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## **CHINA'S IMPACT ON FORMULATING THE UN HUMAN RIGHTS COUNCIL'S RESOLUTIONS – ISSUES AND TRENDS**

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**Politics**

**Title: China's Impact on Formulating the UN Human Rights Council's Resolutions – Issues and Trends**

中國作為聯合國人權理事會決議的執筆者 —— 問題與趨勢

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## **Zusammenfassung**

Seit 2017 spielt China eine herausragende Rolle bei der Initiierung von Resolutionen im Menschenrechtsrat der Vereinten Nationen (OHCHR). In diesem Papier wird die These vertreten, dass China damit eine Neuinterpretation der universellen Menschenrechte anstrebt. Der chinesische Ansatz besteht darin, vage Begriffe einzuführen, die mit dem offiziellen chinesischen Verständnis von Menschenrechten übereinstimmen. Anhand von Interviews und Archivrecherchen versucht die Autorin, das Innenleben des Menschenrechtsrats der Vereinten Nationen zu analysieren und darzustellen, wie Chinas jüngste Initiativen dessen Tätigkeit beeinflusst hat. Die Studie kommt zu dem Schluss, dass der Rat zu einem Schauplatz geostrategischer Rivalitäten geworden ist und von China zu taktischen Zwecken genutzt wird.

Der Text wurde ursprünglich Ende 2021 auf Initium media (auf Chinesisch) veröffentlicht und von der Redaktion von Ostasien Aktuell mit Dokumenten aus dem Jahr 2022 aktualisiert.

Zum besseren Verständnis der genauen Begrifflichkeiten enthält das nachfolgende Papier eine englische und eine chinesische Version.

## **Abstract**

Starting in 2017, China has been taking on a prominent role in initiating resolutions in the United Nations Human Rights Council (OHCHR). This paper argues that in doing so, China is pursuing the reinterpretation of universal human rights. Chinas approach is to introduce vague terms consistent with the Chinese official framing of human rights. Through interviews and archive research, the author seeks to analyze the inner workings of the United Nations Human Rights Council and how China's recent surge has influenced its activity. The study concludes that the council has become a venue for geostrategic rivalries and is used by China for tactical purposes.

The text was initially published on Initium media (in Chinese) at the end of 2021 and updated by the editorial team of the Ostasien Aktuell with documents from 2022.

For a better understanding of the exact terminology, the following paper features an English and a Chinese version.

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**China’s Impact on Formulating the UN Human Rights Council’s Resolutions – Issues and Trends**

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## 1. When China attempts to penhold “universal human rights”

In the halls of the United Nations Human Rights Council, China actively participates in the battle over the agenda, with words as weapons and superpower rivalry as essence.

“Human rights are not a ‘Western’ concept.” In all of the interviews for this article, experts, who are deeply involved in the UN's international human rights field, emphasized this at one point or another. This is particularly true when describing the international human rights norms and standards that began under the blood and shadow of the last world war - today's international expression of human rights stems from a series of diplomatic, negotiated, and interstate political strategies in which much more than the West has played, and will play, a key role. China's influence is part and parcel of the process, but it takes work to follow the process and perceive the aims of the various sides.

Today, people in most countries already “officially” enjoy many rights (one counts up to 400 internationally comparable individual human rights). In the United Nations Human Rights Council, these existing or future human rights, as well as human rights situations in different countries, are being discussed every day.

Countless texts in the UN archives have been digitized but with less user-friendly interface. Every word in the texts promises goodness, yet every good word is also a weapon in this political arena. This is also the case with several Chinese “resolutions” for the Council, which China has only started to initiate since 2017.

From “the contribution of development to the enjoyment of human rights”<sup>1</sup> and “the promotion of human rights through mutually beneficial cooperation”<sup>2</sup> to “Realizing A Better Life for Everyone,”<sup>3</sup> the “universal human rights” written and shaped by China, like the thousands of resolutions adopted by the Council since its establishment in 2006, are words that seek to protect, fulfill or enjoy a particular human right or set of human rights. However, precisely these vague but seemingly justifiable phrases are causing ongoing controversy in the international human rights community. Amidst this controversy, China has long been doing more than trying to avoid international criticism of its domestic

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<sup>1</sup> United Nations, “The contribution of development to the enjoyment of all human rights”, July 12, 2021 (<https://www.ohchr.org/en/development/contribution-development-enjoyment-all-human-rights>).

<sup>2</sup> United Nations Digital Library, “Promoting mutually beneficial cooperation in the field of human rights: draft resolution / Angola, Belarus, Bolivia (Plurinational State of), Burundi, Cambodia, China, Cuba, Egypt, Eritrea, Maldives, Morocco, Myanmar, Pakistan, Sudan, Syrian Arab Republic, Thailand, United Arab Emirates, Venezuela (Bolivarian Republic of), Zimbabwe”, March 19, 2018 (<https://digitallibrary.un.org/record/1629979>).

<sup>3</sup> United Nations Human Rights Council, “48th session of the Human Rights Council: Resolutions, decisions and President's statements”, October, 2021 (<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session48/res-dec-stat>).

human rights records; it is increasingly and unquestionably injecting concepts into the international human rights regime that are in line with the Chinese government's agenda.

## 2. Human Rights "Written" by China

In June 2017, at the 35th session of the United Nations Human Rights Council, China led a resolution for the first time, which was adopted after a vote. The resolution, entitled "the contribution of development to the enjoyment of all human rights,"<sup>4</sup> centered on the benefits of development for human rights, called on all countries to achieve "people-centered" development and argued that sustainable development is conducive to the full enjoyment of human rights.

A "resolution" adopted at the Council represents a position on a particular human rights issue or situation upon which all or a majority of the members agree. Sarah M. Brooks, program director for International Service for Human Rights (ISHR), who has worked in the human rights field in Geneva since 2015 and focuses on Asian countries, said, "Even if the UN cannot wave a magic wand and demand that all the proposals in the resolution come true, by publishing and disseminating these promises, the UN is putting the tools in the hands of those who want to drive change."

Before voting for the first resolution, China drafted and Venezuela, Cuba, and Egypt, all from like-Minded Developing Countries, expressed support while the United States and Germany (on behalf of the European Union) opposed.

The U.S. said the resolution "selectively and in an imbalanced way" drawn from international instruments related to human rights and development, such as the Vienna Declaration<sup>5</sup>, "often omits key language that fully explains the relationship between human rights and development, or changes consensus language to alter its meaning materially."

The resolution text is divided into two parts: a "preamble" section, which usually refers to previous human rights instruments, and an "operational" section, which follows and defines what the Council wants the UN member states or other agencies to do. After the draft resolution is submitted to the Council by the sponsor (sometimes multiple countries), it could be negotiated and revised several times.

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<sup>4</sup> United Nations, "The contribution of development to the enjoyment of all human rights", July 12, 2021 (<https://www.ohchr.org/en/development/contribution-development-enjoyment-all-human-rights>).

<sup>5</sup> United Nations, "Vienna Declaration and Programme of Action", June 25, 1993 (<https://www.ohchr.org/en/instruments-mechanisms/instruments/vienna-declaration-and-programme-action>).

The U.S. representative asserted that the first operative paragraph of the resolution (i.e., “affirming that development contributes significantly to the enjoyment of all human rights by all”) was “selectively” taken from the Vienna Declaration, omitting the crucial part of the source sentence that “lack of development may not be invoked to deny human rights,” and stated that although China added the source sentence to the revised preamble of the resolution, it did not change the operative part, thus arguing that the resolution “reinforce the incorrect message that development is a prerequisite for states fulfilling their human rights obligations.”<sup>6</sup> On behalf of the EU, Germany makes a similar argument, arguing that the resolution “aims to construct an unhelpful narrative which would elevate the process of development above human rights.”<sup>7</sup>

However, the developing countries on the Council were not convinced by the European and American word-for-word arguments. Thirty votes adopted the resolution in favor, thirteen against, and three abstentions.

This is a rather crucial change, as Brooks pointed out, “In 2017, China began to initiate resolutions - rather than simply supporting or opposing other resolutions --This marked a change in China's policy in multilateral space.”

Previously, China had also participated as a “co-sponsor” in several proposals or amendments. At the 31st session in 2016, along with Cuba, Egypt, Pakistan, and Russia, China attempted to change the usual terminology of “human rights defenders” to “individuals, groups and social institutions engaged in the promotion and protection of human rights,” and change its description from “important and legitimate” to “legitimate and important,” and to add the term “state obligations” to the provisions of international human rights law - an amendment that was not adopted. Again, at the 49<sup>th</sup> session in 2022, China criticized a text centered on the contribution of human rights defenders and abstained in the vote on this resolution.

China has also taken the initiative to prepare two “presidential statements” in 2015 on women’s issues or public health. A presidential statement represents the attitude of the Council and the drafters in consultation with the Council President. It is, therefore, “safer” from formal scrutiny with a resolution representing the wishes of the proposing state.

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<sup>6</sup> U.S. Mission to International Organizations in Geneva, “Explanation of Position on Resolution on the Contribution of Development to the Enjoyment of All Human Rights”, June 23, 2017 (<https://geneva.usmission.gov/2017/06/23/explanation-of-position-on-resolution-on-the-contribution-of-development-to-the-enjoyment-of-all-human-rights-ahrc35l-33/>).

<sup>7</sup> Universal Rights Group, “Report on the 35th Session of the Human Rights Council”, June 27, 2017 (<https://www.universal-rights.org/urg-human-rights-council-reports/report-35th-session-human-rights-council/>).



The resolutions were different. These Chinese resolutions and the changes they mark “caused a stir in Geneva,” Brooks said, “Stakeholders began to realize that they had to engage with China on the substance.”

In 2018, on the 37th session, China again independently led the resolution entitled “Promoting Mutually Beneficial Cooperation in the Field of Human Rights,”<sup>8</sup> which was adopted by 28 votes for, one against, and 17 abstentions. The United States was the only country to oppose the resolution explicitly. In a statement before the vote, the U.S. representative said the resolution intended to “glorify their head of state by inserting his thoughts into the international human rights lexicon.”

The key word here is “mutually beneficial cooperation.” The original draft of the resolution was titled “win-win cooperation.” Although the English title was later changed to “mutually beneficial cooperation” out of opposition, the Chinese term is still translated as “win-win cooperation” from time to time in various UN texts. While the difference between “mutually beneficial” and “win-win” in Chinese may seem small, “win-win” is the wording preferred by China. However, many countries do not want to see wording derived from the official Chinese language enter the UN context dignifiedly.

As of March 2020, the UN Human Rights Council has reached 1,779 resolutions (80% adoption rate) since its inception in 2006, most of which have been agreed upon without a vote. Although China has been a member of the Council since its inception, the actual attempt to draft the resolutions only began in 2017, when China tried to speak out as a “responsible global leader.”

### **3. Behind the “vague and self-explanatory”**

Among China's attempts to write a human rights resolution on behalf of the United Nations, “Realizing A Better Life for Everyone”<sup>9</sup> is the latest and was presented at the 48th session in September 2021.

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<sup>8</sup> United Nations Digital Library, “Promoting mutually beneficial cooperation in the field of human rights: draft resolution / Angola, Belarus, Bolivia (Plurinational State of), Burundi, Cambodia, China, Cuba, Egypt, Eritrea, Maldives, Morocco, Myanmar, Pakistan, Sudan, Syrian Arab Republic, Thailand, United Arab Emirates, Venezuela (Bolivarian Republic of), Zimbabwe”, March 19, 2018 (<https://digitallibrary.un.org/record/1629979>).

<sup>9</sup> United Nations Human Rights Council, “48th session of the Human Rights Council: Resolutions, decisions and President's statements”, October, 2021 (<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session48/res-dec-stat>).

From “the contribution of development to human rights”<sup>10</sup> to “the promotion of human rights through mutually beneficial cooperation”<sup>11</sup>, and now “the realization of a better life for everyone”, the concepts of human rights presented by China have a lot in common, probably a self-evident “truth” that everyone can benefit from, and therefore carries a sense of justification. However, when presented with these concepts, UN human rights experts and diplomats’ first reaction is mostly: “what does it even mean?”

This is not a reaction that has only come from the developed countries of Europe and the United States. For example, when the first informal consultations on the draft resolution were held, Brooks said that Mexico, Uruguay, India, and other countries raised varying degrees of concern about the lack of a clear definition of “a better life for all” and the vagueness of the concept.

What is “better”? Who decides? Compared to what or who is “better” formed? In the draft resolution, “better life” still seems broad but uninformative and does not answer these questions. In the words of the Chinese representative at the informal consultations, the resolution proposes to bring well-being to all and to reduce gaps. However, the resolution is not as wonderful as the words suggest for many people.

Brooks argues that there is a “two-way street” between what each individual understands as a “better life” and the enjoyment of human rights and that “the former does not ‘preempt’ the latter.” More importantly, this concept is attempting to become the position of the UN Human Rights Council. While the Council's mandate is to promote dialogue on human rights proposals and to address human rights violations, not to expand this mandate “beyond recognition.”

The place of the government in this concept of a “better life” is also a point of contention. China is more than willing to work with other governments to tell the “China story” and the “China experience” in human rights. Nevertheless, as Brooks says, “if the realization of a better life is subject to, or in accordance with states’ organization and resources, this would allow for inequalities within and among individuals and groups, especially where structural inequalities based on gender, race, caste, class, language group, minority or other status are deeply embedded.” At the 45th session in 2020, a joint

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<sup>10</sup> United Nations, “The contribution of development to the enjoyment of all human rights”, July 12, 2021 (<https://www.ohchr.org/en/development/contribution-development-enjoyment-all-human-rights>).

<sup>11</sup> United Nations Digital Library, “Promoting mutually beneficial cooperation in the field of human rights: draft resolution / Angola, Belarus, Bolivia (Plurinational State of), Burundi, Cambodia, China, Cuba, Egypt, Eritrea, Maldives, Morocco, Myanmar, Pakistan, Sudan, Syrian Arab Republic, Thailand, United Arab Emirates, Venezuela (Bolivarian Republic of), Zimbabwe”, March 19, 2018 (<https://digitallibrary.un.org/record/1629979>).

Chinese and Pakistani draft resolution on “People-centered Approaches in Promoting and Protecting Human Rights” faced similar challenges and was eventually withdrawn.

NGOs active in the international human rights arena have been sensitive to China's practices in the international arena, and Human Rights Watch published a report in 2017 titled “The Cost of International Advocacy: China's Interference with the UN Human Rights Machinery.”<sup>12</sup> Its country director Sophie Richardson said, “The Chinese government is trying to very systematically inject the idea that a certain amount of development comes before other rights. Moreover, it is up to the government to decide, and other independent groups have no role.”

Critics from human rights groups also argue that Beijing prefers a “new model of international relations” that not only shields China from scrutiny but also allows all of Beijing's allies to do so with “impunity.” Furthermore, it is not a tool that the average Chinese can access. In Richardson's words, “Beijing is starting to push its ideas to reshape international law - but at the same time making sure that 1.4 billion Chinese do not have access to the system.”

These are challenges that the same concept will never meet in China. When Xi Jinping became General Secretary of the Central Committee in 2012, he stated that “The people's desire for a better life is simply the target of our endeavor.”<sup>13</sup> - and this remains a key element in his keynote speech at the 100th anniversary of the founding of the Communist Party of China in 2021.<sup>14</sup>

Similarly, the resolution on “mutually beneficial cooperation” included “win-win cooperation” and a “community with a shared future for mankind”<sup>15</sup>, both critical phrases proposed by Chinese leader Xi Jinping at the 19th National Congress in 2017<sup>16</sup>. The latter, in particular, appeared in a resolution of the UN Commission for Social Development before the Human Rights Council. Since then, in the context of the Chinese official media, the “community with a shared future for mankind” has become

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<sup>12</sup> Human Rights Watch, “The Costs of International Advocacy, China's Interference in United Nations Human Rights Mechanisms”, September, 2017  
([https://www.hrw.org/sites/default/files/report\\_pdf/chinaun0917\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/chinaun0917_web.pdf)).

<sup>13</sup> CPCPeople, “习近平：人民对美好生活的向往就是我们的奋斗目标”，November 16, 2012  
(<http://cpc.people.com.cn/18/n/2012/1116/c350821-19596022.html>).

<sup>14</sup> CPCNews, “人民对美好生活的向往就是我们的奋斗目标（深入学习贯彻习近平新时代中国特色社会主义思想）”，August 11, 2021  
(<http://dangjian.people.com.cn/n1/2021/0811/c117092-32188696.html>).

<sup>15</sup> Qian, Gang, “The Birth of a Foreign Policy Catchphrase”, in: Echowall, July 18, 2019  
(<https://www.echo-wall.eu/china-and-world/off/birth-foreign-policy-catchphrase>).

<sup>16</sup> CPCNews, “习近平人类命运共同体思想的深刻内涵与时代价值”，12 December, 2017  
(<https://web.archive.org/web/20220413225757/http://theory.people.com.cn/BIG5/n1/2017/1212/c40531-29702035.html>).

Xinhuanet, “深入理解和贯彻坚持以人民为中心”，June 10, 2020  
([http://www.xinhuanet.com/politics/2020-06/10/c\\_1126095582.htm](http://www.xinhuanet.com/politics/2020-06/10/c_1126095582.htm)).

a concept that is “universally recognized by the international community”<sup>17</sup>. Chinese President Xi Jinping has repeatedly said this phrase on the international stage. Since 2018, the slogan has been part of the Chinese constitution.<sup>18</sup>

China's latest White Paper on Human Rights<sup>19</sup> concludes with, “China will certainly make greater contributions to the development of human rights in the world.” The Chinese concept of human rights, if recognized in the international arena, will not only be part of China's diplomatic efforts but will also continue to feed back into China's domestic human rights discourse by “contributing Chinese solutions to global human rights governance.”

Indeed, neither the “Contribution of Development to the Enjoyment of All Human Rights” nor the “Promotion of Mutually Beneficial Cooperation in the Field of Human Rights”<sup>20</sup> was a one-time occurrence. The former was reintroduced at the 41st session in July 2019 and the 47th session in July 2021 and was adopted by vote. The latter was also proposed again at the 43rd session in June 2020 and the 46th session in March 2021. By this time, the US under Trump had officially left the UN Human Rights Council in June 2018. However, support for China's resolution appears to be declining, as the second proposed resolution on “mutually beneficial cooperation” was passed, but with 23 votes in favor, 16 against, and 8 abstentions; the third time it was proposed, the vote was 26 in favor, 15 against and 6 abstentions – fewer votes for and more votes against than the first time.

However, once an expression enters a resolution, it can be quickly established in subsequent texts. For example, the 2022 Resolution on the “right to development,” adopted at the 49th Session, calls for “enhanced international solidarity in the COVID-19 response and recovery, including joint and concerted response and recovery efforts that are people centered, gender-sensitive, inclusive and with

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<sup>17</sup> Gao, Charlotte, “‘A Community of Shared Future’: One Short Phrase for UN, One Big Victory for China?”, in: *The Diplomat*, November 5, 2017 (<https://thediplomat.com/2017/11/a-community-of-shared-future-one-short-phrase-for-un-one-big-victory-for-china/>).

<sup>18</sup> Tianjin Institute of Software Engineering, “解读宪法修正案 13 “推动构建人类命运共同体” 体现大国担当”, April 13, 2018 (<https://www.tjise.edu.cn/djw/info/1148/1824.htm>).

<sup>19</sup> HumanRights, “全面建成小康社会：中国人权事业发展的光辉篇章（全文）”, August 12, 2021 (<https://www.humanrights.cn/html/wxzl/2/6/2021/0812/60790.html>).

<sup>20</sup> United Nations Digital Library, “Promoting mutually beneficial cooperation in the field of human rights: draft resolution / Angola, Belarus, Bolivia (Plurinational State of), Burundi, Cambodia, China, Cuba, Egypt, Eritrea, Maldives, Morocco, Myanmar, Pakistan, Sudan, Syrian Arab Republic, Thailand, United Arab Emirates, Venezuela (Bolivarian Republic of), Zimbabwe”, March 19, 2018 (<https://digitallibrary.un.org/record/1629979>).

full respect for human rights." The text was jointly suggested by Bolivia, China, Egypt, and other countries, and adopted by a vote of 31 to 14, with 2 abstentions<sup>21</sup>.

Behind the words are opposing values, rigid procedures, and often contradictory interests - and this is also true of China's most central human rights issues, namely "development" and "inter-governmental cooperation."

#### 4. Who speaks for "development"?

In the international arena, China presents itself as a champion of the "right to development" in implementing human rights. The term was introduced by the Senegalese jurist Keba M'baye in the 1960s when the decolonization of Africa had reached its peak. The debates were thus also about revising the global economic order between developing countries and industrialized nations. The right to development should not only function as an individual human right but also as a collective right that groups or states can assert. In 1986, the UN General Assembly officially recognized it in the Declaration of the Right to Development.<sup>22</sup>

When China first presented a human rights white paper in 1991<sup>23</sup>, the right to development played a prominent role. Initially, it was only about the national implementation of the human rights agenda. In the meantime, however, China is trying to establish its concept of the primacy of the right to development as a universal norm.

Theo Rathgeber, a lecturer at the University of Kassel and long-time observer of the UN Human Rights Council, also sees this development as a failure on behalf of Western democracies. He claims that the West is committing a serious tactical error by not becoming more involved in the discussion about development rights. "You cannot simply say that the right to development is not part of the traditional human rights you have to deal with," said Rathgeber. "Now that China has put the issue of the right to development on the table, we have to face it and not ignore it and let China set the agenda." For now, however, the criticism remains focused on "China" rather than a more comprehensive examination of the meaning and realization of the "right to development."

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<sup>21</sup> United Nations Human Rights Council, "Promoting and protecting economic, social and cultural rights within the context of addressing inequalities in the recovery from the COVID-19 pandemic", April 1, 2022. (<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session49/res-dec-stat>).

<sup>22</sup> United Nations, "Declaration on the Right to Development", December 4, 1986 (<https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-right-development>).

<sup>23</sup> The Central People's Government of the People's Republic of China, "中国的人权状况中华人民共和国国务院新闻办公室", May 24, 2005 ([http://www.gov.cn/zwgc/2005-05/24/content\\_488.htm](http://www.gov.cn/zwgc/2005-05/24/content_488.htm)).

Observers doubt that China truly supports the concerns of the global South, such as human rights activist Luis Sanchez Shiminaycela, who serves as president of an indigenous community organization called CASCOMI (Amazonian Community of the C6ndor Mirador Mountain Range) in the South American country of Ecuador. In October 2018, he brought the harms suffered by the community at the Mirador project, a large open-pit copper mine, such as forced, violent relocation and the murder of indigenous leaders, to a human rights conference in Geneva. The Mirador project is invested in and operated by a Chinese mining company.

"I have already brought our experience at the UN Human Rights Council in Geneva," Luis Sanchez Shiminaycela asked in the interview with this author, "do you know, now, what is going to follow?" He remembers that there were some Chinese delegates at the meeting, "I presented, and they took notes." What is to follow? Luis Sanchez Shiminaycela said, "As I understand it, they say they support the treaty, but in reality, it is hard to understand the country's real intentions."

The treaty he refers to is a resolution adopted at the 2014 Human Rights Council entitled "Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises"<sup>24</sup>. The Ecuadorian-led resolution aims to establish an intergovernmental working group to develop a legally binding international instrument to regulate the activities of multinational corporations in international human rights law. Most developed countries opposed the resolution, at the time of the vote, while China voted for it, calling it a "complex and important" issue.

It is just that this issue, which at first glance focused on the involvement in human rights of multinational corporations from developed countries and developing countries - China stood in the sequence of Southern countries at the time of the vote - has changed considerably in terms of its support in the subsequent working group discussions and the drafting of the instrument. Chinese companies active in overseas investments also became the subject of this discussion, and China is reluctant to "impose unreasonable rights and obligations" on the home country.

The discussion of this convention is essentially asking countries to fulfill their "extraterritorial obligations." The "multinational enterprises" that may have human rights problems are not only from Europe and the United States but also from China: China's Belt and Road Initiative has put the spotlight on Overseas Chinese companies as criticism of the Chinese government's failure to regulate these companies is growing at the same time.

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<sup>24</sup> United Nations Human Rights Council, "Legally Binding Instrument to Regulate, in International Human Rights Law, the Activities of Transnational Corporations and Other Business Enterprises", July 16, 2018 (<https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/WGTransCorp/Session3/DraftLBI.pdf>).

## 5. From mediating to "wolf warrior"

Sophie Richardson from Human Rights Watch remembers when China first proposed draft resolution zero on "win-win cooperation" in 2018 and discussed the proposal with countries at an informal consultation. The "informal consultations" were a necessary part of the resolution agreement and, in Richardson's words, "revealed the naked politics of the room" as opposed to the formal meetings, which were recorded on camera and made public.

At the time, Richardson said that Japan, Korea, Cuba, Australia, and other countries had more or less raised concerns and that "the countries that raised objections were opposed to the vague language (of "win-win cooperation"/ "mutually beneficial cooperation"). The Chinese delegation was sitting in the front row while one was organizing a dialogue, and two were frantically taking notes; Richardson said, "they were writing down everyone's words."

"I remember thinking that they are trying to understand the process, not only taking feedback in good faith to improve the draft but rather keeping careful notes of who is going to be helpful and who wasn't" which is not uncommon in diplomatic settings, Richardson continued, "but I think they are essentially getting better and better at figuring out how to advance resolutions that also conveniently work with their larger domestic and global political agenda."

Marc Limon, the Geneva-based executive director of the Universal Rights Group, a human rights think tank, also remembers the situation. "Honestly," Limon said, "at first, China was doing a charm offensive. The EU submitted many amendments, and China took them all on board, even the resolution title." Moreover, some initial controversial remarks were removed, such as "win-win cooperation is the only viable option in an increasingly interdependent, interrelated and integrated world, where countries form a community of shared future."

The final text invokes the "constructive international dialogue and cooperation" agreed upon in the human rights context. The resolution title changed to "mutually beneficial cooperation," and emphasized "strengthening the capacity of countries to fulfill their human rights obligations." Though China accepted most of the proposals put forward by the EU, the EU countries abstained from voting.

As Limon said, "imagine if this text had ended up being proposed by Costa Rica or Sierra Leone? Would it have attracted so much criticism? The answer is most likely no." In other words, "The problem is not the resolution itself, but the country that submitted it."

At the time, Western countries and human rights institutions expressed concern about the new, more assertive attitude of China at the Council.

If we look beyond the country-specific perspective, in a political platform such as the UN, the advocacy of one country, the rebuttal of other countries, the criticism of public opinion or NGOs, etc., are all part of the system. But Chinese participation and writing are not seen as "ordinary." Also, China's needs in this space have gone beyond trying to avoid criticism of human rights issues in China; they have been actively imported and are becoming more and more indisputable.

Limon, who spent 15 years in Geneva and served for many years as a diplomat to various countries on the Human Rights Council, remembers the once more open Chinese delegation. "That was Obama's second term," he said, "and the Chinese government sent a group of progressive, young, Western-educated diplomats, including two women. Open, active in discussions, keen to change people's perceptions of China, and to think about how China can positively contribute to the Council."

"Looking back today, it may be that some relatively progressive people in the Chinese Foreign Ministry convinced the leadership that the best way to avoid criticism was to be seen as an active participant."

However, "these diplomats did not stay long," Limon said, "probably only two or three years." He also remembers that China was planning a side event with human rights NGOs and other countries to discuss the right to development. At the same time, criticism of China was intensifying. In March 2016, while the side event was being planned, the United States issued a joint statement criticizing China's human rights situation<sup>25</sup> - "the last joint statement issued by the U.S. delegation to the Obama-era council." The planned side event at the Chinese commission in Geneva was then canceled.

During this time, human rights issues in Hong Kong and Xinjiang gained wider attention, Trump led the U.S. out of the UN Human Rights Council, and China's vivid "wolf warrior"<sup>26</sup> diplomacy was gradually sweeping through all diplomatic venues.

## 6. The clear-cut battle of agendas

Rather than constructive discussions about the future of human rights, the battle over the agenda, with words as weapons and superpower rivalry as essence, is increasingly taking over the platform of

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<sup>25</sup> U.S. Mission to International Organizations in Geneva, "Joint Statement – Human Rights Situation in China", March 10, 2016 (<https://geneva.usmission.gov/2016/03/10/item-2-joint-statement-human-rights-situation-in-china/>).

<sup>26</sup> The Chinese action film "Wolf Warrior 2" (2017) is one of China's most commercially successful films. Based on it, China's foreign policy conduct in recent years has been referred to (by international observers) as "wolf warrior diplomacy" to characterize the aggressive style of Chinese diplomats. This approach contrasts with the diplomatic practices that have defined the reform and opening-up period since Deng Xiaoping, according to which skillful restraint should be exercised.



the Human Rights Council. The "Realizing A Better Life for Everyone"<sup>27</sup> draft is just one of the many facets of the process in this multilateral space, with China leading several other resolutions or "amendments" at the 48th session.

On October 4, 2021, China proposed six amendments to the EU (also on behalf of the US) led resolution on the "Situation of human rights in Afghanistan," one of which was withdrawn, and the rest were rejected in the vote, with only four or five countries siding with China.

In the resolution, which decides to appoint a special rapporteur to monitor the human rights situation in Afghanistan, China's amendments include adding "urges the States that caused the current difficult situation in Afghanistan to take due responsibility in the reconstruction of the country" and "calling upon relevant States to reverse their decision to freeze Afghanistan Central Bank assets" and suggest that the special rapporteur's mandate should include not only monitoring the human rights situation in Afghanistan but also its "underlying drivers."

Rather than the European and American tendency to focus on the Taliban's human rights concerns, China wanted the resolution to be a reminder of the bungling and confusion of the U.S. intervention and withdrawal in Afghanistan and therefore asked for a review of the abuses that had taken place (including the "killing of innocent civilians by foreign troops"). Pakistan, an ally of the latter, also expressed disappointment that the special rapporteur had only a forward-looking mandate, saying that "20 years of international engagement with Afghanistan have given us important lessons to be learned."<sup>28</sup>

In addition to criticizing the US, the Chinese delegates did not forget the human rights connotation in line with the official Chinese concepts. In one of the amendments, the Chinese proposal suggests changing the original "respect for the rule of law and freedom of expression, including freedom of expression for media practitioners, with special attention to human rights defenders" to "including the right to life, economic, social and cultural rights, the right to development and civil and political rights."

"Geopolitical tensions have intensified and in many ways 'capture' the important work of the UN's main human rights body," says Limon, "most of the tensions are centered on the superpower rivalry, and the resulting difference is growing; China's power and influence have grown dramatically in the absence of the United States."

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<sup>27</sup> United Nations Human Rights Council, "48th session of the Human Rights Council: Resolutions, decisions and President's statements", October, 2021  
(<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session48/res-dec-stat>).

<sup>28</sup> Limon, Marc, "Superpower rivalry 'captures' the Human Rights Council", in: Universal Rights Group, October 20, 2021  
(<https://www.universal-rights.org/blog/superpower-rivalry-captures-the-human-rights-council/>).

In addition to actively injecting human rights connotations with Chinese characteristics such as the “better life,” another resolution led by China, Sri Lanka, and Venezuela aimed at attacking Western countries. This resolution, entitled “The Negative Impact of the Legacy of Colonialism on the Enjoyment of Human Rights,” was supported by some developing countries, but for some African countries, for example, the fact that China's sudden entry into the de-colonization discussion was more like using an issue of great importance to many countries as a weapon to attack the West.

In response, the UK proposed two written amendments at the conference, adding “persecution against members of any identifiable group, collective or community, on racial, national, ethnic or other grounds that are universally recognized as impermissible under international law, and the crime of apartheid, constitute serious violations of human rights and, in some cases, qualify as crimes against humanity” and “to urge States to refrain from the forced assimilation of persons belonging to minorities, including indigenous populations, and to work to ensure that educational curricula and other materials do not stereotype minorities and indigenous populations on the bases of their ethnicity.”

As Limon analyzed, the British amendment “stated that some of China's policies are themselves examples of modern ‘colonialism.’” These two amendments were voted on; China then withdrew its resolution of “Realizing A Better Life for Everyone”<sup>29</sup>. “This is already very hard-nosed diplomacy,” Limon sighed.

A journalist based in Geneva also said that he sat in on some of the informal consultations on the “better life” resolution and later discussed it with other participants, many of whom felt that the Chinese delegation was not very receptive to the amendments and that “the manner was rather curt and dismissive.” If China has any known purpose in the international human rights arena, it must be to “deny criticism.”

On June 22, 2021, at the 47th session of the Council, Canada issued a joint statement on behalf of 45 countries expressing concern about human rights issues in Xinjiang and Hong Kong. Most of the 45 countries were from Europe and the United States, as well as Japan, Israel, or the small island states of Belize, Nauru, the Marshall Islands, the Palau Islands, and other island nations. In response, China also pointed out human rights issues in Canada, such as the mistreatment of indigenous people. China issued a joint statement on behalf of 65 countries rejecting “unfounded accusations against China

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<sup>29</sup> United Nations Human Rights Council, “48th session of the Human Rights Council: Resolutions, decisions and President's statements”, October, 2021 (<https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session48/res-dec-stat>).

based on political motives and false information.”<sup>30</sup> The numbers are critical. The Global Times report emphasized that “in addition to these 65 countries, ...more than 20 countries plan to issue support ... expressing their understanding and support for China to more than 90 countries.”<sup>31</sup>

Two days later, on June 24, the joint statement led by Canada missed a signatory: Ukraine. Regarding Ukraine's withdrawal, the Associated Press quoted two diplomats from Western countries saying that China had warned Kyiv that “if Ukraine did not withdraw, they would block the planned delivery of at least 500,000 doses of Covid-19 vaccine to Ukraine.”<sup>32</sup> Ukraine had already received 1.2 million doses of the vaccine out of the 1.9 million doses it had purchased from China, and the order had not yet been fully delivered. A spokesman for the Chinese Foreign Ministry welcomed Ukraine's decision.<sup>33</sup>

Despite what is often summarized as “increased influence,” China's “testing the waters” in the UN human rights field over the years has not been without its setbacks. China's support among 193 countries in the council elections has fallen from 180 votes in 2016 to 139 votes in 2020, down from 146 votes in the first election in 2006.

Throughout 2022, the human rights issue in China's Xinjiang Uyghur Autonomous Region was one of the focal points of the battle of the agenda of the UN Human Rights Council. Ahead of the 50th session in June, U.N. Human Rights Chief, Michelle Bachelet was under tremendous pressure for her visit to China, critics accused her of using Beijing's official framing of the issue.<sup>34</sup> At the opening of the 50<sup>th</sup> session, she announced her decision to step down.

At the following 51st session in October 2022, a draft decision to debate on human rights in Xinjiang was rejected by vote (17 votes in favor, 19 against, and 11 abstentions).<sup>35</sup> According to the Universal Rights Group, this is “only the second time in its history that the Council has rejected a draft

<sup>30</sup> Permanent Mission of the People's Republic of China to the UN, “绝大多数国家反对利用人权问题干涉中国内政”, October 21, 2021 ([http://un.china-mission.gov.cn/hyyfy/202110/t20211022\\_9607280.htm](http://un.china-mission.gov.cn/hyyfy/202110/t20211022_9607280.htm)).

<sup>31</sup> Global Times, “联合国人权理事会上, 90 多国挺中国 外交部: 是非有众议, 公道在人心”, June 23, 2021 (<https://news.cctv.com/2021/06/23/ARTIL9k5MyPw6SeJvGz13vNW210623.shtml>).

<sup>32</sup> Keaten, Jamey, “Diplomats say China puts squeeze on Ukraine”, in: Associated Press, June 25, 2021 (<https://apnews.com/article/united-nations-china-europe-ukraine-health-a0a5ae8f735b92e39c623e453529cbb9>).

<sup>33</sup> Ministry of Foreign Affairs, the People's Republic of China, “外交部发言人就乌克兰撤销联署人权理事会第 47 届会议反华共同发言答记者问”, June 26, 2021 ([https://www.fmprc.gov.cn/web/wjdt\\_674879/zcjd/202106/t20210626\\_9180717.shtml](https://www.fmprc.gov.cn/web/wjdt_674879/zcjd/202106/t20210626_9180717.shtml)).

<sup>34</sup> Rogin, Josh, “How the U.N. became a tool of China's genocide denial propaganda”, in: Washington Post, May 29, 2022 (<https://www.washingtonpost.com/opinions/2022/05/29/michelle-bachelet-trip-china-xinjiang-uyghur-fails-genocide-accountability/>).

<sup>35</sup> United Nations, “Human Rights Council Adopts 21 Texts and Rejects One Draft Decision, Extends Mandates on Older Persons, Right to Development, Arbitrary Detention, Mercenaries, Slavery, Indigenous Peoples, Safe Drinking Water and Sanitation”, October 6, 2022 (<https://www.ohchr.org/en/news/2022/10/human-rights-council-adopts-21-texts-and-rejects-one-draft-decision-extends-mandates>).

resolution/decision (after the Council failed to adopt a resolution on the situation in Yemen exactly a year ago)". URG also noticed that China "mobilized huge resources against the UK-led draft, both in Geneva and capitals." The result shows that "nearly all Council members belonging to the Organisation of Islamic Cooperation (OIC) voted against the draft."<sup>36</sup>

It is certain to say that the fierce battle over agendas will continue in the future of the UN Human Rights Council.

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<sup>36</sup> Universal Rights Group, "Report on the 51st session of the Human Rights Council", October 10, 2022 (<https://www.universal-rights.org/urg-human-rights-council-reports/report-on-the-51st-session-of-the-human-rights-council/>).

## 1. 當中國開始執筆，書寫和形塑「普世人權」

在聯合國人權理事會的殿堂上，中國正積極參與以文字為武器、大國之爭為實質的議程之戰。

編按：「人權並不是一個『西方』概念。」在為本文做出的所有訪問中，這些深耕聯合國國際人權領域的專家，都在某個時刻強調了這一點。這在講述在上一次世界大戰的血腥與陰影下開始的國際人權規範和標準時，尤為準確——今天的國際人權表達，源自一系列的外交、協商和國家間的政治策略，在這個過程中曾經、即將起到關鍵作用的，遠不止「西方」。中國正在其中施加的影響，也是必然的一部分；但要看清這個過程、看懂各方的目的，卻不容易。

如今，大多數國家的人們已經「正式」擁有多達 400 項國際人權。在聯合國日內瓦總部的人權理事會（United Nations Human Rights Council），這些已有的、或是未來的新人權，以及各個國家的人權狀況，每一天都在被反覆討論。

在大部分已經數據化但「用戶介面」不那麼友好的聯合國檔案庫裏，有著數不清的文本。文本裏的每一個字都在承諾美好，而每一個美好的字眼，也都是這個政治場合的武器。中國自 2017 年才開始主導的數項聯合國人權理事會的「決議」（resolution），也是如此。

從「發展對人權的貢獻」、「互利合作對人權的促進」到「讓人人實現更美好的生活」……由中國執筆書寫和形塑的「普世人權」，如同理事會自 2006 年設立以來的數千條被通過的決議一樣，言語間也都在尋求保護、成全或享受某一項或某一串人權。但是，恰恰是這些或許含糊、但看似無可厚非的字眼，正在國際人權領域引起持續不息的爭議；爭議聲中，中國也早已不只是盡力避免國際社會對國內人權紀錄的批評，而是愈發不容置疑地在國際人權領域中，注入符合中國政府議程的概念。

## 2. 由中國「執筆」的人權

2017 年 6 月，聯合國人權理事會第 35 屆會議上，中國第一次主導了一份決議（resolution），並在投票後通過。中國這份題為「發展對享有所有人權的貢獻」（the contribution of development to the enjoyment of human rights）的決議和內容，圍繞著發展對人權的助益，呼籲所有國家實現「以人為本」的發展，認為可持續發展有利於全面享有各項人權等等。

理事會上通過的「決議」，代表着所有成員或大多數成員同意的、在特定人權議題和情況上的立場。非政府組織「國際人權服務社」項目主管布魯克斯（Sarah M. Brooks）自 2015 年起就在日內瓦人權領域工作，關注亞洲國家，她說：「即便聯合國無法揮動魔杖要求決議中的建議都成真，但通過公布和傳播這些承諾，聯合國是在將工具交到那些希望推動變革的人的手中。」

投票表決中國主導的第一份決議時，委內瑞拉、古巴和埃及代表發言支持，他們都來自「立場相近發展中國家」；美國和德國（代表歐盟）反對。」

美國稱，決議「有選擇、不平衡地借鑑了」與人權和發展有關的國際文書，譬如《維也納宣言和行動綱領》，「省略了充分解釋人權與發展之間關係的關鍵語言，或改變了有共識的語言，從而大大改變了其含義。」

一份決議文本分為兩部分，「序言」（preamble）的部分通常引申到以往的人權文書；「執行」（operational）的部分緊跟其後，定義理事會希望聯合國成員國或其他機構可以進行的舉措。決議草案在由提議者（sponsor，有時是多個國家）提交給理事會後，還會進行多次的協商和修改。

美國代表的發言稱，該決議執行部分的第一段，「申明發展極大地有助於人人享有所有人權」，是有選擇地從維也納宣言中提取的，省略了源句的關鍵部分，即「不得以缺乏發展為由剝奪人權」，並指儘管中國在修改後的決議序言中增加了源句，但並未修改執行部分，因此認為決議「強化了一個不正確的信息，即發展是國家履行其人權義務的前提條件」。德國代表歐盟也提出類似的論證，說決議旨在構建一種無益的說法，將發展進程提升到人權之上。

不過，理事會中的發展中國家並未被歐美字斟句酌的觀點說服，該決議以 30 票支持、13 票反對和 3 票棄權通過。

這是一個頗為關鍵的變化。用布魯克斯的話說：「中國從 2017 年開始主動提出決議——而不是簡單地支持或反對其他決議，標誌著中國在該多邊空間政策的改變。」

這之前，中國也曾作為「co-sponsor」，參與過多次提案或修正。2016 年第 31 屆會議上，中國與古巴、埃及、巴基斯坦和俄羅斯一起，試圖將「人權維護者」（human rights defenders）這一慣用措辭，改為「從事增進和保護人權的個人、群體和社會機構」，將其「重要和正當」的定語，改為「合法和重要」，並給國際人權法的規定增添了「國家義務」這一定語——該修正提議未得到通過。在 2022 年的第 49 屆會議上，中國再次對一份關注人權維護者的文本提出批評，並對該決議投了棄權票。

中國也曾在 2015 年主動擬寫過國兩份「主席聲明」（presidential statement），以婦女問題或公共衛生為題。主席聲明代表理事會的態度、草擬者與理事會主席協商，因而也比代表提議國的意願的決議要「安全」一些，不會被其他成員國正式審視。

決議則不同。布魯克斯說，中國提出的這些決議，以及標記出的變化，「在日內瓦引起了很大的反響。持份者開始意識到，他們必須在實體內容上與中國接觸。」

2018 年，37 屆會議，中國再次獨立主導了以「促進人權領域的互利合作」為題的決議，並以 28 票支持、1 票反對和 17 票棄權通過。美國是唯一一個明確反對該決議的國家。美國代表在 2018 年決議投票前的發言說，該決議的意圖即是「通過將其思想插入國際人權詞典，來美化其國家元首」。

此時的關鍵詞是「互利合作」(mutually beneficial cooperation)。該決議最初的草案以「合作共贏」(win-win cooperation) 為題，儘管後來基於反對意見將英文標題改為了「mutually beneficial cooperation」，在聯合國各種文本中，中文仍不時被翻譯為「合作共贏」而非「互利合作」。「互利」和「共贏」看似差別不大，但「共贏」顯然是中國更喜歡的措辭，但很多國家並不願意看到一個明顯源自中國官方話語的措辭，冠冕堂皇地進入聯合國語境。

從聯合國人權理事會自 2006 年成立、截止 2020 年 3 月，共有 1779 項決議 (80% 的通過率) 達成，大多都不用投票即得到共識。中國雖從一開始便是理事會成員國，但從 2017 年才首次作出「執筆」嘗試，彼時，也是中國試圖開始講述自己作為「負責任的全球領導者」的開始。

### 3. 「含糊且不言自明」的背後

在中國執筆撰寫代表聯合國立場的人權決議的嘗試中，「讓人人實現更美好的生活」(Realizing A Better Life for Everyone) 是最新的一項，在 2021 年 9 月的第 48 屆會議上提出。

從發展對人權的貢獻，到互利合作對人權的促進，以及如今人人實現更美好的生活……中國給出的人權概念，有不少趨同的性質，大概是一種不言自明、人人都可以因此受益，因而帶著一種理當如此的「道理」。可是，對於聯合國的人權領域的專家、外交官而言，拿到這些概念時，他們首當其衝的反應卻大多是：「what does it even mean?」

這並不是一直以來與發展中國家對人權的立場不盡相同的歐美發達國家才有的反應。以「讓人人實現更美好的生活」為例，當這份決議的草案進行第一次非正式磋商時，與會的布魯克斯說，墨西哥、烏拉圭、印度等國都提出了不同程度的擔心，多是認為「實現更美好的生活」沒有清晰的定義，概念寬泛且含糊。

何為「更好」？誰來決定？與什麼或是誰相比而得出的「更好」？在決議草案中，「美好」和「更美好」依然似乎寬泛但無庸贅述，並沒有回答這些問題。用中國代表在非正式磋商會議上

的話說，決議就是提議給所有人帶來福祉，減小差距。但是，在很多人看來，該決議並不如字面上的美妙。

布魯克斯認為，每個個體所理解的「更好的生活」與享受人權之間是「雙向的，且前者不搶佔後者。」更重要的是，這條概念試圖成為聯合國人權理事會的立場。理事會的任務是促進人權提議的對話，並處理侵犯人權的情形，而非將這一任務「擴大到面目全非的地步」。

政府在這一「美好生活」概念中的位置也是爭議點。中國更願意與政府合作，希望在人權領域講述「中國故事」和「中國經驗」。但如布魯克斯說：「如果更美好的生活的實現受制於或要符合國家的組織和資源，這實際上將允許個人和群體內部和相互間的不平等，尤其是在基於性別、種族、種姓、階級、語言、少數民族或其他地位的結構性不平等根深蒂固的地方。」2020年第45屆會議上，中國與巴基斯坦等國聯合提出了「以人為本促進和保護人權」（People-centred Approaches in Promoting and Protecting Human Rights）的決議草案面臨相似的挑戰，最終被撤回。

活躍在國際人權領域的非政府組織一直對中國在國際場合的作法保持敏感，「人權觀察組織」（Human Rights Watch）在2017年就發表了以《國際倡導的代價：中國對聯合國人權機制的干預》為題的報告。中國總監理查森（Sophie Richardson）說：「中國政府在試圖非常系統性地注入這樣的想法，即一定程度的發展要先與其他權利。而且，這是由政府決定，其他獨立團體不起作用。」

來自人權團體的批評聲還認為，北京主張背後的意圖，不止是為了讓中國自己免受國際人權機制審查，還會讓所有北京的盟友都可以做到這一點，從而「有罪不罰」。而且，這不是普通中國人可以接觸到的工具。用理查森的話說：「北京開始推進自己的想法，重塑國際法律——但同時也確保14億中國人無法接觸到這個系統。」

而這些，都是同一概念在中國絕對不會遇到的挑戰。習近平在2012成為中央委員會總書記之時就提出「人民對美好生活的嚮往就是我們的奮鬥目標」——這在2021年其在慶祝中國共產黨成立100週年大會上的重要講話中，仍然是關鍵內容。

類似的，出現在互利合作決議中的除了「合作共贏」，還包括「人類命運共同體」，兩者都是中國領導人習近平在2017年十九大提出的關鍵措辭。尤其後者，在人權理事會之前，還出现在了聯合國社會發展委員會的決議上。之後，在中國官媒的語境中，「人類命運共同體」已經是「得到國際社會普遍認可」的理念。中國國家主席習近平多次在國際場合中提到這個概念。2018年，人類命運共同體還被加進中國的憲法。



中國最新的《人權白皮書》以「中國必將為推動世界人權事業發展作出更大貢獻」結尾。中國式人權概念，若在國際舞台獲得認可，除了是中國大國外交的一部分，「為全球人權治理貢獻中國方案」，也持續反饋到中國國內的人權話語。

的確，「發展對享有所有人權的貢獻」和「促進人權領域的互利合作」都不是一時興起。前者在 2019 年 7 月的第 41 屆會議和 2021 年 7 月的第 47 屆會議都再次提出，並得到投票通過。後者也在 2020 年 6 月的第 43 屆會議和 2021 年 3 月的第 46 屆會議再次提出。此時，特朗普治下的美國已經在 2018 年 6 月正式離開聯合國人權理事會。但是，中國的決議得到的支持卻似乎在減少，「互利合作」第二次提出的決議雖然也得到通過，但投票結果為 23 票支持、16 票反對和 8 票棄權；第三次提出時，投票結果為 26 票支持、15 票反對和 6 票棄權——支持票比第一次少，反對票也比第一次多。

不過，當一種表述方法一旦進入了聯合國人權理事會的決議之後，它就很容易在此後的文本中固定下來。例如 2022 年第 49 次會議通過一項有關發展權的決議，呼籲「在疫情應對和復蘇過程中加強國際團結，包括採取以人民為中心、敏感對待性別問題、具有包容性並充分尊重人權的協調一致的聯合應對和復蘇措施」。該決議由玻利維亞，中國，埃及等國共同提出，投票結果為 31 票贊成、14 票反對、2 票棄權。

決議文本的隻言片語背後是對立的價值、僵硬的程序和常常矛盾的利益——這在中國最為核心的人權議題，也即「發展」和「國家間合作」上，也是如此。

#### 4. 誰來代言「發展」？

中國自覺是發展領域的「模範」。在去殖運化運動高峰的 1960 年代，塞內加爾律師 Kéba M'baye 提出了將發展與人權結合的討論，很長時間以來聚焦於修正發達和發展中國家的全球經濟秩序。1981 年《非洲人權與民族權利憲章》正式提出的「發展權」（right to development），一開始以「集體人民的權利」為重，在得到聯合國層面認可時（在 1986 年的《聯合國發展權宣言》中確認，也反覆出現在 1993 年的維也納宣言中），基於經典的個人主義的人權範式，已經被視為既是「集體」也是「個體」的權利。

自 1991 年中國開始發布人權白皮書以來，「發展權」一直是中國慣於援引的人權立場。不同的是，今天的中國，正試圖讓這一立場變得普遍、成為規範。

與此同時，「發展權是西方國家的弱項，」德國卡塞爾大學的講師，也是常年觀察聯合國人權理事會的專家拉特格伯（Theodor Rathgeber）說。西方國家在關於發展權的討論中「或者缺

席，或只是參與觀察，這是戰術和戰略上的一個錯誤。」「你不能簡單地說發展權不在你必須處理的傳統人權的範圍內，」拉特格伯說，「既然中國已經把發展權的問題擺在桌面上，我們就要面對，不應該忽視並讓中國去設定議程。」但至少目前來看，比起更全面地審視「發展權」的意義和實現，批評聲仍然集中在「中國」身上。

觀察家們懷疑中國是否真正支持全球南方國家關切的人權問題。人權活動家路易斯-桑切斯-希米內塞拉（Luis Sanchez Shiminaycela）是南美國家厄瓜多爾一個名為 CASCOMI（「亞馬遜神鷹山脈部落社會行動」）的原住民社群組織的主席。2018 年 10 月，路易斯將社區在當地大型露天銅礦米拉多（Mirador）項目中受到的傷害（被迫、暴力遷徙出家園；原住民領導人被謀害等），帶到了日內瓦的一個人權會議上。米拉多項目由來自中國的礦業公司投資、經營。

「我已經在日內瓦的聯合國人權機構上講述了我們的經歷，」路易斯在接受端傳媒採訪時問道，「那你知不知道，接下來會有什麼後續？」他記得，會上有一些中國代表，「我發了言，然後他們做了紀錄。」後續還有什麼？路易斯不得而知，仍將自己在日內瓦聯合國總部的自拍照作為社媒頭像的他說，「在我的理解中，他們說是支持條約的，但實際上，很難理解這個國家的真實意圖是什麼。」

路易斯所說的條約是在 2014 年人權理事會上通過的一條決議，題為《擬訂關於跨國公司和其他工商企業與人權的關係的具有法律約束力的國際文書》。這條由厄瓜多爾主導的決議，旨在設立一個政府間工作組，擬訂一項具有法律約束力的國際文書，以在國際人權法中對跨國公司的活動進行監管。在投票之時，大多發達國家都反對該決議，而中國則投下了支持票，稱這是一項「複雜且重要的」議題。

只是，這項乍一看聚焦在發達國家跨國公司與發展中國家人權問題的議題——中國在投票時站在了南方國家的序列中，在隨後的工作組討論和文書的擬訂中，中國的支持態度，卻發生了很大的變化。活躍在海外的中國企業也在這一討論中，中國不願給跨國公司的母國「規定不合理的權利和義務」。

同在 2014 年建立的一帶一路倡議，將中國企業「走出去」的這些年放在聚光燈下。這項公約的討論，本質上在要求國家履行「域外義務」。而可能產生人權問題的「跨國企業」不止來自歐美，還有來自中國的，而且，同期對於中國政府不監管海外公司的批評聲也越來越強。

## 5. 從斡旋到戰狼

理查森還記得，中國在 2018 年第一次提出「合作共贏」決議零號草案，並在一次非正式磋商會議上與各國討論該提案的情景。「非正式磋商」是決議協議的必要環節，比起會被攝像頭紀錄並公示的正式會議，用理查森的話說，磋商時，「房間裏展露著赤裸裸的政治。」

當時，理查森說，日本、韓國、古巴、澳大利亞等國家都多少提出了擔憂，「提出反對意見的國家都是反對（「合作共贏」/「互利合作」）的含糊語言。」而與會的四五個中國代表團坐在前排，除了一個在組織對話，還有兩個人在瘋狂地做著筆記，理查森說：「他們在把每個人的話都寫下來。」

「我記得我當時在想，他們真的是很努力地在理解這個過程，不僅是在接受反饋、以改善草案，也是在紀錄誰對他們是有助益的、誰是無益的，」這在外交場合中並不罕見，理查森接著說，「但我認為，他們也是愈發在弄清楚如何推進決議，方便地與其國內或全球政治議程配合。」

人權智庫「普遍權利集團」（The Universal Rights Group）常駐日內瓦的執行董事利蒙（Marc Limon）也記得當時的情景。利蒙說：「實話實說，一開始中國還是想要進行魅力攻勢的。歐盟提交了非常多的修正意見，中國全部都接受了，甚至包括決議的標題。」而且，一些最初惹出爭議的話語後來已被刪掉，譬如「在這個日益相互依存、關聯和一體化的世界，合作共贏是唯一可行的選擇」。

最終的文本引援在人權語境中有過共識的「建設性的國際對話與合作」，以「互利合作」為題，強調「加強各國履行人權義務的能力」；儘管中國接納了歐盟提出的大部分建議，在投票中，歐盟國家雖未反對，但都投了棄權。

利用蒙的話說：「想像一下，如果這份文本最終是由哥斯達黎加或塞拉利昂提出的會怎樣？會引起這麼多批評嗎？答案很可能是不會。」換句話說，「問題不在於決議本身，而在於提交決議的國家。」

當時，西方國家和人權機構都對中國在理事會新展露出的、更為有主張的態度表達了擔心。

若跳脫出特定國家的視角，在聯合國這樣一個政治平台，一個國家的主張、其他國家的反駁、輿論或是非政府組織的批評等等，都是這個系統的一部分。但來自中國的參與和書寫，卻不會被視為「尋常」；而中國在這一空間的需求，也已不止盡力避開對中國人權問題的批評，而是不斷主動輸入，而且愈發不容置疑。

利蒙在日內瓦待了 15 年，曾在人權理事會給不同國家擔任過多年外交官，他還記得一度更為開放的中國代表團。「那是奧巴馬的第二個任期，」他說，「中國政府派了一批頗為進步、年

輕、受過西方教育的外交官，當中還有兩位女性。開放、積極參與討論，熱衷於改變人們對中國的認知，還會去思考中國可以怎樣在理事會作出積極的貢獻……」

「如今往回看，當時也許是中國外交部中一些相對進步的人士說服了領導層，避免批評的最好方法是被視為一個積極的參與者。」

但是，這批外交官沒有久待，利蒙說，大概也就兩三年。他還記得，當時中國計畫舉辦一場邀請來自人權 NGO 和其他國家的邊會，討論發展權。可與此同時，批評中國的聲音也在加強，在邊會策劃的同時，2016年3月，美國發出了一封批評中國人權狀況的聯合聲明——「那是奧巴馬時期理事會的美國代表團發出的最後一封聯合聲明」。隨即，計畫在中國日內瓦辦事處舉辦的這場邊會也取消了。

也正是在這段時間，香港和新疆的人權問題得到更加廣泛的關注，特朗普帶領美國離開了聯合國理事會，而中國鮮明的「戰狼」外交，也在逐漸席捲各個外交場合。

## 6. 形勢分明的議程之戰

比起建設性地討論人權的未來，以文字為武器、大國之爭為實質的議程之戰，正在逐漸佔據人權理事會的平台。「讓人人實現更美好的生活」草案僅僅是這一個多邊空間中發生的多面進程中的一條，就在第48屆會議上，中國還主導著另外數項決議或針對某決議的「修正」(amendment)。

10月4日，針對由歐盟（也代表美國）主導的「阿富汗的人權狀況」的決議，中國提出了6條修正建議，其中一條被撤回，其餘在投票中都被否決，僅有四五個國家站在中國這邊。

在這份決定任命一名特別報告員，監測阿富汗境內人權狀況的決議中，中國的修正案包括增加「敦促造成阿富汗目前困難局面的國家在該國重建過程中承擔應有的責任」及「呼籲有關國家撤銷凍結阿富汗中央銀行資產的決定」，並建議特別報告員的任務，除了監測阿富汗人權狀況，還有其「背後的驅動因素」。

比起歐美傾向關注塔利班的人權問題，中國更希望提醒美國在阿富汗的干預和撤軍的拙略和混亂，因此要求回顧已經發生的侵權行為（包括「外國軍隊對無辜平民的殺害」）。作為後者的盟友，巴基斯坦也對特別報告員只有前瞻性任務表達了失望，稱「20年來，國際社會與阿富汗的接觸給我們帶來了重要的教訓。」

除了批評美國，中國的「執筆人」也不忘符合中國官方價值觀的人權內涵。在其中一條修正案中，中國的提議則建議將原本的「尊重法治，尊重表達自由，包括媒體從業者的表達自由，特

別關注人權維護者」，改成了「包括生命權、經濟、社會和文化權利、發展權以及公民權利和政治權利」。

利蒙分析道：「當代地緣政治的緊張局勢加劇，並在許多方面『佔領』了聯合國主要人權機構的重要工作。大部分矛盾集中在『大國』之爭上，因此產生的分歧也越來越大；而中國的實力和影響力在美國缺席的情況下急遽增加。」

除了主動注入像是「美好生活」這樣的「中國式」人權意涵，還有一條由中國、斯里蘭卡和委內瑞拉主導的決議，則明顯是以攻擊西方國家為目的。這條以「殖民主義遺留對享受人權的不利影響」為題的決議，雖然得到一些發展中國家的支持，但對譬如一些非洲國家而言，中國冷不丁開始討論殖民，更像是將一個對很多國家極其重要的議題，作為攻擊西方的武器。

作為反擊，英國在會上提出了兩條書面修訂，增添了「重申基於種族、民族、族裔或公認為國際法所不容的其他理由，對任何可以識別的群體、集體或社群成員的迫害，以及種族隔離罪，都是對人權的嚴重侵犯，在某些情況下，構成危害人類罪」，以及「敦促各國不要強行同化屬於少數群體的人，包括土著人口，並努力確保教育課程和其他材料不對少數群體和土著人口基於族裔進行模式化歸類」。

如利蒙所分析，英國的修正案「試圖通過說明中國的某些政策本身就是現代『殖民主義』的例子」，以彼之矛攻彼之盾。這兩條修訂經投票通過；中國隨即撤回了「讓人人實現更美好的生活」的決議。「這已經是非常強硬（hard-nosed）的外交了。」利蒙嘆道。

一位常駐日內瓦的記者也說，他旁聽此次「美好生活」決議的部分非正式磋商，後來與其他與會的人討論，很多人都覺得，中國代表團不太接受修正意見，「態度也是相當生硬和輕蔑。」如果中國在國際人權領域的有什麼眾人皆知的目的的話，必然是「拒絕批評」。

2021年6月22日，理事會第47屆會議上，加拿大代表45個國家發表了一份聯合聲明，對新疆和香港的人權問題表達了關切。這45個國家絕大多數來自歐美，以及日本、以色列，或是拉丁國家伯利茲，瑙魯、馬紹爾群島、帕勞群島等島國。作為回應，中國也指出了加拿大的人權問題，譬如對原住民的虐待。中國並代表65個國家發出聯合聲明，反對「出於政治動機和虛假信息對中國的無端指責」。數字很關鍵。《環球時報》的報導強調：「除了這65個國家外……20多個國家計劃分別發表支持……表達對中國理解和支持的國家總署超過了90個。」

兩天後，6月24日，加拿大代表的聯合聲明忽然少了一個簽署國：烏克蘭。關於烏克蘭的退出，美聯社隨後援引兩位來自西方國家的外交官員，稱是因為中國警告了基輔，「若烏克蘭不退出，他們將阻止向烏克蘭運送至少50萬劑Covid-19疫苗的計劃。」烏克蘭從中國採購了190萬劑

疫苗，當時烏克蘭已經收到了 120 萬劑，訂單還未全部交付。中國外交部發言人對烏克蘭的決定表示了歡迎。

儘管常被總結為「影響力增強」，中國這些年在聯合國人權領域的「試水」也並非沒有挫折——每四年一次的理事會成員選舉，中國在 193 個國家中的支持率，從 2016 年的 180 票，跌到了 2020 年的 139 票，比 2006 年第一次選舉時的 146 票還低。

2022 年全年，中国的新疆问题成为联合国人权理事会议程斗争的焦点之一。在第 50 届会议上，在 6 月舉行的第 50 屆會議前，聯合國人權事務負責人米歇爾-巴切萊特因她的中國之行而受到巨大壓力，批評者指責她採用了北京對新疆問題的官方敘事。巴切萊特在會議開幕時宣布不再尋求連任。

在隨後於 2022 年 10 月舉行的第 51 屆會議上，一項關於對新疆人權狀況進行辯論的決定草案被表決否決（17 票贊成，19 票反對，11 票棄權）。據普遍權利集團稱，這是 "理事會歷史上第二次否決一項決議或決定草案（在一年前，理事會未能通過關於也門局勢的決議）"。URG 還指出，中國 "在日內瓦和各國首都動員了大量資源反對英國發起的這個草案"。結果顯示，"幾乎所有屬於伊斯蘭合作組織（OIC）的安理會成員都對該草案投了反對票"。

可以確定，在今後的聯合國人權理事會上，這種激烈的議題鬥爭將會持續。

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