

# Xi Jinping Thought on the Rule of Law: Critique and Innovation of the Philosophy of Binary Opposition in Rights Theory

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## Abstract

Abstract The concept of rights existed in ancient Rome. Regarding issues such as the concept, ontology, operational theory, and axiology of rights, predecessors throughout the ages have engaged in persistent controversies across the domains of thought, theory, and empirical research, with no definitive conclusion reached to date. In modern times, this has manifested more concretely as an entanglement of complete opposition between will theory and interest theory, reflecting at the foundational philosophical level a direct dualistic opposition between consciousness and material ontology. It is precisely this origin that has led to a predicament of theoretical logical defects and practical conformity in rights theory. The latest theoretical achievement of the Sinicization and modernization of Marxism—Xi Jinping Thought on the Rule of Law—critiques this dualistic opposition and reconstructs rights theory through the lens of social relations and social interaction theory, proposing the theory of positive elements of social relations in rights theory, and thereby holistically renewing rights theory to bridge the philosophical and ideological chasm of dualistic opposition.

## Full Text

### Preamble

The concept of rights originated in ancient Rome, and throughout history, scholars have engaged in ongoing debates regarding the nature, ontology, operation, and value of rights, yet no definitive conclusions have been reached to date. In modern times, these discussions have manifested as a profound entanglement between the will theory and interest theory, which are fundamentally grounded in a direct philosophical dichotomy between consciousness and material ontology. This binary opposition has created both logical defects in rights theory and a

practical impasse regarding its correspondence with reality. The latest theoretical achievements in the Sinicization and modernization of Marxism—specifically Xi Jinping’s Thought on the Rule of Law—critique this binary opposition and reconstruct rights theory through the lens of social relations and social interaction. It proposes the Positive Elements of Social Relations Theory of rights, thereby holistically renewing rights theory and bridging the philosophical chasm created by binary opposition.

**Keywords:** Rights, Binary Opposition, Xi Jinping’s Thought on the Rule of Law, Positive Elements of Social Relations Theory

## 1. Historical and Theoretical Evolution of Rights

As a foundational concept in sociology, jurisprudence, and other disciplines, rights have been surprisingly contentious since their inception. As human civilization has evolved, disputes over rights-related issues—including concepts, ontology, and operation—have intensified along historical and theoretical trajectories. Initially characterized by a combination of subjective and objective understanding, various philosophical schools gradually shifted toward a binary opposition between subjective and objective perspectives. In modern times, this has directly evolved into a complete opposition between the will theory and interest theory regarding the essence of rights. This intense binary confrontation has left our understanding of rights’ essence fragmented, partial, and superficial for over two millennia, preventing us from grasping its true substantive meaning. As Xi Jinping has pointed out, historical research is the foundation of all social sciences<sup>1</sup>. To clarify existing controversies surrounding rights, examining their historical and theoretical evolution becomes a necessary starting point, for clarifying important legal terminology is the fundamental task of legal philosophy<sup>2</sup>.

Some argue that the concept of rights emerged in late ancient Rome. Roscoe Pound maintained that *ius* in Roman law had ten meanings, four of which closely approximate modern understandings of rights<sup>3</sup>. It is generally believed that Marsilius of Padua contributed the concept of rights by first distinguishing between the subjective and objective meanings of *ius* in his *Defensor Pacis* (major work)<sup>4</sup>, earning him recognition as the founder of subjective rights.

By the time of Aquinas, rights began to acquire academic significance through the enrichment of rational natural law theory based on divine nature, with Aquinas providing a complete outline and elaboration of rights’ connotation<sup>5</sup>. In contrast, William of Ockham viewed natural law as manifesting God’s free will<sup>6</sup>, establishing the voluntarist tradition of natural law. The subjective analysis of rights from the perspective of freedom of action began with Ockham<sup>7</sup>, marking the shift from unity to separation between subjective and objective rights that continues today. For Suárez and Grotius, rights remained moral entitlements to what one ought to have or what one could justly possess, still encompassing obligations<sup>8</sup>. They recognized the relativity of rights and obligations.

However, modern natural law-based rights theory took shape with Hobbes, who granted maximum legitimacy to human self-preservation. Natural rights were interpreted as the legitimate right to self-preservation, thereby departing from divine guidance<sup>9</sup>. Hobbes replaced nature associated with divinity with human nature, understanding law as human will rather than divine reason. Rights as freedom from obligations meant that having rights consisted in promoting self-interest, causing divine attributes such as obligations, virtues, justice, and common good—previously rooted in God—to disappear from rights' connotation.

Following Hobbes, with Bentham, Kant, Hegel, and others critiquing natural law, natural law doctrines declined, giving rise to the binary opposition between will theory and interest theory regarding rights' essence. Kant frankly stated that asking a jurist about rights is as perplexing as asking a logician about truth, likely eliciting only a description of what a particular nation's law considers correct at a particular time, without directly answering the universal question<sup>10</sup>.

The binary opposition in rights essence theory began with Kant's will theory and Bentham's interest theory. Kant, addressing the debate between European rationalism and empiricism<sup>11</sup>, proposed that beyond the sensible world lies the more important world of concepts or noumena. Through rational formal cognition and deduction, one could synthesize all empirical content with universal necessity<sup>12</sup>. Systematic conceptual methods ensuring completeness and generating new knowledge maintain necessary systematicity and continuity<sup>13</sup>. Thus, moral and legal cognition follows this same transcendental methodological approach. Consequently, the conceptual construction of free will based on practical reason constitutes the internal essence of rights<sup>14</sup>, grounded in moral rather than technical practice<sup>15</sup>. The capacity to act according to one's own representation constitutes human life<sup>16</sup>. The universal principle of rights is the coexistence of one's will's freedom with everyone else's<sup>17</sup>. Kant held that interactions of free will contain empirical relationships of free actions coordinated according to universal laws—laws expressing that one's free will must coexist with others' freedom<sup>18</sup>. This universal rights law derives from free will itself, representing freedom constrained within the concept of rights.

Bentham's interest theory maintains that people desire happiness and thus protective rights. This desire is a reason for wanting rights, but the reason itself is not a right, just as need is not supply or hunger bread<sup>19</sup>. Bentham denied natural or moral rights, recognizing only legal rights. For a subject to possess rights means being the beneficiary of others' legal obligations<sup>20</sup>. Bentham's theoretical foundation holds that legal rights derive from legal obligations, which derive from legal provisions, with interests resulting from the connection or interaction between rights and obligations. While will theory explains rights subjectively, interest theory explains them objectively.

## 2. The Binary Opposition Between Will and Interest Theories and Theoretical Impasse

Following Kant's will theory and Bentham's interest theory, numerous 质疑 and disputes emerged. Proponents of each theory, addressing theoretical defects and related challenges, engaged in a "patching competition" within their respective frameworks, generating further 质疑 and subsequent rounds of patching. This endless overtime-like dispute continues to the present day.

### (1) Will Theory and Its Evolution

Kant held that free will is the prerequisite for rights and that rights are the realization of free will. In Kant's metaphysics of morals, free will is necessarily a spiritual substance. However, neither Kant nor his supporters have provided scientific or logical answers to how this spiritual substance exists or possesses freedom. Kant himself acknowledged that why this spiritual substance is free cannot be explained. Thus, Kant's will theory essentially tells us something unknowable that, beyond causing confusion, holds no theoretical significance.

Hart's choice theory serves as a patch for Kant's theory. Hart retained Kant's core elements: fundamental moral rights are liberty rights, with other specific legal rights based upon them; rights require universal principles to regulate freedom's distribution, enabling rights-holders to make claims on others' behavior based on such principles. Unlike Kant, Hart emphasized choice and corresponding obligations. He argued that free will's most meaningful attribute is the power to control others' behavior, making one qualified to demand from others, with the coexistence or compatibility of human freedom possible only when one is permitted through choice to determine how others should act<sup>21</sup>. Hart explicitly clarified that possessing rights does not necessarily benefit the rights-holder or enhance their welfare; rather, it grants them certain control over corresponding obligations<sup>22</sup>.

Hart's choice theory combines claim-rights and powers as rights, with obligations and liabilities as corresponding categories<sup>23</sup>. MacCormick summarized Hart's theory as comprising three types of rights: claim-rights controlling others' obligations, privileges controlling one's own behavior through freedom-imposed obligations, and powers exercised according to personal discretion. Hart categorized them together because they share a functional characteristic: possessing them means one's personal choices receive legal protection, recognition, and respect<sup>24</sup>. Compared to Kant's will theory, Hart's choice theory emphasizes obligations—the correspondence between rights and obligations. Rights-holders have choice power based on imperative-like demands they can make on others<sup>25</sup>.

Hart considered a right to make its holder a "small sovereign"<sup>26</sup>, with a right's ultimate function being to grant control over one's own matters and others' obligations. The problem is that this controlling power is not unique to rights-holders; obligation-holders similarly possess so-called controlling power over rights-holders.

Choice theory's rights are a composite of claim-rights, privileges, and powers to provide effective protection for choice, supposedly protected by a boundary provided by directed duties<sup>27</sup>. Yet claim-rights, privileges, and powers themselves are not rights but elements constituting rights. Even if this argument holds, it explains rights' constituent elements rather than their essence.

Moreover, Hart acknowledged that a mere privilege is difficult to realize in actual legal practice<sup>28</sup>, not to mention well-known theoretical defects: will theory's function of granting rights-holders control over their own matters and others' obligations means rights cannot be granted to those incapable of choice, such as children and incompetent persons<sup>29</sup>. As interest theorists critique: vital interests are non-waivable, while trivial interests are waivable. Will theory's explanation of choice as a necessary condition for having rights would protect only trivial interests while failing to protect vital ones<sup>30</sup>.

Steiner's will theory serves as a patch for Hart's choice theory. Based on Hart's theory, Steiner denies rights to those lacking choice capacity<sup>31</sup>. Using Hohfeld's rights elements theory (privilege, claim-right, power, immunity), Steiner developed Hart's choice theory. When interest theorists challenge choice theory by noting that criminal law obligations and constitutional immunities cannot be waived by rights-holders' will, Hart responds by narrowing the scope of rights his theory explains, admitting it satisfactorily addresses common law operation but insufficiently grasps individual rights at the constitutional level<sup>32</sup>. Steiner argues this narrowing is theoretically unnecessary<sup>33</sup>.

Steiner's logic describes ordinary citizens as third-party beneficiaries of criminal law obligations, with corresponding choice-theoretic rights assignable directly to government officials<sup>34</sup>, whom Steiner calls "primary right-holders" in the role of criminal law will-theoretic rights-holders<sup>35</sup>. Ordinary citizens' status resembles third parties in contracts for third-party benefit. These arguments suggest all rights are waivable, with no inalienable rights<sup>36</sup>. Steiner uses formal logic to find true rights-holders for inalienable rights and incompetent persons' interests, expanding his theory's coverage. This argumentative path is unreasonable, violating scientific logic and academic norms, essentially contradicting will theory's core tenet that rights realize the rights-holder's autonomy and self-worth. In Steiner's view, we have no inalienable right against enslavement; inalienable rights actually belong to relevant officials, with original rights-holders excluded and reduced to irrelevant, passive, negative third parties. This is absurd and dangerous for rights-holders' autonomy and self-worth.

## (2) Interest Theory and Its Evolution

Bentham's interest theory's greatest problem is its overly broad scope of rights-holders, exceeding real-life logical boundaries. For example, if the government commands that no one may trample green spaces, and everyone bears this obligation (from which the green space benefits), interest theory logically entails that the green space is the rights-holder. Similarly, if no one may damage

buildings, then buildings become rights-holders. Considering green spaces or buildings as rights-holders is obviously absurd, yet this is the necessary logical consequence of interest theory's explanation.

Kramer's theory represents the most powerful modern representative of interest theory and a patch for Bentham's theory. Kramer strives to make the theory conform to conventional understandings in determining rights-holders' types and scope<sup>37</sup>, explicitly stating that this task must be based on value factors external to interest theory itself<sup>38</sup>. Comparing rational adults with children, mentally incompetent persons, fetuses, animals, trees, deceased persons, and collectives focuses on factors such as vitality, sentience, capacity to experience pleasure and pain, thinking ability, communication capacity, and behavioral adjustment capabilities. While not all factors are relevant, some are actually used to define the scope of potential legal rights-holders<sup>39</sup>. Kramer limits rights-holders to beings morally similar to rational adults, yet the problem of rights subject expansion remains. He summarizes a core standard for limiting rights-holders' scope—the minimum sufficient condition: this set of facts constitutes a sufficient condition for this violation; each component of this set is necessary for that sufficient condition.

Regarding specific criteria for determining rights-holders' scope, Kramer's interest theory raises questions: what is the core element for judging whether an entity is a subject, or how do these numerous elements combine for judgment? In determining actual rights-holders' scope, the minimum sufficient condition's facts have no redundant components. The question is: by what standard do we judge which conditions are redundant?

Raz defined rights thus: X has a right if and only if X can have rights and, other things being equal, some aspect of X's well-being (his interest) is a sufficient reason for others to have an obligation<sup>40</sup>. From the interest perspective, if a right is justified on the basis of an interest deemed to have ultimate value, it is a basic moral right<sup>41</sup>. Raz holds that rights have unique normative force in practical reasoning, specifically that rights-based reasons for action are exclusive reasons that override other types (moral, religious, customary) of reasons<sup>42</sup>. Another right with higher priority or an urgent non-right factor determines what may or should be done. Thus rights claims' exclusive reasons also involve scope issues<sup>43</sup>.

Raz maintains that facts can constitute reasons for an agent to perform certain actions. Statements of certain facts can serve as premises for arguments concluding that the agent has reason to act or should act<sup>44</sup>. Moreover, only reasons constituted by facts have normative importance; only such reasons determine what should be done. To decide what we should do, we must discover how the world is, not how our thoughts are<sup>45</sup>. Action reasons have universalizable characteristics<sup>46</sup>. Only events and actions examined by principles created through practical reason can become justified action reasons; otherwise they are merely naive facts without normative significance<sup>47</sup>. Specific action requirements proposed by reasons and principles may lead to conflicting results or prevent mutual benefit, indicating that different principles and reasons actually

have a dimension of weight<sup>48</sup>.

While valuable, Raz argues that the cost of weighing correctly each time exceeds marginal benefits<sup>49</sup>. Thus, if accepting directives more likely leads to actions conforming to correct weighing results, that person has practical authority over us—we should act according to his instructions rather than our own weighing<sup>50</sup>. Raz's rights reasons relate to authority's legitimacy. De facto authority cannot exist alone; it must simultaneously claim to be legitimate, whether it can be justified is another matter<sup>51</sup>.

Raz's rights theory's scope is limited to humans (excluding non-human beings), based on reciprocity theory. This theory holds that only members of the same moral community can have rights, with obligations among members deriving from social contracts or representing results of fair deliberation, making law and moral norms a reciprocal system among all community members<sup>52</sup>. Reciprocity theory still holds when moral agents have obligations to animals and plants, as these obligations' basis lies not in beneficiaries' interests but in moral agents' interests.

As Sreenivasan critiques, Raz's interest theory has major defects: many instrumental values can also serve as rights' interest foundation<sup>53</sup>. To remedy this, Raz allows a person's interest importance to increase by considering third parties' interests, thereby augmenting the subject's interest importance—a solution Sreenivasan calls “borrowed-force”<sup>54</sup>, which instrumentalizes individuals as right-holders.

The fierce collision between will and interest theories continues today. While flashes of genius cannot be denied, their philosophical foundation in binary opposition yields only partial, fragmented, formal, and phenomenal understanding of rights' essence. Ultimately, such understanding remains superficial—a seashell proves the sea's existence but is not the sea itself. Will and interest theories cannot grasp rights' conceptual essence, analyzing only externally through language, logic, function, and form, as do their critiques. Thus, rights theory's stagnation stems from will and interest theories' inability to resolve the crisis, instead being products of it.

### 3. Marxist Critique of Binary Opposition

Marx proposed an important principle: an era's urgent questions share the fate of any well-founded, reasonable question—the main difficulty lies not in answers but in questions. True critique analyzes not answers but questions, which are the open, unscrupulous, dominating voice of the era. Questions are the era's motto, the most practical cry expressing inner states<sup>55</sup>. Problem-oriented thinking is science's important methodology; problems originate in reality and must be solved based on and within reality. Yet in Western philosophical history, a millennia-long binary opposition between subject and object created sharp contradictions, making answers either idealist departures from reality into divine imagination or mechanical materialist passive acceptance of nature. As Engels

pointed out, the fundamental question of all philosophy, especially modern philosophy, is the relationship between thought and existence<sup>56</sup>.

Due to sensibility and rationality's duality and subject-object dualism, Western philosophy's binary oppositions have continuously emerged and dissolved, a problem unresolved before Marx. Binary opposition began with Pythagoras' numerical dualism replacing natural monism in ancient Greek natural philosophy. Plato's idealist speculation advanced dualism, establishing Western philosophy's two-millennia binary predicament. Descartes' modern dualism split subject and object, which subsequent philosophers attempted to bridge. Mechanical materialist monism, Leibniz, and Hume all made efforts. Kant sought to unify opposites through transcendental philosophy establishing subjectivity while exploring reason's limits. All inevitably failed.

Hegel claimed to achieve reconciliation between subjective and objective worlds, but as Marx noted, every philosopher hopes to free the soul from empirical limitations<sup>57</sup>. Reality proved Hegel overly optimistic<sup>58</sup>, forcing him to acknowledge philosophy's dismal situation. From this moment, traditional Western philosophy was dead. Modernity at best features Habermas' nonsense busy dissolving Marxism, or Rawls, Finnis, and others lingering in natural law's ruins. The ongoing dispute between will and interest theories is merely embers of binary opposition.

Hegel emphasized that philosophy is thoughtful examination of things<sup>59</sup>, valid only for actual things—we cannot think what fundamentally does not exist. Thus, Hegel and others' failure was inevitable. Marx judged that those not understanding this historical necessity would insist that after philosophy as a whole, people cannot survive... apart from this necessity, one cannot understand why after Aristotle could appear Zeno, Epicurus, even Sextus Empiricus, or why after Hegel could appear most worthless attempts by modern philosophers<sup>60</sup>. The world became philosophical with Hegel; philosophy only fully became worldly with Marx. Marx truly ended two millennia of binary opposition, creating the most advanced, scientific philosophical thought to date. Xi Jinping scientifically judged that no theory in human intellectual history has produced such extensive and enormous influence on human civilization's progress as Marxism<sup>61</sup>.

Marx encountered two difficult problems: the opposition between what is and what ought to be, which he discovered was inherent to idealism<sup>62</sup>. This binary paradox results either in idealist delusional mastery of nature and the universe through imagination detached from reality, or mechanical materialist passive acceptance and complete submission to nature like other organisms—both being subjective conjecture divorced from real life.

In the concrete manifestation of the living world of thought—law, state, nature, all philosophy—the situation is completely different: here we must carefully study objects themselves from their development, never arbitrarily dividing them<sup>63</sup>. Marx first respected objective objects and their full richness, rather

than arbitrarily dissecting the objective world with subjective abstract principles. This directly opposed Kant and Fichte's approach, directing problem-solving back to its source: real life.

Correspondingly, binary opposition in legal research and practice constructs numerous empty concepts without actual content, causing legal norms and related research to concern not reality but imaginative thinking. Marx thus evaluated such legal research: at the end of substantive private law, I saw the entire system's falseness, its outline approximating Kant's but executing completely differently<sup>64</sup>. This again showed me I could not advance without philosophy<sup>65</sup>. Based on profound essential inquiry, Marx recognized philosophy's importance. Humanity lost a professional jurist but gained a great intellectual pioneer. Philosophy and social sciences are important tools for understanding and transforming the world, important forces driving historical development and social progress<sup>66</sup>. This philosophical power, enriched and developed through Marx's pioneering thought and its continuous Sinicization and modernization, makes our observation, thinking, and understanding fundamentally different.

Thus, recognizing binary opposition's defects in traditional Western philosophy, Marx turned to the real world. If gods were previously transcendent, they have now become the world's center<sup>67</sup>. Based on a realist philosophical stance, Marx returned problems to their source—the real domain of life—achieving unity of subject and object in the real world, thereby possessing indisputable truth. For Marx, truth is the unity of subject and object.

From this profound philosophical perspective, Marx plainly told people that abstract thinking, which gives its thoughts universal form and describes them as the only rational, universally meaningful thoughts<sup>68</sup>, actually represents special ideas that have assumed abstract form—neither possessing claimed universality nor real content, merely external, empty abstractions. Here, Marx erased the mire of Western traditional philosophy's binary opposition.

Since the Enlightenment, early bourgeois thinkers mostly championed freedom, proclaiming it an innate human right and affirming rights' importance—historically necessary for opposing feudalism and advancing bourgeois revolution. Marx was initially influenced by this thought but soon realized its serious obstacle: the opposition between what is and what ought to be, inherent to idealism, which became the source of poor, erroneous divisions<sup>69</sup>. Exploring law and rights must not separate what is from what ought to be but should tightly integrate them.

Whether Kant, Hart, MacCormick, or Steiner use three or four elements to explain rights, they all argue rights are demands of free will—summarized in civil law as “declaration of intent.” The proposition that declaration of intent equals rights would be unacceptable even to Kant, Hart, MacCormick, or Steiner. To illustrate will theory's problems: imagine Hart, MacCormick, and Steiner visiting Kant at midnight, knocking continuously (making demands). Kant, 不便相迎, asks their identity. After they explain, Kant invites them in (rights

realization). Yet they continue knocking, claiming this demonstrates their rights theory. Kant's most likely response would be to release his guard dogs and call the police.

Bentham said interest is rights, but the Latin maxim states: all rights are established for persons<sup>70</sup>. Kramer pushes Bentham aside, adding that rights-holders must be human, returning to Marx's critique of bourgeois thinkers: understanding rights must start from real premises and never depart from them. Its premise is human beings, but not individuals in imagined isolation, but real, observable people in developmental processes under specific conditions<sup>71</sup>. Raz pushes aside Bentham and Kramer, adding that human interests must have justifying reasons—but does interest's existence necessarily prove its justification? Formal logic alone reveals this as fallacy. To illustrate: Kramer breaks into Bentham's house (obtaining interest), Raz climbs in too (obtaining interest), explaining their interest theory developments to stunned Bentham. Kramer claims he should be there because he's human; Raz claims his presence must have justification. Poor Bentham can only panic and call the police, borrowing Kant's guard dogs to drive them away.

In short, both will and interest theories in rights, mired in binary opposition, render the entire Western rights theoretical system nominal without substantive content—that is, rights in the capitalist world are only slogan-like empty shells without real meaning, even when explicitly codified. For capital's benefit, the masses have only the “freedom” to be capital's convenient beasts of burden, beyond the ropes of reification. Western rights theory scholarship and the will-interest dispute cannot be logically and realistically resolved in a social formation without real rights, which is why the dispute persists. Their object of study is not real existence but their own imagination; they all soliloquize to the air. Engels said that in civilized times, the distinction between rights and obligations is obvious even to the stupidest person, as it grants almost all rights to one class while imposing almost all obligations on another<sup>72</sup>. This is actually the separation between rights as legal expressions of production outcomes or existing interests and property, and obligations as the behavioral subjects producing these rights' essential carriers. Rights and their corresponding obligations are separable. Ultimately, rights are just one of many vases on capitalists' balconies, whose understanding of rights is essentially no different from feudal lords or slave owners.

#### 4. Positive Elements of Social Relations Theory of Rights

The true content of all epoch-making systems is formed by the needs of the era that produces them<sup>73</sup>. Capital-dominated society needs only the nominal form of rights; unquestionably, like preceding social formations, it is a pre-rights era where the economic base and superstructure contain no possibility of substantive material rights for the masses. Real rights' substantive realization was established by the common people's victory in building socialism, especially through Marxism's Sinicization and modernization, thus creating a true rights

era.

### (1) Conditions for Rights

Human self-knowledge has proven to be the Archimedean point—the firm, unshakable center of all intellectual trends<sup>74</sup>. Marx further clarified that understanding human beings is the core of all issues: thought itself can realize nothing; to be realized, thought requires people using practical power<sup>75</sup>. Real problems should be solved in reality. German philosophy descends from heaven to earth; we do the opposite, ascending from earth to heaven. That is, we do not start from what people say, imagine, or think, nor from spoken or imagined people, to understand flesh-and-blood humans. Our starting point is people engaged in actual activity<sup>76</sup>—individuals within existing historical conditions and relations, not individuals understood by intellectual metaphysics<sup>77</sup>. Such people are not free will or obtained interests that do not exist in the actual world.

Marx and Engels proposed a realistic concept, stripping away binary opposition's subjective illusions to clarify that the premise for problem actualization can only be real individuals<sup>78</sup>—this is the true starting point for rights issues and subsequent theoretical disputes. Real individuals' true forms relate to their social interactions and rights-obligations forms, which depend on the material conditions of their production<sup>79</sup>. Material conditions' constraints are Marxism's answer, constituting boundaries, premises, and conditions for activity not arbitrarily controlled by them<sup>80</sup>. Within these boundaries exist real individuals' actual lives—first eating, drinking, housing, clothing, etc., plus material reproduction, human reproduction, and social relations reproduction. Material production and life production contain both human-nature and social relations. Marx's social relations refer to many individuals' common activity<sup>81</sup>. Thus, real individuals and their productive and living activities, bounded by material conditions, constitute the socialized mode of human interaction that establishes social relations.

Social relations thus become the necessary form through which material and individual activities are realized<sup>82</sup>. Social relations are the necessary form of human existence, so society must not be reified as something abstract opposed to individuals—individuals are social beings<sup>83</sup>. Human sociality is the core of real individuals, tightly binding human essence with social relations. Human essence exists only for social individuals<sup>84</sup>. This scientific formulation culminates in the scientific judgment: human essence is not an abstract thing inherent in single individuals; in its reality, it is the ensemble of social relations<sup>85</sup>. The basic elements of human essence in social relations are the inherent elements of rights and obligations.

Material has primacy; thought's history proves spiritual production transforms with material production's transformation<sup>86</sup>. This materialist thought teaches that we cannot judge a person by his self-perception, nor judge such a transformative era by its consciousness. Rather, this consciousness must be explained

from material life's contradictions, from existing conflicts between social productive forces and relations of production<sup>87</sup>. Rights consciousness is likewise a product of real interaction between productive forces and relations of production, based on the sum of these relations constituting society's economic structure—the real foundation upon which legal and political superstructures rise and with which certain social consciousness forms correspond<sup>88</sup>. Thus, the mode of material life conditions the entire process of social, political, and spiritual life<sup>89</sup>. Rights originate from real material practice, corresponding to production modes, political-legal systems, and cultural factors. The hand-mill produces feudal society; the steam-mill produces industrial capitalist society<sup>90</sup>. In short, what creates rights is not gods or subjective imagination detached from reality, but relations of production. When relations of production must be shed, the material, economically and historically justified source of rights and all transactions based upon them—generated from social life's production process—disappears<sup>91</sup>. Ultimately, rights can never exceed society's economic structure or the social culture constrained by it<sup>92</sup>. Engels stated more concretely: economic production and the resulting social structure in each historical epoch form the foundation of that era's political and intellectual history<sup>93</sup>. Socialist practice, especially socialism with Chinese characteristics, fully demonstrates that the people's dignity and happiness are rights' proper meaning<sup>94</sup>, with improving people's wellbeing, ensuring their mastery, and promoting comprehensive human development as development's starting point and foothold—only social systems truly protecting the people's developmental rights constitute conditions for rights' realization<sup>95</sup>. Rights' conditions are: socioeconomic conditions, corresponding social systems, real individuals, social interaction, and social relations.

## (2) Positive Elements of Social Relations Theory

Based on clarifying rights' conditions, further clarifying their real process from occurrence to realization in social relations requires thought that both unites interconnected elements into a unity and decomposes conscious objects into their elements. Without analysis there is no synthesis<sup>97</sup>. Such analysis and synthesis achieve correct, accurate understanding of essence. Hegel's *Lesser Logic* explains essence as characteristic contradictions derived from analysis and synthesis<sup>98</sup>; rights and obligations' essence is likewise. However, binary opposition's will theory cannot distinguish rights from obligations through its constraining requirements reflecting free will; interest theory's results of interest acquisition similarly cannot.

Essence's uniqueness manifests in its relativity—interaction is things' true ultimate cause. We cannot trace further beyond understanding this interaction, for nothing remains to be known<sup>99</sup>. The relativity principle alone means knowing equals knowing nothing; it must be applied in concrete, real interaction—unity of knowledge and action is true knowledge. Social relations involve relativity among various human collectives, between people, between people and things, and between rights and obligations. Merely discussing things' interaction super-

ficially or formally, without understanding how they interact, knows the what but not the why. In short, the entire great developmental process occurs in interaction forms (though interacting forces are very unequal: economic movement is the most powerful, original, decisive), where nothing is absolute, everything is relative<sup>100</sup>. The relativity principle provides both macro-synthesis seeing relativity among people and society at various levels, and observation of rights-obligations' relativity, which is the foundation of other macro-relativities—that is, micro-relativity. Thus, from the start we directly abandon binary opposition's absolute dead end, returning to the real relativistic world to achieve correct unity of subject and object.

Proceeding from rights-obligations' relativity principle, human activity itself is understood as objective activity<sup>101</sup>. Human activity's objectivity is the concretization and clarification of rights-obligations subjects' direction, applicable to both human-nature and human-human relations. Constrained by social relations, individuals' or groups' living and productive 实践活动 must proceed according to social relations. Rights-obligations realization is the purpose of objective social interaction, with corresponding social relations establishment as its mode. Without social relations, all human activities would cease to exist. In objectivity, a person's relation to himself only becomes objective and real for him through his relation to others<sup>102</sup>.

Human activity's objectivity only provides possibility for human-human and human-nature relations. Why? Because without interactive necessity between rights and obligations, social relations cannot be established. Human social action is a mutually complementary activity; each person's labor product has essential connections with others' labor products, creating interaction needs and activities. As social beings who enjoy interaction, exchange behaviors emerged historically<sup>103</sup>. Complementarity is evident in economic complementarity and similarly manifests in other domains as the real necessity of rights-obligations interaction. Complementarity creates real material exchange relations between people, realizing rights-obligations interaction and promoting interaction alienation and externalization under capitalist social formation and private property-based association<sup>104</sup>. Thus, Marx's social interaction theory is irrefutably formed. Mochizuki Seiji formulaically describes interaction as class-complementary behavior and human social behavior 贯穿历史, summarizing Marx's alienation and social interaction theory as [Civil Society—Analysis of Three Major Income Sources]—[Money—Private Property—Exchange and Division of Labor—Externalization=Transfer (Class Interaction)]<sup>105</sup>. Exchange under private ownership combined with division of labor and externalization involves rights-obligations' emergence and realization process. Under private ownership, laborers exchange only their labor, nothing else worth capital's exchange—this is where capitalist, feudal, and slave systems converge as pre-rights eras.

Therefore, interaction is production's premise. For Marx, each person's power is productive force; individual powers are dispersed and mutually opposed, be-

coming real forces only in individuals' interaction and mutual connection<sup>106</sup>. Productive forces are formed in common activity through interaction—that is, rights-obligations interaction results. Marx's interaction is closely linked to real material production. So what do rights-obligations in interaction refer to? Is interaction's essence really language and related symbols as Habermas claims?

Natural relations are relations arising from material transformation between humans and nature—people relate to nature through labor, practice, etc. Social relations are interaction relations between people. From human natural determination, the human-nature relation is directly the human-human relation, just as the human-human relation is directly the human-nature relation<sup>107</sup>. The material obtained by humans treating nature as an interaction object is being-for-others, a social relation between people<sup>108</sup>. Only in society does nature become the bond connecting people<sup>109</sup>. Thus clarified: the core content of human interaction is material exchange obtained from human-nature relations—this is the material content named rights and obligations.

Marx holds that interaction's core is connections between people; connections between things can at most be called exchange. Practice is the intermediary, the bond between people and between people and the objective world. In practice, humans exercise subjective initiative for purposeful connection, thereby establishing interaction relations. All social life is essentially practical<sup>110</sup>. Practice is human behavior and material behavior—that is, rights-obligations content, including humans themselves. The ancient philosopher Laozi said: people are not people, things are not things. In socialized human-nature scenarios, surprisingly, they are all more microscopic contents of social relations—rights-obligations elements. Though 2,500 years have passed, Laozi's statement remains vivid.

In a letter to Annenkov, Marx stated that society is the product of people's interactive activity<sup>111</sup>. Such social relations—common activity and common enjoyment—refer to activity and enjoyment directly expressed and confirmed through actual interaction with others<sup>112</sup>. That is, social interaction is social relations' concrete external manifestation, and when conditions are met, social relations formed by rights-obligations interaction constitute the social relations they depend on. Direct, actual interaction between people is common activity, through which self-confirmation is obtained in interactive activities. Besides direct interaction, Marx also mentioned indirect interaction—activity that rarely involves direct contact with others<sup>113</sup>, realized through rights-obligations' transitivity. Social relations' meaning here refers to many individuals' common activity, regardless of conditions, methods, or purposes<sup>114</sup>.

Rights arise from human survival and development needs. In all circumstances, individuals start from themselves, but since they are not unique in the sense of needing no connection with others, their needs—their nature—and their satisfaction methods connect them (sexual relations, exchange, division of labor), making mutual relations necessary<sup>115</sup>. Here, it seems we could arbitrarily fill social interaction with rights-obligations content to create any social relations, making everything ready for me. But in reality this is impossible, as Kant's

and Bentham's troubles show—what constrains rights-obligations and social interaction/relations' arbitrariness?

All interaction to date has been individuals' interaction under certain conditions, not individuals' interaction as individuals<sup>116</sup>. Arbitrariness' limitation lies in interaction's conditionality. Marx expressed this: an individual's comprehensiveness is the comprehensiveness of his real and conceptual connections<sup>117</sup>. As social individuals, all existence includes not only real relations but also conceptual existence related to past and present social relations, which together form the whole of human social body<sup>118</sup>.

Since an individual's development depends on all other people with whom he directly or indirectly interacts<sup>119</sup>, the present individual depends not only on himself but on all relative others in interaction. Thus social relations actually determine how far an individual can develop<sup>120</sup>. Only within existing social relations can individuals become social beings, determining their existence and development modes and degrees.

To illustrate conceptual relations, Marx gave an example: for these things to relate to each other as commodities, commodity owners must conform to each other's will—that is, each can alienate his commodity and appropriate others' only through mutually agreed volitional acts. Thus they must recognize each other as private owners. This legally contractual relationship (whether or not fixed in law) indicates that rights relations are volitional relations reflecting economic relations<sup>121</sup>. Here, the contract preceding the actual buying-selling relation is conceptual, becoming a constraint on subsequent real rights-obligations.

The situation is more complex. Existing and past social relations have demonstrative significance: people abstract behavioral rules from established social interaction patterns, elevate these rules to legal norms, and finally express them in writing—not to obtain these rules themselves, but to guide and limit people's behavior through them, making them conform to established social production-interaction relations' required response patterns, thereby solidifying and continuing established production relations<sup>122</sup>. Such conceptual relations ultimately originate from producing material life itself, which is the fundamental condition of all history that people have engaged in daily to sustain life from thousands of years ago to today<sup>123</sup>. Following rights-obligations' real process, the understanding level of rights' will and interest dualism can be accurately positioned: their cognition reaches only the degree of a fragment of conceptual social relations. Naturally, if Kantian troubles or Benthamite frights occur in reality, they become matters for psychiatrists, police, or judges.

What then of Habermas' social interaction theory emphasizing language and symbols? In *The German Ideology*, Marx points out that thought, ideas, and consciousness production were initially directly interwoven with people's material activities, material interaction, and real-life language. Imagination, thinking, and spiritual interaction here are still direct products of material action<sup>124</sup>. These material behaviors are not only forms of need but also become interaction

content in many situations, typified by personal relationship contexts without material exchange: visitation rights, spousal rights, etc. But this is only a corner of interaction; the decisive content is material. Habermas' elements are forms and a small part of content of conceptual social interaction.

Marx stated that thought, ideas, and consciousness production were initially directly interwoven with material activities and interaction. Imagination, thinking, and spiritual interaction are direct products of material action, as is spiritual production expressed in a nation's political, legal, moral, religious, and metaphysical language<sup>125</sup>. The substance of conceptual relations is the superstructure on the economic base, naturally and automatically determining people's rights-obligations positions based on the economic foundation—all are types of material behavior. Language, like consciousness, only emerges from need, from the urgent need to interact with others<sup>126</sup>. Not form produces need, but need produces form.

Here, rights and obligations formation can be formulaically expressed: in social interaction, constrained by social rules, interaction + exchange constitutes rights and obligations' real and concrete content, serving as constituent elements to further form social relations manifested in social interaction. Specifically, interaction, exchange, and interaction+exchange can all form real rights and obligations content. Rights are the process and result of demands and acquisition of material and material behaviors in interaction, exchange, and interaction+exchange recognized by social relations. Obligations are the process and result of being demanded and giving material and material behaviors in interaction, exchange, and interaction+exchange recognized by social relations.

Based on research into rights and obligations processes, rights for the rights-holder are satisfaction of demands—positive elements of social relations. This is rights' theoretical essence: proof of the Positive Elements of Social Relations Theory of rights. Correspondingly, obligations are negative elements of social relations.

### (3) Concept of Rights

Under the guidance of Xi Jinping's Thought on the Rule of Law, which represents the Sinicization and modernization of Marxism, accurate sociological concepts of rights and obligations can be derived from studying rights' conditions and processes.

**Rights** are the positive elements constituting social relations—the process and result of demands and acquisition of material and material behaviors realized through interaction and exchange in social interaction, conducted by real individuals under social rule constraints within socialist society's economy and social system.

**Obligations** are the negative elements constituting social relations—the process and result of being demanded and giving material and material behaviors

realized through interaction and exchange in social interaction, conducted by real individuals under social rule constraints within socialist society's economy and social system.

As long as the foundation of the status quo—the continuous reproduction of the relations forming its basis—persists over time, acquiring regular and orderly form, this situation naturally emerges... If this reproduction continues for a period, it becomes fixed as custom and tradition, finally sanctified as explicit law<sup>126</sup>. As constituent elements of social relations, rights and obligations should naturally be legalized as customs and traditions become established.

Regarding rights and obligations legalization, Marx held that the freest legislation only fixes existing rights and elevates them to universal significance in private rights matters, never creating rights where none exist<sup>127</sup>. This embodies Xi Jinping's Thought on the Rule of Law's people-centered stance. China's principal social contradiction has transformed into the contradiction between the people's ever-growing needs for a better life and unbalanced, inadequate development—a historic change of overall significance<sup>128</sup>. In the new era, comprehensively governing the country according to law and building rule-of-law China must actively respond to the people's new demands and expectations<sup>129</sup>, safeguarding the fundamental interests of the broadest populace and protecting their aspirations and pursuits for a better life<sup>130</sup>. The people-centered philosophy centers on the people's true, universal realization of rights, thereby gradually freeing people from dependence on things<sup>131</sup>. Obviously this is impossible in capitalist society because it is its foundation; only under socialism does rights' substance exist.

In legal contexts, rights and obligations are defined in jurisprudential theory:

**Rights** are the positive elements constituting social relations—the process and result of demands and acquisition of material and material behaviors realized through interaction and exchange in social interaction, conducted by real individuals under legal norm constraints within socialist society's economy and social system.

**Obligations** are the negative elements constituting social relations—the process and result of being demanded and giving material and material behaviors realized through interaction and exchange in social interaction, conducted by real individuals under legal norm constraints within socialist society's economy and social system.

Humans are the most genuinely social animals—not only gregarious but only able to be independent within society<sup>132</sup>. Therefore, rights' recognition and realization must emphasize obligations' importance to ensure the interactive relationship between rights and obligations—that is, social relations' existence and society's overall existence. Only thus can we make more rights reality in deeper and broader scope, ultimately achieving a union where everyone's free development is the condition for all people's free development<sup>133</sup>.

Marx said problems are an era's slogan, the most practical cry expressing its spiritual state<sup>134</sup>. The Chinese people living in our great country and era jointly share opportunities for life to shine, dreams to come true, and growth with the motherland and times<sup>135</sup>. With dreams, opportunities, and struggle, all good things can be created. Since 5,000 years of Chinese civilization, this is the peak new era. Each era's philosophy, as a specific field of division of labor, has specific intellectual materials transmitted by its predecessors as its starting point<sup>136</sup>. These answers to era-related questions originate from Marxist classics and Xi Jinping's Thought on the Rule of Law guidance. The universe is so vast and broad, eternally turning and soaring through millennia, everlasting. Merging into this 浩瀚的整体 makes one feel as tiny as an atom<sup>137</sup>. For numerous social science theories and practical propositions in socialism with Chinese characteristics' new era, I humbly offer this minute discussion to the great true rights era.

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<sup>5</sup> [US] John Finnis, *Natural Law and Natural Rights*, trans. Dong Jiaojiao et al. (Beijing: China University of Political Science and Law Press, 2005), 166.

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- <sup>17</sup> Kant, *The Metaphysics of Morals*, 40.
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- <sup>25</sup> Hart, *Essays on Bentham*, 183.
- <sup>26</sup> Hart, *Essays on Bentham*, 172.
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- <sup>34</sup> Steiner, “Directed Duties and Inalienable Rights,” 243-244.
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- <sup>52</sup> *Marx-Engels Collected Works* (Vol. 40) (Beijing: People’s Publishing House, 1982), 142.
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<sup>131</sup> *Marr-Engels Collected Works* (Vol. 8), 52.

<sup>132</sup> *Marr-Engels Selected Works* (Vol. 2), 684.

<sup>133</sup> *Marr-Engels Collected Works* (Vol. 2), 53.

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