The material that follows draws on detailed earlier research concerning the Roman invention of private property (Boer and Petterson 2017, 114–118).
3. As Aristotle (2005, 1253b34–1254a1) had observed somewhat earlier, “If every tool could perform its own work when ordered, or by seeing what to do in advance.”
4. A note on citations: even though I have worked with the original languages of material mentioned in this study, for ease of reference I cite where possible the English translations of these works.
5. This idea of sovereignty is usually described as “Westphalian,” referring to the Peace of Westphalia (1648) after the brutal Thirty Years War (1618–1648). Needless to say, there is an enormous literature on this topic, albeit with a distinctly Eurocentric focus. I can cite here only a couple of representative works (Jackson 2007; Grimm 2015).
6. For more detail on the following, see Boer (2016).
7. As Stefano Azzarà (2020) points out, the developments in the first year of the pandemic brought to the surface the inherent authoritarianism of liberalism.
8. Notably, in Paine's thought the right to property recedes behind the scenes, although it underlies his whole framework.

9. The right to life—still espoused by Paine—dropped out at some point, as “the economy” was seen to conflict with such a right. The COVID-19 pandemic has revealed how much the right to life has disappeared from the Western tradition.
10. Apart from full range of online English resources at the website of the China Society for Human Rights Studies ([chinahumanrights.org](http://chinahumanrights.org)), a number of other works in English are also recommended (Sun 2014; Chang et al. 2020; Zwart 2011, 2014, 2017, 2018, 2020).
11. The sentence appears on two occasions in Sima Qian’s *Shiji* (The Records of the Grand Historian), once in the “Guanyan liezhuan” section, and once in the “Huozhi liezhuan” section.
12. Although I cite the English translation here, the actual translation is my own.
13. The shift from social construction (a distinct contribution of Marxism) to discursive construction requires a systemic denial of Marxist approaches.

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