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## **Human Rights and Social Development in the Chinese White Papers on Human Rights**

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### **Abstract**

In 1991, the Information Office of the State Council of the People's Republic of China launched a Chinese national version of human rights issuing the first White Paper on Human Rights. Since 1991, the Chinese Government has issued several specific White Papers (the latest one in October 2016) describing the overall approach to human rights and two National Human Rights Action Plans (2009, 2012). The paper presents the Chinese official stance on human rights emerging from an in-depth analysis of the Chinese White Papers on Human Rights in the period 1991-2018.

**Keywords:** *Human Rights in China; Chinese White Papers on Human Rights; Social Development and Human Rights; Economic growth and Human Rights Achievements.*

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## Introduction

On April 3<sup>rd</sup> 2018, the Information Office of the State Council (IOSC) of the People's Republic of China launched the latest White Paper (WP) on Human Rights: China's Policies and Practices on Protecting Freedom of Religious Belief (IOSC 2018). The Chinese tradition of WPs on Human Rights dates back to 1991 when the issuing of the first WP represented a turning point (Sun 2013, 35-48), demonstrating the Chinese will to 'embrace, or rather appropriate, the language of human rights' (Svensson 2002, 271).

Even though the Core Human Rights Treaties had been ratified by China since the Eighties, only after the Tiananmen crackdown (1989), the Chinese government has been demonstrating growing participation within the international human rights regime (Jiang 2016; Kent 1999) and growing attention towards human rights also at the domestic level.

In the period 1991-2018, at least twelve of these WPs were specifically dealing with human rights and the Chinese progress aimed at enforcing human rights at the domestic level<sup>1</sup>. Additionally, two National Human Rights Action Plans (2009, 2012) were published and China presented three national reports on human rights in the Universal Periodic Review (2009, 2013, 2018).

Since May 2014, five WPs concerning the overall human rights situation have been issued. Three only in the 2016 (WP on China's Progress in Poverty Reduction and Human Rights, in October, WP on New Progress in the Judicial Progress of Human Rights in China, in September, WP on Assessment Report on the Implementation of Human Rights in China 2012-2015, in July), demonstrating the growing importance of this kind of documents.

Furthermore, since 2008, the IOSC (inspired by the United States Department's publication of the Annual Country Reports on Human Rights Practices) has been annually issuing some interesting and detailed reports, titled Human Rights Record of the United States, which appear as a clear attempt to politically use the human rights rhetoric, in this case against United States defined in the 2017 report as 'the judge of human rights', accused to 'point fingers and cast blame on the human rights situation in many countries while paying no attention to its own terrible human rights problems' (IOSC 2017a).

In spite of this large amount of documents, Chinese human rights standards have not been actually improved. According to the Dui Hua Foundation's Political Prisoner Database, more than 7,000 individuals are still imprisoned for political reasons (March 31st, 2018), with a trend of imprisonment constantly growing since 2004 (Dui Hua Foundation 2018).

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<sup>1</sup> 1991, 1995, 1997, 2000, 2001, 2004, 2005, 2010, 2013, 2014, 2015, 2016.

Similar evidence is provided by the Political Terror Scale (PTS) which specifically captures violations of the Physical Integrity Rights (disappearance, torture, unlawful killing, extra-judicial executions, etc.) perpetrated by the agents of the state, through a year-based 5-level “terror scale” (1-5, the best performance is marked with the lowest level -1-, the worst one with the highest level -5-). Since 2008 the level has constantly been of 4, meaning that, according to the Political Terror Scale’s researchers, in China, ‘the civil and political rights violations have expanded to large numbers of population; murders, disappearance and torture are a common part of life’ (PTS 2017).

Notwithstanding the socialization of China in the human rights regime (so as to be elected, by the United Nations General Assembly, in 2016, member of the Human Rights Council), the pillars of the Chinese doctrine on human rights seem to stand firm to the official position expressed after the Tiananmen events.

In this overall scenario, what is the role of the White Papers on human rights? What human rights doctrine emerges from the analysis of the White Papers? Do the White Papers express a new attitude towards human rights? Do they really represent a turning point in the Chinese attitude on human rights? Or is the goal of White Papers to strengthen the Chinese position on human rights (Hanqin, Qian 2009, 309-310; Kent 1991, 174)? Chinese position traditionally focused more on the social development, the fight against poverty, the recognition of the basic rights, the subsistence rights, in accordance with the socialistic political tradition.

This article presents an in-depth overall analysis of the Chinese WP on Human Rights in the period 1991-2018.

## **1. Tiananmen, China and the Human Rights**

Although Chinese propaganda links the beginning of the path towards the full realization of human rights to the 1949 Communist revolution, a formal and systematic overture towards human rights can be found only since the 1991 WP. Hence the 1991 WP (described by Jack Donnelly as ‘a cynical manipulation of the language of human rights from a strictly normative point of view’, Donnelly 2013, 178), represented the official Chinese answer to the several criticisms received from the international community concerning the events of 1989 (Foot 2000, 113-149).

Indeed, according to Ann Kent, the year 1989 can be considered as the beginning of the third phase of the interaction between China and the United Nation International Human Rights Regime. So, if the first phase (1971-1979) was marked by a really weak interaction and the second one (1979-1989) was marked by ‘a voluntary and active involvement in the UN

human rights regime' with the attempt 'to make restitution to its citizens for the abuse of their rights during the Cultural Revolution' (Kent 1999, 233), 'the crushing of the Democracy Movement in June 1989 –Anna Kent affirmed– represented a watershed in China's interaction with the [human rights] regime and to a large extent undermined its control over the nature of its participation' (Kent 1999, 233). If, at the beginning of this third phase, China opposed a kind of resistance to the international pressure, justifying its behavior with a legalistic interpretation of sovereignty, by the end of 1990 'a new and more positive sub-phase in the post-1989 era began, with the Chinese government's decision to actively engage in the international human rights debate and to embark on vigorous human rights diplomacy (*renquan waijiao*)' (Kent 1999, 234).

The first Chinese WP on Human Rights must be placed in this sub-phase of the Chinese third phase of interaction with the Human Rights Regime.

Starting from June 1991, indeed, some western delegations were allowed by the Chinese government to visit the country with the purpose of checking the human rights situation (Kent 2001) in what Robert F. Drinan and Teresa T. Kuo defined as 'the 1991 Battle for Human Rights in China' (Drinan, Kuo 1992). Additionally, preceded by several official conferences on the subject (Kent 1999, 148-155), in November 1991, the IOSC of the People's Republic of China launched a Chinese national version of human rights issuing the first WP on Human Rights (IOSC 1991; Wan 2001, 17-20). According to Pinghua Sun, the first WP on Human Rights 'break off the forbidden zone in human rights research and set the scope of human rights protection' (Sun 2013, 45). Conversely, Marina Svensson specified that official appropriation of the language of human rights in the post-1989 period hides the will to change 'more the packaging than the content' (Svensson 2002, 266) with the likely purpose of lessening international pressure (mainly realized by the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities and the United Nations Commission on Human Rights, Goodman 2004).

According to Marina Svensson, therefore, the 1991 WP was the report of 'an outcome of discussions under way since 1989 among Chinese experts and propaganda officials on how best to handle the human rights issues' (Svensson 2002, 268). The theory of rights emerging from the document is described by Ann Kent according to whom the content of the 1991 WPs presents 'a strange mix of Maoist norms, new and old priorities of rights and guarantees of rights that were purely aspirational, which no longer existed in substance or which were already on the point of being formally abandoned' (Svensson 2002, 87; Weatherley 2000).

## 2. The 1991 White Paper on Human Rights

The first Chinese WP on Human Rights, entitled Human Rights in China, was issued in November 1991 (IOSC 1991). The Preface describes the Chinese overall view basically grounded on some propagandistic elements (the fight against the ‘three big mountains: imperialism, feudalism and bureaucrat-capitalism’). The almost messianic idea according to which the 1949 Communist revolution guaranteed the recognition of human rights to the Chinese people is often evoked in the WPs and is specifically pointed out by the 2000 WP on Fifty Years of Progress in China’s Human Rights (IOSC 2000). In this way the beginning of the Chinese path towards the full recognition of human rights (*rectius* citizens’ rights) is dated back to the Communist revolution.

However, the Chinese stance does not globally reject human rights neither from a normative nor from a cultural point of view. Actually, the Preface stated that ‘the Chinese government has also highly appraised the Universal Declaration of Human Rights, considering it the first international human rights document that has laid the foundation for the practice of human rights in the world arena’. This statement clearly reflects the Chinese government’s intention to dispute neither the legitimacy of the international multilateral control system nor human rights in general, on the eve of the opening-up processes led by Deng Xiaping starting from 1979 (Kent 1999, 42-48). Furthermore, the recognition of the purposes and principles of the United Nations Charter is emphasized within the tenth and last paragraph of the 1991 WP, apart from some references to sovereignty and the principle of non-interference which are usually considered “Westphalian” concepts.

From a cultural point of view, a historical and situational reconstruction of the relevance of the 1991 WP cannot ignore the fact that during the early Nineties the Asian values debate reached its acme. The core idea of the Asian values debate was that Asian societies with their own values hoped that a ‘local application and justification of human rights could be established’ (Chen 2008, 49). On the eve of the Asian Values debate (Wachman 2001, 268-269), the 1991 WPs let the acceptance of the universal value of human rights be followed by a particularistic, culturalistic interpretation and application of human rights (Peerenboom 2005, 79-80). The Chinese solution aims at depicting a step by step path, guided by the Chinese Communist Party, towards the actual (not only formal) recognition of human rights as defined by the International Human Rights System. Hence, the Chinese way to human rights does not endorse an immediate revolution whose purpose is to place human rights (specifically civil rights) at the center of the political

scene. On the contrary, it endorses a gradual evolution whose final purpose is the full recognition of all human rights (including civil rights).

From a political point of view, the Chinese proposal was an evident compromise allowing China both to appear devoted to the human rights cause and to justify human rights governmental practices (human rights violations at least) as expressed by a values ‘hierarchy’ self-established by Chinese government (Davis 1995, 215).

In this overall frame the Preface lists three salient Chinese human rights characteristics which represent the overall frame of the WP:

a) the extensiveness, aimed at considering on the same level personal, political, economic, cultural and social rights as well as individual and collective rights;

b) equality, according to the socialist principles inspired by the abolition of class exploitation;

c) authenticity, according to which ‘the state provides guarantees in terms of system, laws and material means for the realization of human rights’.

The first paragraph of the 1991 WP is then dedicated to the right to subsistence defined as “the Foremost Human Right the Chinese People long fight for”. Although in the official Chinese rhetoric, even before the 1991 WP, the arguments recalling the importance to ‘eat one’s fill and [to] dress warmly’, rather than to engage in ‘empty human rights sloganeering’, were widespread, it is only since the 1991 WP that the right to subsistence has been playing a pivotal role in the official Chinese human rights approach (Svensson 2002, 274). Significantly, the beginning of the first paragraph is dedicated to a brief historical reconstruction of Chinese sufferings undergone during the twentieth century with the purpose of emphasizing the bettering of social and economic conditions after the 1949 Communist revolution which was considered as a kind of “condition” for the full realization of human rights, notwithstanding the fact that the Chinese totalitarian regime created in 1949 had been violating most internationally recognized civil and political rights, above all during the Cultural Revolution (1966-1976, Donnelly 2013, 168) and during the suppression of China’s Democracy Movement (1978-1981, Cohen 1987).

Civil and political rights are mentioned in the second paragraph. Political rights are seen as collective rights, rather than individual rights. They were mentioned before civil rights because the political rights are collective rights and consequently they have to be considered prior to individual rights. Therefore, political rights are described as systemic elements of Chinese democracy (Nathan 1986) (always depicted by the WPs as a ‘system of multi-party cooperation and political consultation under the leadership of the Communist party’) whose main actor is the Chinese people who ‘gained

real democratic rights after the founding of New China'. Hence the political power is described as a collective power not owned by individuals or citizens but, in accordance with the socialistic standpoint, 'by the working class and based on the alliance of workers and peasants'. Furthermore it is pointed out that the full equality between men and women is recognized as well as the rights of all nations' minority nationalities (the seventh paragraph is wholly dedicated to the rights of the national minorities). In this frame, the 1991 WP talks about the 'wide range of political rights' provided by the Chinese Constitution to citizens: the right to vote and to be elected, freedoms of speech, the press, assembly, association, procession and demonstration.

Appearing as secondary order rights, the 1991 WP mentions the most relevant civil rights: the freedom of the person (*habeas corpus* guarantee), declared inviolable as well as the personal dignity; the unlawful detention and the deprivation of citizens' freedom are declared prohibited; the inviolability of the residences; the freedom and privacy of correspondence; and so on. Moreover the freedom of religious belief is a subject of the sixth paragraph where, *inter alia*, it is stated that in China religions should be 'guided by the principles of independence, self-rule and self-management' and the Chinese government 'opposes any outside control or interference in their internal affairs so as to safeguard Chinese citizens' real enjoyment of freedom of religious belief.

The third paragraph is dedicated to economic, cultural and social rights, which are described in a more specific way through economic data and indicators aimed at demonstrating the tangible bettering of the social conditions of the Chinese people. This is another element which will be constant in the following WPs. Obviously, the overall framework is a socialistic framework ('public ownership of the means of production constitutes the basis of China's socialist economic system') and the messianic role the Chinese Communist Party is always underlined. Finally, the socialistic and communitarian idea that the subject of rights should not be an abstract, atomistic, unencumbered individual but a specific individual, with social relationships, with his specific needs and interests, clearly emerges in the third paragraph, which gives space to the protection of the elderly and the rights of women, children and teenagers. Consequently, the seventh paragraph is dedicated to the rights of the minority nationalities and the ninth paragraph discusses the rights of persons with disabilities. Furthermore, the eighth paragraph is dedicated to Chinese family planning policy.

The fourth paragraph is dedicated to the 'Guarantee of human Rights in China's Judicial Work'. Here the legalistic frame which marks all the WPs clearly emerges. Significantly the incipit states that 'the aim and task of

China's judicial work is to protect the basic rights, freedoms, and other legal rights and interests of the whole people in accordance with law, protect public property and citizens' lawfully-owned private property, maintain social order, guarantee the smooth progress of the modernization drive, and punish the small number of criminals according to law'. The references to 'legal rights' and to the idea that the protection of rights must be guaranteed 'in accordance with law' seem to highlight the relevance of the Chinese law. To be clear, it is worth emphasizing that rights are often limited or violated by laws which are the primary tool used by authoritarian regimes to control 'social order'. Hence, the fourth paragraph mentions reforms and the inspiring principle of China's judicial system. However, the supposed achievements concerning first-generation rights and the rule of law seem to be more 'ideal' or politic than real. Conversely, the fourth paragraph of the WP seems to justify political imprisonment (based on the 'counterrevolutionary crime' provided by Chinese Criminal Law), Prison Labor, the Education through Labor system and so on. Every practice is allowed by law or is realized according to the Constitution.

Finally, the references to the 'natural' linkage between duties to the state and rights, with duties having priority over rights, has the purpose of showing how 'natural' and culturally justified the limitation of rights in the Chinese tradition was. Actually, the second paragraph recognizes the unity between rights and duties as 'a basic principle of China's legal system' so that 'in exercising their freedoms and rights, citizens may not infringe upon the interests of the state, of society or of the collective, or upon the lawful freedoms and rights of other citizens'.

### **3. The 1995 and 1997 White Papers on The Progress of Human Rights in China**

The second Chinese WP on Human Rights was issued in December 1995 (IOSC 1995) and was entitled *The Progress of Human Rights in China*. This WP was quite different from the first one. Indeed, the first WP was strongly marked by an overall stance on human rights aimed at defining the coordinates of the Chinese way to human rights. Conversely, the second WP is more pragmatic, the real subject are the Chinese achievements in social and economic development (economic growth annual rates, the per-capita incomes, the level of consumption, the average number of TV sets, the quality of life and mortality rate, etc.) above all in the field of the fight against poverty and in solving the problems of food and clothing for the poor.

The core socialist idea according to which ‘the subject of human rights is no longer the individual but the collective’ (Shih 1999, 101) is another heuristic key to describe the overall structure of the 1995 WP. Consequently, the first paragraph was dedicated to a collective right, the ‘People’s Rights to Existence and Development’; then the second paragraph, concerning civil and political rights, firstly describes political rights as collective rights, as ‘people’s rights’, according to the idea of a collective democracy and secondly it describes civil rights. As usual, the part of the WP dedicated to political rights mainly describes how the ‘multi-party cooperation and political consultation under the leadership of the Chinese Communist Party’ system works.

For what concerns civil rights, the 1995 WP tends to underline the achievements regarding the actual protection of civil rights above all with the adoption of the 1990 ‘Administrative Procedural Law’ and the 1994 ‘State Compensation Law’. Furthermore, the freedom of speech, the freedom of the press, the freedom of assembly, association, marching and the freedom of demonstration are declared guaranteed as well as the freedom of religion on the condition that ‘religious bodies and religious affairs are not subject to any foreign domination’. Finally, the entire third paragraph is dedicated to ‘Judicial Work in Safeguarding Human Rights’. The items remembered here are the promulgation of the Police Law, the Public Procurators Law, the Judges Law, the Prison Law and others which have the purpose of strengthening the rule of law (Brown 1997, 101-117).

The fourth and the fifth paragraph are dedicated to social and economic rights. Specifically, the fourth paragraph concerns ‘the right to work of Citizens and the Rights and Interests of Workers’ and the fifth one ‘the Right of Citizens to Education’. Respectful of the socialist tradition, the sixth and eighth paragraph concern the rights and interests of women, children and the disabled. On the other hand, the seventh paragraph concerns the rights and interests of ethnic minorities.

Finally, the last two paragraphs do not concern specific rights or interests and needs. The ninth paragraph regards the Chinese achievements in developing the study of Human Rights (through the Chinese Society of the Study of Human Rights or other national academic bodies, as well as the translation and diffusion of foreign books concerning human rights) and Popularizing the Knowledge of Human Rights (through the IOSC). The tenth paragraph concerns the promotion of the ‘healthy development of the international human rights system’. The ‘healthy development’ seems to mean a ‘controlled development’, a ‘guided’, step by step, development respectful of the evolutionary approach to human rights already taken in the 1991 WP.

The following 1997 WP on Progress in China's Human Rights Cause in 1996 (IOSC 1997) follows the same pattern of the previous 1995 WP: economic development is considered the best way to implement human rights. Furthermore, the Ninth Five-Year Plan for National Economic and Social Development (1995) was considered the requirement for the implementation of human rights. As a consequence the first paragraph (entitled People's Rights to Subsistence and Development) is an in-depth analysis of Chinese economic growth which is naturally linked with the right to subsistence.

#### **4. The 2000 Fifty Years of Progress in China's Human Rights**

The 2000 WP (IOSC 2000) is a kind of celebrative WP on the occasion of the fiftieth anniversary of the Communist revolution (1999). Hence it is partly different from the previous ones because its purpose is not only to highlight the progress in the Chinese economic development since the 1991 WP but, more generally, to draw an overall balance of the human rights situation in Communist China, since the 1949 Revolution.

However, except for the first paragraph entitled A Historic Turning Point in the Progress of Human Rights in China, the general structure is similar to that one of the WPs already issued: the right to subsistence is firstly evoked, then economic, social and cultural rights are mentioned, finally the actual safeguard of civil and political rights is treated. Space is also dedicated to Women's and Children's Rights as well as to protection for Ethnic Minorities. Conversely, unlike the other WPs, the 2000 WP raises the Maoist, nationalistic, anti-imperialistic, ideological elements which had played a central role in the first 1991 WP but an increasingly smaller one in subsequent WPs. Consequently, the social reforms, which transformed the 'Old China' into the 'New China', 'have not only realized a historic turning point in the development of human rights, but also initiated a brand-new starting point for further exploration and progress and development of the cause of human rights'.

The final paragraph of the 2000 WP is entitled 'The Cross-Century Development Prospects for Human Rights in China' and it is an evident example of what an evolutionary approach to human rights means. In fact, the path to implement human rights is traced in three steps: the first one concerning 'the problems of food and clothing of the entire Chinese people'; the second one concerning the chance to enable Chinese People 'to live a relatively comfortable life'; the third and last step concerning the coming out from the circle of the developing countries and becoming a medium-developed country in the mid-21<sup>st</sup> Century also enforcing the Chinese legal system and rule of law. As can be easily noted all three steps are concerned

more with economic development than with the actual implementation of human rights. It is worth underlining that only in 1999 the Chinese Constitution was emended with a normative provision concerning the need that the Country should have been governed in accordance with the law (art. 5 ‘The People’s Republic of China implements law to govern the State and construct the socialist country with the rule of law’, Keyuan 2006, 25).

The overall scenario emerging from the 2000 celebrative WP strengthens the Chinese stance on human rights aimed at depowering human rights from being claims of political change as well as at considering economic development rather than human rights enforcement. In this mood of political conservatism, the questions linked with implementation of human rights are totally absorbed by the improvement of the economic and social conditions.

### **5. The 2001, 2004, 2005 White Papers on Progress in China’s Human Rights Cause**

A few months later, in April 2001, a WP on Progress in China’s Human Rights Cause in 2000 (IOSC 2001) was issued on the occasion of the completion of the Ninth Five-Year Plan for National Economic and Social Development (1996-2000). Despite the fact that the structure of the document would suggest a deeper attention towards civil and political rights rather than economic, social and cultural rights (the paragraphs concerning the guarantee of Citizens’ Political Rights and the Judicial Guarantee for Human Rights are placed before the one dedicated to Economic, Social and Cultural Rights), the content is perfectly in line with the other previous WPs. Rights are still considered and declared as citizens’ rights rather than human rights; both first generation rights (specifically Political Rights) and second generation rights are considered as collective rights rather than individual rights; the people’s right to subsistence is still considered the core right. Consequently, economic achievements get confused with human rights achievements; the coordinates of the Chinese view towards democracy based on ‘the multi-party cooperation and political consultation system under the leadership of the Communist Party of China’ are highlighted and strengthened; moreover there is an underlining of the great importance of the safeguarding of human rights ‘through perfecting legislation, ensuring an impartial judicature and strictly enforcing the law, China has made considerable progress in building a judicial guarantee for human rights’.

Finally, the Chinese way to human rights is pointed out in the last Paragraph which declares the position of the Chinese Government concerning the International Human Rights System. Specifically, the Chinese Government

firmly asserts its respect for ‘the purpose and principle of the Charter of the United Nations for promoting and protecting human rights’. However, the Chinese position is strongly inspired by a dialogical approach aimed at ‘carrying out dialogues and exchanges by all countries on the human rights issue on the basis of equality and mutual respect so as to enhance understanding, promote consensus and reduce differences’.

In 2004 a WP on Progress in China’s Human Rights Cause 2003 was published (IOSC 2003). But already in 2003 the Central Committee of the Communist Party of China proposed an amendment to the Constitution aimed at adding the provision ‘the state respects and safeguards human rights’. This amendment was actually approved in 2004 and it introduced for the first time a reference to human rights in a Chinese Constitution (Hanqin, Qian 2009, 309). It is in this scenario that the 2004 WP must be placed because for the first time, in its second paragraph, it openly uses the expression Civil and Political Rights. However, this novelty must be looked taking into account the structure of the WP as a whole. Its approach and content are not so different from that of the previous WPs. Consequently, the use of the expression ‘Civil and Political Rights’ witnesses a change of the form but not of the substance. As usual, the People’s Right to Subsistence and Development is the core right of the document. Hence, the 2004 WP underlines the economic indicators and the measures taken demonstrating the achievements concerning the full recognition of the Right to Subsistence for the whole Chinese population.

Then, the achievements concerning Civil and Political Rights are explained by the 2004 WP which confirms the structure of the earlier 2001 WP, mentioning Civil and Political Rights before Economic, Social and Cultural Rights. The great novelty, as already underlined, is represented by the utilization, for the first time, of the expression “Civil and Political Rights”. Conversely, the 2001 WP entitled its second paragraph “The Guarantee of Citizens’ Political Rights”. Conceptually, the difference between “Civil and Political Rights” and “Citizens’ Political Rights” is significant because the expression “Civil and Political Rights” evokes an approach not directly grounded on the State’s power regarding the citizens’ Rights.

However, despite the new language, the beginning of the second paragraph makes a few interesting references which do not seem to constitute an actual opening towards human rights: ‘China sets great store by the development of democracy and the building of political civilization. It has endeavored to widen the scope of citizens’ orderly political participation, and to safeguard their civil and political rights in accordance with the law’. Specifically, the references to the ‘orderly’ political participation’ or to the safeguard of the civil and political rights of ‘citizens’ cannot be interpreted as an unconditioned

acceptance of human rights as defined by the international human rights system. Despite the expression of ‘civil and political rights’, the content of the paragraph is no different from the previous paragraphs concerning political citizens’ rights. The political rights as intended specifically as collective rights (‘All power in the People’s Republic of China belongs to the people’) and the paragraph’s purpose is to strengthen the Chinese way to democracy. Concerning civil liberties, the WP underlines the relevance of the Chinese path towards the building of a Chinese rule of law system (also in the field of judicial guarantee for human rights, as prescribed by the III paragraph) enforcing the laws concerning private property, strengthening the citizens’ freedom of information, of speech and of press ‘as prescribed by law’ as well as the freedom of religious belief and employees’ rights.

The 2004 WP on Human Rights was followed in 2005 by a very similar WP. The 2005 WP on China’s Progress in Human Rights in 2004 (IOSC 2005a) had the same structure, the same purpose as the previous WP dated 2004. Both the WPs firstly underlined the traditional relevance of the Right to Subsistence and Development whose achievement is demonstrated as usual through economic indicators (both the WPs referring to the overall living conditions, the basic needs of clothing and housing and the general health of Chinese people, and so on); both specifically mentioned the ‘Civil and Political Rights’ in their second paragraph; both considered Civil and Political Rights as Citizens’ Rights more than Human Rights. Furthermore, the 2005 WP described the enforcement process of human rights (‘citizens’ legal rights according to law’) through the judicial reforms aimed at strengthening the rule of law. Indeed, the fourth paragraph was dedicated to Economic, Social and Cultural Rights, and the following ones were dedicated to the special protection for ethnic minorities, the rights and interests of the disabled, international exchanges and cooperation in the field of Human Rights. On the other hand, the 2005 WP did not dedicate a specific paragraph to women’s and children’s rights. However a specific WP on Gender Equality and Women’s Development in China was issued later in the same year, 2005.

Additionally, in 2005, a WP entitled Building of Political Democracy in China was issued (IOSC 2005b). Specifically the eighth paragraph (Respecting and Safeguarding Human Rights) pointed out some elements of the Chinese way towards the realization of Chinese democracy. The WP on Building of Political Democracy in China, among other things, talked about the idea of a Socialist Democracy grounded on the principle that ‘all power of the state belongs to the people and people enjoy in real terms the civil rights prescribed in the Constitution and law’. Hence, the WP described China’s socialist democracy as ‘a kind of democracy built on the basis that citizens’ rights are guaranteed and constantly developed’. Clearly, the legalistic frame

in which the rights are placed aims at strengthening the rights of the State rather than the rights of individuals. Likewise, it was rigorously affirmed that citizens' civil and political rights are guaranteed, as well as the People's Economic, Social and Cultural Rights and the same for the legitimate rights and interests of special groups of people such as ethnic groups, women, the aged and minors, and the underprivileged groups such as the disabled. The fact that an attempt was being made to explain China's standpoint all over the World became clear in 2008 when a WP on China's Political Party System clearly described how the Chinese Multi-Party Cooperation System works and a WP on China's Efforts and Achievements in Promoting the Rule of Law (IOSC 2008) was issued. Later, the attempt was reinforced with the publication in 2011 of the WP on The Socialist System of Laws with Chinese Characteristics (IOSC 2011).

## 6. From 2010 to 2018. The Latest WPs on Human Rights

It was necessary to wait until the year 2010 to have another WP on Human Rights (IOSC 2010). The structure of the 2010 WP follows the same pattern of the previous 2005 and 2004 WPs on Human Rights. Therefore, the People's Right to Subsistence and Development is evoked as the most important right. The progress in this field is highlighted through economic data and the same economic indicators used in the previous 2005 and 2004 WPs. Civil and Political Rights expressly become 'citizens' rights' and they mainly are concerned with the Chinese way towards democracy. For the first time a reference to the freedom of the net appears, even if in that same 2010 a specific WP on The Internet in China was issued. As usual, a paragraph was dedicated to the Judicial Guarantee of Human Rights which specifically points out the results in the building of a legal aid system as well as the role of lawyers in protecting human rights.

Furthermore, a WP on Judicial Reform in China was then edited in 2012 (IOSC 2012) describing the new round of judicial reform initiated in recent years, specifically since 2008. Here it was underlined that within the 2012 Criminal Procedure Law (following the *ratio* of the 2004 constitutional amendment concerning human rights) a reference was introduced concerning 'respecting and protecting human rights'. In this frame, among other things, the extortion of confessions by torture was prohibited and deterred, the protection of detainees' legal rights and interests was proclaimed, the application of the death Penalty was declared to be subject to 'strict control and prudent application'.

The following Chinese WP on the overall human rights situation was dated October 2016 and it concerned the China's Progress in Poverty

Reduction and Human Rights (IOSC 2016a), but since 2013 the publication of the WPs has become more intensive, with an almost annual assessment of the Chinese progress in the field of human rights. Consequently, WPs on the overall Progress in China's Human Rights were issued in 2013 (concerning 2012, IOSC 2013), in 2014 (concerning 2013, IOSC 2014), in 2015 (concerning 2014, IOSC 2015), in 2016 (the first one concerning the Judicial Protection of Human Rights in China, IOSC 2016b, and the second one on the implementation of the National Human Rights Action Plan 2012-2015, IOSC 2016c). The most recent WPs, indeed, are concerned with specific issues on human rights: China's Policies and Practices on Protecting Freedom of Religious Belief (IOSC 2018) and Human Rights in Xinjiang-Development and Progress (IOSC 2017b).

## 7. An Overall View of the White Papers on Human Rights

Since 1991, the IOSC has issued more than one hundred White Papers concerning the most different subjects, as for example the China's Arctic Policy (2018) or the Traditional Chinese Medicine (2016). Not all the WPs can be directly linked with human rights matters, but those concerning human rights may be catalogued in three different typologies:

a) WPs concerning the overall Chinese view on human rights. They clearly reveal the governmental standpoint on human rights and the main political and social goals pursued by the Chinese Government. Besides the 1991 WP, in this cluster we can include the 2000 WP on Fifty Years of Progress in China's Human Rights and the Two National Human Rights Action Plans (2009; 2012). These WPs expressly draw the official Chinese doctrine on Human Rights;

b) WPs concerning the Progress of Human Rights in China (1995, 1997, 2001, 2004, 2005, 2010, 2013, 2014, 2015). Being the Chinese approach to Human Rights evolutionary (*infra*), specifically focused on social development (IOSC 2016d) and on the guarantee of the basic rights, these WPs are very significant. Notwithstanding the poor theoretical framework, they aim at demonstrating the success of the Chinese human rights policies. Consequently, these WPs have usually fewer references to general concepts (sovereignty, independence, non-interference), conversely they are rich in a considerable amount of economic data (*infra*).

c) WPs concerning specific matters, more or less linked with the overall human rights doctrine, as for example: the Progress in Poverty Reduction<sup>2</sup>; the Criminal and Judicial Reforms as well as the Rule of Law and the Legal

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<sup>2</sup> 2001, 2011, 2016.

Protection of Human Rights<sup>3</sup>; the Tibet<sup>4</sup>; the protection of vulnerable groups as Ethnic Minorities<sup>5</sup>, Women<sup>6</sup>, the Aged<sup>7</sup>, Children<sup>8</sup>; the Freedom of Religious Belief<sup>9</sup>; the Environmental Protection and the Climate Change<sup>10</sup>; the Labor Employment and the Social Security<sup>11</sup>; the Xinjiang<sup>12</sup>; the Chinese Democracy (Building of Political Democracy in China's; Political Party System; the Chinese Socialist Legal System)<sup>13</sup>.

From an overall analysis, particularly on the a) and b) WPs' typologies – strictly linked because the WPs sub a) declare the Chinese “theory” and the WPs sub b) the Chinese “practice” on human rights –, it emerges that the WPs on Human Rights rest on pillars politically inspired by a socialistic and authoritarian approach, philosophically grounded on legalistic ideas, culturally rooted in the traditional Chinese cultural stance on human rights.

Significantly, the 2016 Assessment Report on the implementation of Human Rights in China 2012-2015 (IOSC 2016c) describes the specific Chinese (but also Asian) Human Rights framework which can be consider the same for all the WPs: ‘The ideas of prosperity, democracy and civilization, harmony (Lee 2007; Angle 2008, Woo 1980), freedom, equality, justice, rule of law, patriotism, dedication, integrity and friendship were actively promoted for the whole society so as to nurture and practice core socialist values’. ‘These values -the WP continues- are the common aspirations and spiritual prop of the Chinese People. They define the basic requirements and development direction of socialism with Chinese characteristics and play an important role in guiding and leading the development of China's Human Rights cause’ (IOSC 2016c).

In this scenario it is possible to define some constant elements which overall characterize the Chinese WPs tradition.

a) The hallmark of the Chinese WPs on human rights could be seen as the evolutionary (almost aspirational, O'Neill 2005) approach which tends to gradually build the universality of human rights as something to be achieved ‘little by little, region by region’ (Kim 2000, 131, 143). Formally endorsed by the Chinese delegation at the Vienna World Conference on

<sup>3</sup> 1992, 2008, 2012, 2016, 2017.

<sup>4</sup> 1992, 1998, 2000, 2001, 2003, 2004, 2008, 2009, 2011, 2013, 2015.

<sup>5</sup> 2000, 2005, 2009.

<sup>6</sup> 1994, 2005, 2015.

<sup>7</sup> 2006.

<sup>8</sup> 1996.

<sup>9</sup> 1996, 2018.

<sup>10</sup> 1996, 2006, 2008, 2011, 2012, 2013.

<sup>11</sup> 2002, 2004.

<sup>12</sup> 2003, 2009, 2015, 2016, 2017.

<sup>13</sup> 2005, 2007, 2011.

Human Rights (Davis 1995, 16-19), the evolutionary approach defines a path which is specific and particularistic, being specific and particularistic the actual conditions of states, civilizations, societies. Even though in the Chinese WPs an expressed apology of sovereignty cannot be found, they are all directly or indirectly concerned with the idea of a China free to define its own way to human rights, also considering, from the Chinese point of view, the risk that human rights could be used by foreign states to interfere in China's domestic affairs (Peerenboom 2005, 82). In light of this, the WPs often require a 'mutual understanding and cooperation among countries' clearly aiming at avoiding any 'impositions' or 'tuitions' on human rights by foreign countries (specifically Western ones, Peerenboom 2005, 81);

b) The rights holders are the citizens rather than individuals. From a legal philosophy point of view, it means that the rights which the WPs speak about are placed in a strongly legalistic frame. According to Andrew J. Nathan 'Chinese predispositions [Legalism and Confucianism] and foreign influences combined to forge a philosophy of law as the state's will and rights as the state's creation' (Nathan 1986). The source of recognized rights is the Chinese legal system. Not unlike the opinion that was widespread in European legal philosophy between the Nineteenth and the first half of the Twentieth Century, rights are considered as pertaining to the state, as they could be conceded (*octroyé*) by the state and only by the state (Angle, Svensson 2001, 321-323). Consequently, the constant references to the Chinese Constitutions and laws reveal an attitude of considering the fulfillment of internal law as *superior* to the fulfillment of international obligations (Hanqin, Qian 2009, 299-322);

c) Among the rights mentioned, the overriding priority is always given to the 'Right to Subsistence' which is the English translation adopted by the IOSC for the Chinese idiomatic form *shengcun quan*. According to Ann Kent, *shengcun quan* should more properly be rendered as "right to existence" or "to survival" rather than "right to subsistence" because its meaning in Chinese combined the notions of physical security and subsistence (Kent 1999, 157). Actually, except for the 1995 WP, all the Chinese WPs edited by the IOSC issued in English use the expression "Right to Subsistence" and not "Right to Existence". According to Ann Kent, *shengcun quan* expresses an adaptation of Shue's theory of Rights to Subsistence to the Chinese experience (Kent 1999, 157). But the Chinese version appears both distant from and inconsistent with Shue's theory as it is expounded in *Basic Rights, Subsistence, Affluence and U.S. Foreign Policy*. According to Shue, personal security and subsistence are two faces of the same medal. Security rights are just as basic as rights to subsistence (Shue 1980, 20-29). Conversely, in the Chinese version, the indivisibility between security rights and subsistence

rights is not recognized and the ‘right to subsistence’ has only an economic aspect, strictly linked to the basic need to have ‘enough to wear and eat’. From a conceptual point of view, rather than to Shue’s or Rawls’ (Rawls 1999, 65) position (both assuming the interconnection between the means of subsistence and security, between subsistence rights and liberal rights), the Chinese Official Position appears nearer to that of Jurgen Habermas which recognizes the right to subsistence only if it is considered contingent (Habermas 2001), serving to secure liberal and political rights (Ingram 2009). With a significant difference. In Habermas, the recognition of subsistence rights is a *medium* for the recognition of civil and political rights, which are primary order rights. In the Chinese Official position the subsistence right (‘*fons et origo* of all other rights’, Kent 1999, 156) is *per se* a primary order right. Indeed, the full recognition of civil and political rights could not be guaranteed without a previous fight against poverty (s.c. *trade-off thesis*, *contra* Minkler, Sweeney 2011), without having first guaranteed to the whole population the basic means of subsistence (food, housing, something to wear). Specifically, in the frame of the WPs, the Right to Subsistence is the perfect right to symbolize the Chinese approach to human rights. In accordance with the communitarian approach marking the Chinese (and the Asian) tradition, the Right to Subsistence is a ‘third generation’ right, a collective right, a people’s right, hence a solidarity right (Griffin 2008, 256-273). Consequently, in accordance with the Chinese tradition (rights and duties are complementary), the Right to subsistence mirrors the perfect conjunction between rights (of the People) and duties (of the Government). Additionally, in the Chinese stance, the Right to Subsistence is a kind of ‘anti-poverty right’ aimed at protecting ‘subsistence interests’, according to Charles R. Beitz’s definition, as demonstrated by the specific WPs on the poverty reduction issued (2001, 2011). Specifically, the problematic argument in Beitz’s thought according to which ‘anti-poverty rights state objectives for policy while leaving the choice of means for local determination’ (Beitz 2009, 162) perfectly fits the Chinese approach to human rights, generally grounded on the attempt to elaborate policies concerning human rights in the inner stage, that of the state. Then, the disjunction between the normative stage, where rights are defined and recognized, and the compliance stage (where human rights should be implemented) is a pillar of the Chinese approach to human rights. Finally, guaranteeing the Right to Subsistence needs strong ‘positive’ actions in the economic and social field rather than actions aimed at strengthening civil and political rights. The Rights to Subsistence, indeed, ‘emphasizes the development of the economy over the development of people’s civil rights and political rights, and the aim of developing the economy is to ensure the survival of the nation and the subsistence of its

people' (Wang 2014, 585). These are all reasons which can be used to stress the Right to Subsistence as an archetype of the Chinese way to consider human rights in general;

d) Strictly linked with the Right to Subsistence is the Right to Development. Both have to be considered as the most important political priorities for China and at the same time the source of all the human rights. According to the WP issued in December 2016, in occasion of the 30<sup>th</sup> anniversary of the UN Declaration on the Rights to Development (1986), titled *The Right to Development: China's Philosophy, Practice and Contribution*, is it possible to 'protect basic civil rights of the people' and 'promote the progress of human society' (IOSC 2016d) only through development. 'The Rights to subsistence and development –the WP continues– are the primary, basic human rights' because 'poverty is the biggest obstacle to human rights' and development 'is a means of eliminating poverty' (IOSC 2016d). The Right to Development clearly appears for the first time in the 1995 WP on the Progress of Human Rights in China as related to the economic Chinese growth: 'The sustained, quick and healthy growth of China's economy has raised the level of China's overall social development and conspicuously improved the right to existence and development of the Chinese people' (IOSC 1995). Since 1995, the Right to Development is constantly evoked in almost the totality of the Chinese WPs. So, the 2013 WP highlights that 'China combines its human rights endeavors with economic, political, cultural, social and ecological construction, prioritizes the people's rights to subsistence and development, and endeavors to promote the comprehensive and balanced development of their economic, social and cultural rights as well as their civil and political rights'; the 2014 and 2015 WPs follow the same pattern, focusing primarily on People's Rights to Development (which means improvement of living standards, poverty reduction, social insurance, medical security system, etc.) according to the idea that the Chinese strategic blueprint is 'to build a moderately prosperous society in all respects, comprehensively deepen reform, advance the law-based governance and strengthen Party self-discipline' (2016 WP on Assessment Report on the Implementation of Human Rights in China 2012-2015, IOSC 2016c). More specifically, development is considered by the 2013 WP 'the key to solving all existing problems and facilitating progress of human rights in China. Only by pursuing healthy and sustainable economic development can China consolidate the material foundation for the people's happiness and wellbeing, and protect their rights to subsistence and development'. Finally, China proposed a resolution to the UN Human Rights Council, then adopted on June 2017, titled "The contribution of development to the enjoyment of all human rights" (UN 2017a);

e) From a formal, structural point of view, all the WPs follow the same pattern. This pattern is also followed by the two National Reports submitted by China to the Working Group on the Universal Periodic Review (UN 2013, 2008, Ahl 2015). The similarity between the WPs and the National Reports demonstrates the evident Chinese intention aimed at ‘enriching the theory of human rights, all within the framework of socialism with Chinese characteristics’ (UN 2013, § 5). Consequently, rights are always considered collective rather than individual because, according to Ann Kent, ‘the view of society as an organic whole whose collective rights prevail over the individual, the idea that man exists for the state rather than vice versa and that rights, rather than having any absolute value, derive from the state, have been themes prevailing in old as well as new China’ (Kent 1993, 30). The overall inspiring principle is ‘putting people first’ (which witnesses the Chinese government’s communitarian approach deeply rooted in the Confucian and Asian cultural tradition, as well as in the socialist tradition, de Bary 1998; Chan 1999, 212-237, Englehart 2000, 548-568). Usually, the first and the most important rights evoked are always people’s rights: the Right to Subsistence and the Right to Development. The Economic, Social and Cultural Rights mentioned in the WPs have always been considered as collective rights. The Political Rights are always used to describe how the Chinese democratic system works, with the final purpose to shape human rights to the specificities of the Chinese system of multi-party cooperation and the political consultation system. Finally, the rights of groups of individuals are mentioned: workers, children, women, the disabled, the elderly, ethnic minorities;

f) Following the teachings of the Singapore School, according to which there is no need to ‘reject international human rights’ (Brems 2001, 36), the WPs formally recognize the normative value of human rights and the obligations to international human rights conventions are always declared fulfilled. There are no rights which are declared inconsistent with Chinese culture, with the Chinese way to Socialism or with Chinese Democracy. Often, the weakness of the protection of some specific rights (above all first-generation rights) is suggested to be something temporary, to be pursued when the conditions are ripe, when the achievements already reached will be strengthened. Although the WPs often focus on economic development and growth rather than human rights, the WPs consider Economic, Social and Cultural Rights as priority rights. Consequently, the achievements concerning Economic, Social and Cultural Rights are pointed out through several detailed economic indicators and data specifically demonstrating the actual improvement in the day-to-day life of the Chinese people.

g) The need to strengthen the rule of law is constantly evoked in all the WPs. The idea to transform ‘the chronic disorder of Chinese legislation’ (Keller 1994, 711) and to overcome the traditional Chinese approach, according to the state is ‘generally seen as ruled by politics rather than by law’ may be read as strongly revolutionary. Although some scholars have argued that China would be a state adopting an Asian non-liberal variant of the rule of law (Peerenboom 1999, 315-351; Peerenboom 2002) or developing its own variant of socialist rule of law (Peerenboom 2007, 5), undoubtedly the Western idea of the rule of law (essentially aimed at protecting individuals from State intrusion through law in a system of powers separation) is far from the Chinese reality (Chan 2013, 645-689). The same Chinese scientific and political debate is rich in different positions on the role of the rule of law in the Chinese system (Seppänen 2016). Certainly, the boom experienced by the domestic lawmaking since 1990 (Wan 2007), the growing role of lawyers (according to Yumen Li, in the period 1980-2010 China had to manage a real “litigation explosion”, with the caseloads grown from 1.168.715 -1980- to -11.712.349-, Li 2014, 237) as well as the legal reforms in the judicial field (notwithstanding the attempts of political control over the human rights lawyers, Pils 2014) are all positive elements. But they must be interpreted taking always in consideration the Chinese systemic situation according to which ‘legal norms on the books are no more than pre-formed; law itself and the ‘rule of law’ ideal are subordinated to political forces’ (McConville, 2013, 13). Additionally, according to Zou Keyuan, since 1999 (Third Amendment to the Constitution specifically concerning the rule of law), ‘the term rule of law has been widely used in the context of Chinese politics and governance, despite the fact that the meaning of “rule of law” may not be understood in China’ (Keyuan 2006, 237) where there is still a frequent supervision by extra-judicial bodies, including Communist Party organs (the Political-Legal-Committee) and the People’s congress, on the court’s work. The overall framework in which the Chinese rule of law operates has been well described in a speech given in February 2015, titled “The Question of whether the party or the Law is Greater is a False Question”, by Xi Jinping, the Chinese Communist Party General Secretary and President of the People’s Republic of China. He affirmed that ‘We must keep in mind that Party leadership is the soul of *Socialist Rule of Law with Chinese Characteristics*, and that this is the greatest difference between our rule of law and western capitalist countries’ rule of law’ (Pils 2018a, 248). However, although the level of the reforms remains often the *de jure*, being the actual implementation of the human rights norms weak, in a judicial system as well as the Chinese one with some specific characteristics, according to Ann Kent, the introduction into

the criminal law of new procedures, the attempt to strengthen rule of law, starting from the Nineties, remains 'the primary evidence that the reach of the international human rights regime has succeeded in transcending the many obstacles in China that exist to block it' (Kent 1999, p. 231).

h) Furthermore, according to the WPs' tradition, the most recent WPs underline the improvement of the civil and political rights in the Chinese framework. So, in the 2016 Assessment Report on the Implementation of Human Rights in China 2012-2015 it is written that 'between 2012 and 2015 the construction of socialist political democracy and the rule of law have been pushed forward in a comprehensive way, citizen's civil and political rights have been effectively protected, and the people have been guaranteed and supported to act as masters of their own country' (IOSC 2016c § 3). Additionally, the 2013 WP proudly claimed that 'the socialist road of political development with Chinese characteristics is the fundamental guarantee for the realization of civil rights and political rights in China'. Among the Civil and Political Rights, the 2016 Assessment Report on the Implementation of Human Rights in China 2012-2015 (IOSC 2016c) cite the 'Right of the Person' which is linked with the violation of the s.c. Physical Integrity Rights and specifically the procedural rights in the criminal justice system ('police property, immune from constitutional and legal challenge', McConville 2013, 36), the fight against torture, the rights of detainees, the right to a fair trial. The weakness of the Chinese rule of law system is linked with these rights. This weakness is constantly evoked by the WPs (since 1991) and it is the specific focus of the latest 2016 WP on New Progress in the Judicial Protection of Human Rights (IOSC 2016b).

Generally speaking, the WPs follow the traditional Chinese construction of Human Rights grounded on the socialistic way to human rights. What seems to have changed relative to the 1991 WP is the general Chinese stance on human rights. If Eva Brems is right when she argues that the 1991 WP shows 'the defensive attitude of the Chinese government, as far as the discussion of the domestic human rights situation is concerned', twenty-seven years of WPs had been strengthening the Chinese way to human rights grounded on legalistic, socialistic, authoritarian and cultural elements. Given that human rights (specifically first-generation rights) have not been improving in the last thirty years, the only thing which has really changed specifically concerning human rights is that the Chinese attitude has moved from being 'defensive' to being 'offensive', proudly underlining the successes in the economic growth and social development, actual goals of the Chinese Human Rights Policies.

## Conclusion

In 1991, issuing the first WP on Human Rights, the Chinese government decided to formally adopt human rights language. Given the ancestral 'resistance' towards human rights (and their western cultural interpretation grounded on the priority given to the first generation rights and its atomistic and claiming stance over social relationships, Yong 2011, 80), the Chinese recognition of the normative value of human rights is surely to be considered the first step towards the domestic institutionalization of human rights. But by not remaining within the borders of the normative acceptance, the Chinese opening-up after the Tiananmen massacre risks being interpreted as a 'formal', self-serving and hypocritical stance (Feinerman 1996, 188), realizing 'politics of human rights' and not 'politics for human rights' (McConville 2013, 51).

The China of today is not the China of the early nineties. Although the Chinese government have been making great efforts in changing the living conditions of the Chinese population, the official position towards human rights, as emerged from the analysis of WPs on human rights, has not changed since 1991. Or if it is changed, it has followed the trajectory well described by Titus C. Chen and Chia-hao Hsu, in a recent paper concerning the analysis of the human rights stories in the People's Daily, the newspaper of the Chinese Communist Party, between 1989 and 2015. According to Chen and Hsu, it is quite clear the effort 'made by the Party leadership and its thought management bureaucracy to securitize human rights by delegitimizing and removing its liberal elements, all the while adding nationalist and Leninist ingredients' (Chen, Hsu 2018, 552).

Of course, Chinese prudence may be rooted in the Chinese reality: the widespread existence of poverty above all in the rural districts, the presence of several ethnic minorities and the specific cultural traditions are all elements which can legitimate a specific Chinese stance on human rights (Angle 2002). But all these elements cannot be used to justify the lack of improvement in human rights, not only in the civil and political rights, but also in the economic, cultural and social rights. Significantly, the United Nations Special Rapporteur on Extreme Poverty and Human Rights in the 2017 Report on his mission to China, recognized the 'extraordinary achievements' made by China in the latest years, aimed at 'building a "moderately prosperous society" free of extreme poverty', adding that the Chinese political will towards these goals is 'impressive and all too uncommon in today's world'. But he also remarked that while China 'has done a huge amount to promote economic and social well-being, this has not yet been translated into an

approach based on treating economic and social rights as human rights' (UN 2017b).

Even admitting that the Western stance may be inspired by a double standard concerning Chinese governments (Peerenboom 2005), it is worth underlining that despite twenty-seven years of WPs on human rights, the actual governmental human rights practices have little changed (if anything). Conversely, the Chinese endemic 'poverty of rights' can be the price paid to realize the China's Economic Development (Hong 2015). With the only (but significant) exception of the People's right to subsistence, the overall implementation of human rights still remain a subsidiary concern for China which still has a poor record on civil, political, economic, social and cultural rights. The *fil rouge* which goes through the Chinese WPs on human rights is represented by exclusive attention to social and economic development, rather than human rights. The 'developmental perspective', the 'development-based arguments', as described by Eva Pils, not only are not concerned with the implementation of civil and political rights, but can be used 'specifically to undermine socio-economic and anti-discrimination rights' (Pils 2018b, 102-103).

The elaboration of a Chinese specific socialistic approach to human rights, as emerging from the analysis of WPs, rooted on the economic, social and cultural development as superior to rights, the absence of a deep and rooted rule of law system, the weakness of the United Nations human rights monitoring system and the power of China, whose pivotal role is economically grounded on the last twenty years growth, are all elements indicating that the Chinese road towards the protection of all human rights is still far from reaching its end.

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