

Human Rights: Virtue's Last Resort?"

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Abstract:

Confucianism offers a virtue tradition that attends to societal harmony and self-cultivation in a specific cultural context. Due to this emphasis on a communitarian virtue ethics, Confucianism is often interpreted as offering an ethic that simply cannot reach to question about rights and universal human rights. Several scholars have been challenging the adequacy of this interpretation in recent years, and this paper joins that reevaluation, offering the view that Confucianism does imply a human rights perspective. Examination of specific questions important in Confucian thought, such as the failure of virtue and justified revolt against an unjust ruler, bring these connections to light. The argument is made that the ideal of social harmony requires attention to both virtue ethics and human rights, and Confucianism suggests ways in which these two distinct ethical perspectives can be shown to be compatible, even if it is as a last resort. The suggestion is made that Confucianism models a way to conceive of a global moral community, with the specific virtue of co-humanity (ren) proving a resource for making contact with human rights discourse.

Is the idea of universal human rights the only or the best way of fostering harmony in the face of global religious diversity? One important tradition, which is arguably a religion and arguably not a religion, Confucianism, provides a unique perspective on this question. Confucianism asserts the moral foundations for peace and harmony in the cultivation of virtue rather than in an appeal to rights, but this emphasis begs the question whether societal harmony, both within a society and across cultures, is even possible in the absence of rights or the ability of people to appeal to rights. The virtuous performance of prescribed duties tied to social roles is essential to the Confucianism vision of human well-being, but are rights not correlative to duties even when attached to social roles? More importantly, would an appeal to rights not be inevitable if virtue were to fail, if duties were not fulfilled, and if, as a result, people were harmed and society's well-being undermined?

In moving toward dialogue over the moral meaning of social harmony, I want to offer the view that Confucianism identifies the very idea of human well-being as involving, even necessitating, social harmony, but it does so by means that make no overt appeal to human rights and the human rights premise concerning the moral equality of persons. Confucianism offers an alternative route of access to social harmony through a virtue tradition, a commutarian ethic, and endorsement of a system of social inequality. The Confucian alternative is peculiar, however, in that it cannot, in the end, exclude an inferential and implicit appeal to human rights.

In what follows, I propose to begin the dialogue between human rights thinking and Confucian ethics on the question of social harmony, hoping this leads to actual, face to face interaction and conversation over this issue. To prepare that conversation, I want to examine the Confucian moral system.

I propose to take account of the aims and purposes of both the Confucian system and the human rights tradition on the question of social harmony, and then demonstrate how it is possible to connect the two traditions. Engaging the two traditions with one another in an ethics dialogue will expose the incompleteness of each perspective while opening each to correction from the other. In a diverse and culturally complicated world, a rights emphasis on right action, as necessary as it is, will not suffice to explain how people are motivated to make decisions in certain ways to bring about the desired end of social harmony; and there seems to be ample empirical evidence in the common life to support this contention. Confucian ethics, on the other hand, in its stress on personal cultivation and the development of virtuous character, will also prove an inadequate means for attaining the end of social harmony, especially in a global context, yet it too has a positive contribution to make. Clarifying that contribution is the task to which I now turn.

The Confucian Ethic

Confucianism is the religious-socio-ethic that provided China—and thus a quarter of the world's population—with its major system of social organization, political structure and

personal morality for over two millennia. Confucianism is an umbrella term that covers literally hundreds of forms of one of the world's most enduring systems of religious, ethical and philosophical thought. Derived from the teachings of the Chinese moral philosopher and sage, Confucius (551 – 479 BCE), Confucianism developed into a complex tradition encompassing “philosophical thought, political ideology, actual state policies and practices, [and] a way of life” (Chan, 1999, p. 213). From its earliest formulations, Confucianism sought to achieve harmony in society by developing the moral character of all in society, with special attention to its leaders and through them to everyone else. Important early Confucian disciples, including Mencius (most accepted dates: 372 – 289 BCE) and Xun Zi, developed Confucianism into an influential political doctrine and ethical system. During the Han dynasty (206 BCE – 220 CE) China became officially a Confucian state. Neo-Confucianism, which integrated Taoist and Buddhist elements, emerged in the 8th century and exerted an influence on Chinese society, culture and governance into the 19th and 20th centuries, opening up what one might reasonably describe as a ‘rights connection’ as its adherents “recognized the importance of self-governance,” and even advanced the idea of “righteous rebellion against oppression” (Twiss, 2003, 285).

With the move into modernity, social and political reformers like Chen Duxiu and Li Dazhao sought to liberalize society and democratize politics, and their push toward expanding rights discourse was accompanied by criticism of the Confucian legacy, which was

viewed as an impediment to progress. Reformers thus voiced strong objections when Yuan Shikai, first President of the Republic of China (1912), established Confucianism as the state religion (Dixiu, 2000, pp. 67-76; Svennson, 2002, p. 141). Although attacked as an obstacle to liberalization by leaders of the New Culture Movement of the 1920s, then condemned as a reactionary hindrance to modernization in the Cultural Revolution of the 1960s, Confucianism nonetheless survived and its influence continued in the China of the 20th century. A resurgence of interest in Confucianism in China over the last four decades has been accompanied by a wider interest in other developments related to Confucian philosophy, especially in the rise of what is called the “New Confucianism.” Tu Weiming, for instance, the foremost exponent of “New Confucianism” in the United States, has made it his project to interpret Confucian humanism as a living tradition that espouses universal values relevant to contemporary philosophical reflection (Twiss, 1997).

The question of any possible connection between Confucianism and human rights will be found in the Confucian philosophical system, my focus here, and specifically in the virtue tradition. The aim of Confucianism, broadly conceived, was the moral education of humanity, to the end that moral virtue would produce the ‘gentleman’ or *chug-tzu*, who would always strive to do what is right, to observe social proprieties, to follow a middle way, to spurn inordinate luxury, to honor those who have gone before, to be always conscientious and concerned for the people for whom he is responsible, and finally, to transmit a worthy legacy. The Confucian moral education

goal “was to produce a class of people of incorruptible character who were fit to rule others” (Hunt, 1991 p. 173). The Confucian ideal of moral perfection involved individuals (males) cultivating virtue and attaining through their moral education the wisdom and compassion that would allow them to be leaders in society who could then govern in accordance with virtue rather than through coercive laws (Fingarette, 1972, pp. 72-73). Confucianism is then a philosophy of moral education that promotes virtues governing relationship, and the specifics of the Confucian ethic are to be found in various virtues, the most important of which are the following:

A. *Filial piety*. Discussed most thoroughly in a book mistakenly attributed to Confucius but written in the third century BCE (*The Book of Filial Piety*), filial piety refers to the love and respect owed to one’s living relationships, including parents and rulers, as well as one’s ancestors. As the foundation of value in the Chinese social order, this virtue would be recognized in the Chinese legal system, where punishment codes, for instance, would exact a more serious punishment from one who violated a duty to love and respect someone higher in the moral hierarchy, such as a child committing a crime against a parent.

Filial piety reflected the virtue-sponsored hierarchy of social inequity endorsed by Confucian ethics. Yet the Confucian system quite boldly upheld the virtuous character and moral worthiness of unequal and partial relations, as in the case of parents expressing partiality for

their own children, or with reference to virtues like love and friendship, which are actually defined in terms of partiality. The Confucian social order acknowledges relational differences and endorses the virtuous cultivation of attitudes and actions appropriate to differences in duties and responsibilities in society. The well-being of the community depends upon people finding their place in society and maintaining society through the cultivation of virtues like filial piety, a virtue that serves a moral vision of societal harmony despite reflecting inequality and partiality.

B. *Li*. *Li* refers to rites or ceremonial propriety. As in all things Confucian, *li* demonstrates that the inner and the outer dimensions of human life are intersecting, integrated, and inseparable. So, rather than pointing to a specifically religious notion of ritual performance, *li* emphasizes ethical obligation and dutiful behavior. The meaning of *li* is connected to outward social comportment as it reflects inner virtue; and together the inner and outer express the influence of the generative cosmos—the moral order of the universe—to which each individual is to conform by attitude and outward actions. The term *li* is translated as “ritual, decorum, good manners and proper conduct” and “denote[s] appropriate behavior in the basic relationships” (Hunt, 1991 p. 174). *Li* identifies the realm where, in Herbert Fingarette’s (1972) words, the “secular is the sacred,” so that there is no division between this world and some other. Human actions, then, are the measure of the sacred in everyday life, and this is another reason why in everyday life the cultivation of virtue and a basic governing civility in human affairs is so vitally important.

Li covers the whole gamut of human interactions and indicates a way of life where everyday relationships with other people, with nature and even with material objects are so valued as to be considered sacred. The stress on rituals, manners, conduct and ceremonies, so indicative of spiritual or even religious concern, is primarily important in a moral sense because actions performed with proper reverence and regard for the well being of the community indicate outwardly that the motivations for such actions are virtuous and that one is attuned to realities beyond self-interest. *Li* stresses the ideal of selflessness and service to others in community—family, society, rulers—and requires recognition that the relationships in one's life take priority over pursuing one's own interests, which would, in the Confucian system, be deemed selfishness.

C. *Shu* or reciprocity refers to “mutual consideration” and invokes Golden Rule ideas. In two places in Confucius's *Analects* we have a reciprocity notion expressed (albeit in the “Silver Rule” language of “do not do”): “Never do to others what you would not like them to do to you” (*Analects* 15, p. 23) and “Do not do to others what you would not like yourself” (*Analects* 12, p. 2). *Shu* or reciprocity governs the duties and obligations of the Five Relationships (ruler–subjects; elder–junior; husband–wife; elder sibling–younger sibling; father–son). By faithful observation of these relationships the family and the nation achieve harmony, which is defined in the language of stability, continuity, security and peace. So, for example, a sovereign should be benevolent and

fair in dealing with subjects, and a subject is duty-bound to be respectful and obedient to the ruler. These duty-framed relationships are maintained by another virtue, loyalty (*chung*), which along with filial piety keep the family pre-eminent in the hierarchy of value.

D. *Ren*. The most important of the Confucian virtues, however, is *ren* (or *jen*). Various translations as benevolence, humanness, compassion, human-heartedness, even love, goodness, or humanity, it is the “all inclusive virtue, a spiritual condition, a complex of attitude and feelings, a mystic entity” (Fingarette, 1972 p. 38). *Ren* is the supreme virtue in Confucianism, a summation of all of the virtues (loyalty and reciprocity, wisdom, courage, filial piety, faithfulness, righteousness [i.e., doing what is appropriate for one’s role as father, son, teacher or student, ruler, subject and so on]). For Confucius, *ren* identifies the ethical perfection that those who seek to live the good life—the life of goodness—strive to attain. Confucius never identified anyone as an exemplar of *ren*—it was held out as an ideal of virtuous attainment.

These virtues provide the material content of the Confucian ethic. The emphasis of the Confucian ethic on virtue development was advanced in a manner that promoted a social as well as a moral hierarchy—at its best a meritocracy—but nonetheless a stratified system that acknowledged superiors and inferiors and endorsed the social necessity of relational inequality. Whether such inequality reflected a metaphysical diminishment of certain persons or classes of persons is at least arguable. On the one hand, unequal relations could be said to reflect

the ontology of a social order under “the Mandates of Heaven.” On the other hand, the appeal of Confucianism to “the Mandates of Heaven” expressed a cosmological view in which humankind is, as humankind and not as the collection of socially differentiated individual beings, “one body with heaven, earth, and the myriad things.” (Twiss, 2003, p. 286) Comments Sumner Twiss, “This ideal extends Confucian humanism and its sense of moral responsibility to a planetary or even universal scale, recognizing collective claims to peace, harmony, and the well-being of the entire holistic community of interdependent beings” (Twiss, 2003, p. 286)

Societal harmony then issues from a moral vision of goodness that extends universally and even cosmologically, not simply in relation to one’s own community, or one’s own nation—not even to China. The metaphysic that makes this appeal possible is framed in religious terms, “Heaven” or the “Mandate of Heaven,” but as Confucianism scholars remind us, ‘Heaven’ is a metaphysical guarantor of order and goodness—it is not God and it does not invoke a theism but reflects a cosmological order of all beings—and all things—in interdependent relationship. Even humanism can be a religion if, at the core of the humanist moral vision, human being is set forth as the ultimate value. Confucianism offers a collective and social framing of human being—that is, the human being is of ultimate value in relationship, in community and in the realities of social experience. Selfhood and even moral meaning itself amounts to nothing without this kind of relational contextualization, for the self is

morally meaningful, Confucianism claims, only as a nexus of relationship.

In this brief presentation of the major emphases of Confucian ethics, we see no obvious appeal to human “rights” or even a recognizable “rights” tradition, and this fact, along with critical questions about the limitations of a virtue perspective, set the stage for a discussion about the possible relevance of Confucianism to human rights thinking.

The Confucian Connection to Human Rights

The Confucian ethic insists that the great end of human well-being, which is inextricably tied to social harmony and human flourishing in a peaceful and non-violent social order, is the product of virtue. Confucian virtue requires that human moral agents be constituted in their characters by a sense of duty and responsibility for others, by a developed and habituated sense of respectful propriety in all human interactions, and by a commitment to take into the encounters with others, even in conflict situations, a deep and abiding commitment to civility that will itself prove invaluable for lessening tensions and creating an atmosphere conducive to fostering a peaceful resolution to differences.

Human rights begins elsewhere. It is grounded not in virtue but in a normative claim about human beings, which Article One of the 1948 Universal Declaration of Human Declaration put this way: “All human beings are born free and equal in dignity and rights.” Human rights, on this understanding, is grounded in an affirmation of the equality of all human beings; it

insists on respect for the inherent dignity of persons; and it advocates the development of norms and institutions that promote and protect the moral equality of persons.

Human rights discourse will have meaning and purpose in social, cultural, and political contexts where the language of human rights has been in some way nurtured and sustained. That the West is so comfortable with human rights language is due in large part to forms of moral thinking that were themselves nurtured in religious traditions that upheld the inherent dignity of persons as creatures of God and which Enlightenment thinking translated into a non-religious universal ethic grounded in reason. Human rights discourse locates its moral sources in this Western ethical tradition, particularly in the language of ‘inherent human dignity’ and in the idea of the moral equality of all persons. Reason-based deontological ethics (Kantianism) advanced a “respect for persons” principle to uphold this commitment to the inherent dignity of persons.

The Kantian project envisioned a reason-based trans-cultural ethic that rose above any contingency of time or space—or social setting. Comparative ethics, however, has reasserted the importance of thinking about ethics in context—how do moral ideals about social harmony, for instance, play out in different cultural contexts where the contingencies of political, social and even temporal realities may obscure certain ethical features deemed essential in one culture yet which in another culture will be interpreted and then applied differently? Is it not the case

that some cultural features, even those that have normative standing, can be viewed comparatively as being put front and center in one setting—foregrounded—while in another, for reasons that may not be readily apparent, they are backgrounded, sometimes to the extent that it may appear they are not present at all. This, I would suggest, will prove to be the case with respect to rights thinking in Confucian China.

Although the importance of cultural context cannot be overstated, even when thinking about ethics, the problem that Confucianism presents is that Confucian ethics is no obviously ally of human rights discourse. In fact, the opposite is true. Confucianism promoted ideas and ideals of behavior quite at odds with thinking about rights in general and human rights more specifically. As already noted, Confucianism promoted social inequality based on social and familial status and asserted an ethical ideal in which individual interests and liberties were to be subordinated to the family and to the societal collective. Rights thinking is not and has not been integral to Chinese philosophical, social or political thought. In fact, writes Robert Weatherly,

“One of the striking things about the doctrine of Confucianism was its distinct *lack* of a rights tradition. . . . Indeed, in many respects, the dominant ideas and practices of Confucianism were *incompatible* with a notion of rights. . . . In fact, Confucianism appears to have been hostile to the

idea of rights *in general*. . . .”
(Weatherley, 2001, p. 37).

Of course not all scholars take Weatherly's hard-line view on the question of cultural openness to rights thinking. The case that Confucianism makes room for human rights has been defended in recent years by various philosophers and religion scholars, including Chung-Ying Cheng (Weatherley, 2001, p. 37) and Sumner Twiss (Twiss, 2003, pp. 283-99); and Twiss has argued that rights appear in Confucian ethics not explicitly as rights per se but as practical aspirations and expectations of relational commitments and duties (Twiss, 1997). And Joseph Chan acknowledges Confucianism's lack of a rights tradition, and critical though he is, he also claims, I think importantly, that rights do appear in Confucian ethics though as a “last resort” (Chan, 2000). He also argues, also importantly, that Confucianism is a tradition that not only will benefit from human rights supplementation, but that it is inherently open to such supplementation. Chan envisioned a revitalized and reformed Confucian tradition that can present back to human rights advocates a more balanced human rights ethic, one in which the role of virtue is taken seriously and affects how human rights are thought about more generally (Chan, 2000).

The view that Confucianism is inherently and thoroughly hostile to any of the core values that are so much fore-grounded in contemporary human rights discourse is based, I believe mistakenly, on a particular way of reading the Confucian virtue ethics tradition. Virtue ethics in

general, not just Confucianism, do not ordinarily lend support to rights notions and human rights ideals, for the focus of such an ethic is not on an explicit avowal of human equality but on the cultivation of virtue for certain ends. In Aristotle's virtue ethic, the end of personal happiness was put in the foreground; for Confucius, personal happiness was subordinated to the explicitly social end of happiness—societal harmony. As it would be wrong to think that Aristotle did not concern himself with ethics and society, it is just as mistaken, I believe, to accuse Confucianism of excluding attention to the individual or denying any notion of the inherent dignity of persons.

But how do we gain access to a human rights ethical concern in Confucianism, even if it appears only implicitly or, in Chan's words, as "a last resort"?

I would suggest three responses.

The first is that as a social ethic in which mutually recognized duties are the glue that bonds the social matrix, the fact that duties ordinarily invoke some notion of correlative rights is an "ordinary language" trump card to play. So consider an example from the Five Relationships. A ruler has an obligation to be benevolent to subjects, and subjects are duty-bound to be obedient to the ruler. Are correlative rights not in play? Can we not reasonably say that implicit rights are at stake in these duties of the ruler and the ruled, for does the subject not have a right to benevolent treatment, and the ruler a right to expect subject obedience? We shall return to this example momentarily.

Secondly, having established that Confucianism as a virtue tradition and as a commutarian ethical system does not invoke rights language, can we not ask whether the *subject matter of rights* is addressed even if the *language of rights* is not invoked? No language about rights arose in China as a matter of cultural linguistic history. The case can therefore be made that without such a language, without appeal to a rights discourse, the foregrounding of virtue is so intensified as to suppress any appeal to the conceptual content of rights-talk. And, by that suppression, it could further be argued that rights issues are correspondingly backgrounded so far back as to cause rights to seemingly disappear altogether, as some, like Robert Weatherly *supra*, have claimed. Yet the question can be raised whether the backgrounding of rights expresses lack of attention to the content of rights concerns even as we acknowledge the failure to develop a rights language. What is the content of rights concerns? According to Sumner Twiss, human rights address “the importance of meeting people’s social and economic needs and [providing] support for the political empowerments that people need for self-governance and personal self-cultivation” (Twiss, 1997, p. 45). If these concerns constitute the core issues at stake under the linguistic rubric of “human rights,” then Confucianism, which was a tradition of self-cultivation that concerned itself with the good of society, with how a society is governed and how the needs of all in the society are met in an optimal and harmonious way, certainly does address itself to “human rights.”

The third way to access rights through the Confucian tradition is through critical questions about the virtue tradition itself. The primary concern here is whether moral character suffices to assure that the end of societal harmony can in fact be realized? Do societies not also need articulated norms and institutions both to bolster character as well as to protect against the failure of moral character (Henkin, 1997, p. 312)? What happens when virtue fails or the limitations and contingencies of social mores blind moral vision? What happens when virtue reflects, supports, and thus sustains group norms that endorse attitudes and actions that demean persons, such as those associated with patriarchy, sexism, or with religious, ethnic, or racial discrimination? This is the “rights” problem evoked by the example of Confucianism, and this is important because the cultural and social environment in which Confucianism arose quite clearly presents us with human rights issues worthy of moral reflection and analysis.

Patriarchy, for instance, is an overwhelmingly important issue. Confucianism sponsored a male dominated social order and reserved the privilege of household, as well as broader social and political leadership, to males, even articulating in the *chug-tzu* or ‘gentleman’ a gendered moral ideal. But more than this, Confucianism also provided religious sanction for a corresponding diminishment of women in China, visible in such abusive practices as foot binding, female infanticide, and a concubine industry for the wealthy (Hunt, 1991, p. 179). Furthermore, the whole emphasis of the Confucian ethic on virtue development was advanced in a manner that promoted a moral

hierarchy through a stratified system of relational inequality.

Virtue ethics is not adequate to resist or even challenge the assault on human dignity that arises when the assault is undertaken *in the name of virtue*. On the other hand, virtue ethics must not be reduced to a mere reflection of a particular society's mores and conventions. Different societies can interpret virtues differently; different actions can satisfy the requirements of virtue, and virtues can mean different things culture-to-culture, even individual-to-individual. "But it cannot be right," writes James Rachels, "to say simply that whether any particular character trait is a virtue is never anything more than a matter of social convenience. The major virtues are mandated not by social convention but by basic facts about our common human condition" (Rachels, 2007, p. 260).

Virtue ethics do not, then, simply endorse relativism, but neither are virtues per se indisputably reliable guides to action. Virtues will reflect the values and beliefs of a society and we can ordinarily associate virtue with attitudes, dispositions and actions in ways that reflect and promote those values and beliefs. Noting that patriarchy was much valued in Confucian China, and discriminatory attitudes have been directed toward races, ethnicities, and immigrants throughout human history, we know that certain energies subversive of goodness and contrary to a notion of universal respect for persons can broadly affect the beliefs and values of people who are working hard at cultivating socially sanctioned virtues in their respective

communities. But, if the values and beliefs supported in society dispose persons to inflict injustice and demean persons, causing harm to individuals or groups and thus violating the Silver Rule of Confucius that persons should not inflict on others what they would not want to suffer themselves, then the virtue ethic is in need of a “human rights” corrective. A virtue ethic culture can indeed support a social agenda that is inimical to human well-being, but the virtues sponsored in such a culture do not direct how one is to make decisions to act when conflicts arise or decisions about how best to realize the good are at issue. Virtues are constitutive of character, but sometimes the moral issue is what to decide and how to act, and without some moral guidelines about what constitutes right action, the virtuous person may opt for wrongful, harm-producing action. Virtue, being about character, is not about decision-making, and in conflict situations, even virtuous persons may have difficulty discerning a good, right and fitting course of action. An action is not good simply because a good person performs it.

So virtue can fail. I do not mean by this simply that individuals can fail to meet the requirements of virtue. The system of virtue ethics can fail. If, in a virtue culture, no corrective to bad decision-making exists outside of the culture’s own norms—i.e., the virtuous act virtuously and in that meet all relevant moral requirements—then what is not addressed is the possibility that cultural norms may reflect a moral wrong-headedness that cannot be acknowledged as wrong. Just as rights philosophies may downplay or background the concerns of what is required for people to live together in society,

where successful living will depend on a variety of virtues (loyalty, honesty, fairness generosity, benevolence, compassion and so on), virtue ethics are likewise inherently incomplete or inadequate in their failure to account for good, right and fitting moral action. Some moral problems concern what to do, and a virtue ethic does not obviously explain how to go about deciding the right and good thing to do—that is, why a person, even a virtuous person, should decide to act one way rather than another, this way rather than that (Rachels, 2007, pp. 264-65). For all these reasons, virtue ethics can call out for correction by a human rights perspective due to its own limitations as an ethical philosophy.

Social Harmony: A Discussion of Rights and Virtues

The question about possible connections to human rights through Confucian virtue requires us to consider the final end of both rights perspectives and virtue ethics. In general, virtue ethics direct philosophical attention to a process of moral development culminating in the acquisition of virtue, which is to say that persons not only act virtuously but are disposed to do so: that is, they are disposed to act in ways that reflect various excellences as excellence is defined in a social setting and is constitutive of universally recognizable “facts about our common human condition [Rachels, *supra*].” But the broader purpose of cultivating virtues is that by so doing human flourishing is promoted and attained. In Confucianism, human flourishing is inseparable from social well-being. Individual life is not driven by pursuit of self-interest but

subordinated to the greater good of preserving and prompting the whole skein of human relationships in society. Cultivating virtue was the means by which individuals could acquire the values and dispositions aimed at the great social excellence—finding one's proper place in the social order and in life's system of relationships. The prescribed virtues were to be cultivated to this end, and in that cultivation process, the individual would be engaged in a socially approved process of

. . .developing oneself as an individual....For virtue to be virtue is to fit the individual into the social whole, to be achieved by cultivation and transformation of oneself. Virtue is precisely the power of self-cultivation and self-transformation toward the goal of social and even political integration (Ceng, 1997, p. 145).

The virtues Confucius endorsed all involve duties to self and others. *Li*, for instance, establishes a duty of decorum necessary for the harmonious functioning of a person internally and in terms of relations to others; the self-cultivation required of *ren* establishes how one is related in, with and to co-humanity. Cultivating *ren* promotes the well-being of the individual, but it does so not simply as some activity that assists in a personal self-actualizing of some sort. Well-being, rather, is always socially defined. Virtue cultivation leads individuals to become perfected in virtue to the end that they come to be valued members of society, and, as such, individual virtue development ultimately advances the well-

being of society. On this understanding, Confucianism proceeds to do what a virtue theory of ethics ought to do: it addresses practical issues concerning how individuals are to function properly in society (akin to Plato's idea of justice); it instills an attitude of concern that takes as its focus goodness, not just for the individual but for the community; and specific virtues point to specific values and beliefs in a society that when developed into virtuous character actually enable individual human persons to contribute to the flourishing of society, to which their own personal flourishing is inextricably attached.

Confucianism envisions a virtue culture that emphasizes duties arising from social roles. That ethical culture aims at advancing peace and harmony and social well-being; and it endorses a vision of human flourishing that applies universally, encompassing a whole community, even a global community. Human flourishing, conceived both individually and collectively, provides the lynch-pin that connects Confucian virtue ethic to human rights, and the logic of how the two are connected can be discerned as follows:

1. As virtue cultivation in the Confucian sense is aimed at promoting the well-being or flourishing of persons-in-relationship, so too are human rights advanced, promoted and protected because they too promote human flourishing.
2. Human rights are those rights that human persons possess by virtue of being human; and they

uphold an idea of the inherent dignity of the human person. Rights, and human rights in particular, direct moral attention to certain values that it is good for people to have and to claim for themselves and others if for some reason they do not have them, so that rights become important for ascertaining the conditions needed for the realizing social harmony (Finnis, 1980). To lack basic human rights would mean that the conditions necessary for human flourishing are absent; and such a situation, in the Confucian context, would reflect a relationally broken social order.

3. Two things can be said about a social order that fails to create, or actively works to undermine, the necessary conditions for achieving the end of social harmony. One is that the society has failed in some way, perhaps though the misguided or harmful rule of its leaders, to meet its responsibility to provide for what we previously put forward as the contents of human rights, namely, “. . . meeting people’s social and economic needs and [providing] support for the political empowerments that people need for self-governance and personal self-cultivation [Twiss, *supra*].” And secondly,

those who suffer this deprivation have a right to have those conditions put in place. For without those conditions creating the possibility for the self-cultivation of virtue, the end of social harmony is beyond reach. The appeal to rights can thus be advanced as a requirement for the cultivation of virtue.

A particular example is often discussed in the conversation about Confucianism and human rights to illustrate how the two perspectives complement each other. And it concerns the responsibilities of a ruler to his subjects and the people's "right" to overthrow a tyrannical ruler:

King Xuan of Qi asked, "Is it true that Tang banished [the tyrant] Jieh and King Wui marched against [or in other translations 'overthrew'] [the tyrant] Zhou?"

"It is so recorded," answered Mencius.

"Is regicide permissible?"

A man who mutilates benevolence is a mutilator, while one who cripples rightness is a crippler. He who is both a mutilator and a crippler is an "outcast." I have indeed heard of the punishment of the "outcast Zhou," but I have not heard of any regicide (de Bary, 1997, p. 8; Hinton, 1998, p. 33).

The point of this passage in the human rights discussion is that it seems to point toward the right of the people to turn out a ruler who has failed in his duties toward the people, so that it can be reasonably inferred that the Confucian ethic, as enunciated by Mencius, endorses a fundamental human right of revolution: the ruler who fails in virtue can be subjected, in the end, to more than remonstrance and corrective action, but actual revolt. Violence and regicide are not condoned.

Sumner Twiss and Theodore de Bary have put some important qualifications on how this passage should be read: First of all, both note that nothing is said about the people or a right to revolt. At issue is appropriate kingly rule and the consequence of abusing that rule. The people, busy with their lives, are not expert in governmental matters, so those who are, the scholar-officials who serve the king, those in a position to evaluate the king's activities, are responsible for taking action if the ruler misbehaves. Their first duty, as de Bary puts it, is to "remonstrate with him." "If repeated remonstrances fail, they are to leave his service in silent protest. Should enough of them leave, it is the signal that the king has lost legitimacy and is due to be removed." (de Bary, 1997, p. 8). Revolt is not the next step—the responsible members of the ruling house are to depose the ruler and if that fails, some other leader will surely overthrow him. Concludes de Bary:

While recognizing that unchecked misrule may well provoke rebellion, Mencius recommends a process entirely consistent with

his—and the general Confucian—view that violence is to be avoided at all reasonable costs. Revolt is only a last desperate recourse for an exasperated people, understandable but not to be commended...[The point of Mencius' teaching] is to replace the use of force with a well-considered civil process, and above all with due process (what is right, fitting and orderly in the circumstances).” It is in this sense then that the observance of human rights is dependent on civility and due process—that Mencius and the Confucian can be said to offer what Twiss calls informed moral resources in support of human rights” (de Bary, 1997, p. 8).

What is significant about this interpretation is that it explores how Confucian virtue is to be brought to bear when virtue fails, that is, when a ruler abuses the privilege of his position, offends against the common good of the society, and violates a basic duty toward subjects. A human rights perspective could very easily endorse a right to revolution in the name of human rights. The above example shows a revolt of sorts taking place against the individual in power, but it is a revolt so qualified by the continuing influence of *li* and *ren* that it does not at first appear to be such. The revolt is rendered a corrective action through the language of ‘remonstrance’ rather than rights. The intervention is conducted with civility and non-

violence and aimed at a peaceful correction of the situation. Human rights language is not invoked, but neither is the content of rights irrelevant to what happens.

From this discussion of the ‘revolution’ passage, we see that the rights features are so backgrounded that even here, the virtue tradition asserts itself to guide the process of societal correction. Yet, the assertion of an appeal to rights does appear nonetheless—the right of persons to protest the actions of an abusive ruler and seek redress of grievances. But, we must also note that they are rights framed by attention to a virtue-prescribed due process and they are asserted by “gentlemen” if I may. The action of remonstrance and the move to correct the errant ruler are encapsulated by virtue’s civility even as those properly entrusted with acting in response to a failure of a ruler’s virtue press for a change and seek a restoration of propriety and humanness. The virtues are operational throughout the response to a ruler whose moral offense is seen also in terms of virtue—a violation of *li* and thus a corresponding offense against *ren*. The abusive ruler has upset the social harmony. That harmony will not be restored by violent revolution in the Confucian vision of things, but in realigning the ruler’s role with the ways of heaven. The person who serves in this role must be “realigned” in accordance with the virtues required to perform the ruler’s duties in relationship to his subjects, and thus in ways that serve the end of social harmony.

Conclusion: The Move toward Dialogue

The above example demonstrates the three senses in which I suggest that human rights and Confucian virtue complement and supplement each other: First, the duty of the ruler is balanced by a corresponding right of the people with whom the ruler is in relationship to expect virtue from the ruler in the ruler's dealings. Secondly, the subject matter of rights is addressed in this situation even though no language of rights is accessed or even available. Addressing a situation where at stake is the "the importance of meeting people's social and economic needs and [providing] support for the political empowerments that people need for self-governance and personal self-cultivation" (Twiss, *supra*) seems very much a way to characterize what is at stake in the Mencius example. And, thirdly, the reason rights appear so relevant to the situation is because virtue has failed. Rights as a concern have indeed appeared on the scene as a morally relevant accent to stress because when virtue fails, rights will appear even as a last resort.

Let us move toward the dialogue questions that now present themselves. What does the Confucian example tell us about the Western view of human rights, which can be traced back to a theo-centric presumption that human beings are endowed by nature or God with equal dignity? The example of non-theistic Confucian humanism would allow us to say that we can get to human rights without theism. Cultural context, we note, profoundly affects how a rights discourse might—or in the case of

Confucianism might not—develop. Furthermore, the Confucian legacy, with its focus on virtue, personal formation, and the expression of ethics in attitude, disposition and behavior appropriate to social context and role, reminds us that this ethic places an emphasis on personal moral development not unknown in other religious ethical systems. Buddhism, for example, stresses the cultivation of compassion and Pauline Christianity emphasizes that “the end of the law” is accomplished when one acts in accordance with having put on “the mind of Christ,” which Paul associates with love, gentleness, self-control, faithfulness, patience and other virtues.

Confucianism also presents an interesting reminder of the way in which ethical systems arise in the midst of cultural particularities. We can tease out of Confucianism a rights tradition but what is significant is that Confucianism does not valorize rights or assert the abstraction of a philosophical commitment to inherent human dignity as the core moral aspiration. Confucianism, rather, turns its attention elsewhere, not, finally, ignoring human rights, but rendering appeal to rights a kind of “last resort” as it focuses on virtue and self-cultivation instead.

Could a turn toward virtue and self-cultivation enhance ethics traditions that are preoccupied with rights and human rights? This is an important question for cross-cultural ethics dialogue. It is clear that certain leaders in Chinese culture over the millennia and due to interaction with other cultures and traditions did modify China’s Confucian inheritance, and did so in the direction of placing greater emphasis on human rights and reforming society. With the

rise of the New Culture Movement in China, rights came more to the fore out of the background. Do we see—do we want to see—a corresponding movement of virtue ethics comes to the fore in those ethics traditions that have traditionally backgrounded virtue and moral self-cultivation? Would not such a virtue approach place a new emphasis on the need to negotiate differences, to honor relationships, to engage others with propriety, benevolence, and a sense of seeking the well-being of all?

One important lesson of the Confucian virtue tradition is its presentation of a civility ethic, which in a very practical sense served as a check on violence. There is a reserve and restraint in the Confucian virtue approach that would insist on all kinds of non-violent actions prior to any action that might, as a last resort, constitute a justifiable, though not commendable, use of force. This civility ethic is important if we remember that the great revolution in France against the tyranny of kings opened the spigots to what would become a revolutionary blood bath. The revolutionary slaughter in France was sponsored by a rhetoric of human rights that failed to advance civility but instead came to serve new and murderous forms of cruelty.

Confucian virtue would surely shun such violence as contrary to virtue and contrary to the end of social harmony. How might a virtue tradition supplement a rights tradition to advance the cause of peace and reconciliation in a conflict-torn world? The Confucian tradition reminds us that in the end we must demonstrate the values of civility by enacting those values in

our many relationships—and although the idea of the Confucian “gentleman” is unfortunately a gendered ideal, as a rights perspective will justly point out, should not the civility provoked by that ideal and resulting from moral education—the proprieties and sensitivities to the well-being of others, the courtesies of other-regardingness—serve as guides for how to conduct our interactions across the divides of religion, culture and ethnicity? This is a question provoked by the Confucian moral ideal.

The Confucian tradition did not arise in a culture where the challenge to social harmony was created by widespread racial, ethnic and religious diversity. So does the Confucian vision provide any helpful clues for how to live in an interrelated world where geographical distance ought to be no barrier to our duties to others and to developing our sense of co-humanity? I would suggest that the kind of world-wide response that arises in the wake of massive earthquakes and tsunamis and other natural disasters gives evidence that a global virtue ethic, tied to global relationships and an unbounded sense of duty to care for others, is operating in our world today. And that virtue ethic is integral to the community with which we identify ourselves—that global community where we connect in the flows of communication, travel, trade, and care for others as we all adopt the identity of global citizens.

We can now turn back to our opening question: Is the idea of universal human rights the only or the best way of fostering harmony in the face of global religious diversity? If a virtue ethic is integral to our sense of identity in a global community, then realizing social harmony will

require more than the affirmation of human rights—it will require as well the cultivation of those virtues that would govern civil, benevolent and peaceful relationships with others in that wider harmony Confucianism identified as *ren*, the good of co-humanity. That Confucianism attended to such concerns suggests that its example might yet have contributions to make toward shaping the moral growth of human beings in an evolving global community.

References

- Ceng, Chung-Ying. “Transforming Confucian Virtues into Human Rights.” Eds. Wm. Theodore de Bary and Tu Weiming, *Confucianism and Human Rights*. New York: Columbia University Press, 1997.
- Chan, Joseph. “A Confucian Perspective on Human Rights for Contemporary China.” *The East Asian Challenge for Human Rights*. Eds, Joanne R. Bauer and Daniel A. Bell. Cambridge: Cambridge University Press, 1999.
- Chan, Joseph. “Human Rights and Confucian Virtues.” *Harvard Asia Quarterly* IV, no. 3 Summer 2000. www.asiaquarterly.com/content/view/79/40.
- Confucius. *Analects*. Trans. and Intro. D.C. Lau. New York: Penguin Classic, 1979.
- de Bary, Wm. Theodore. “Introduction.” *Confucianism and Human Rights*. Eds. Wm. Theodore de Bary and Tu Weiming. New York: Columbia University Press, 1997.

- Dixiu, Chen. "The Constitution and Confucianism." *The Chinese Human Rights Reader: Documents and Commentary 1900-2000*. Eds. Steven C. Angel and Marina Svensson. Armonk, NY, London: M. E. Sharpe, 2001.
- Fingarette, Herbert. *Confucius: The Secular as Sacred*. New York: Harper Torchbook, 1972.
- Finnis, John. *Natural Law and Natural Rights*. Oxford: Clarendon Press, 1980.
- Henkin, Lewis. "Epilogue: Confucianism, Human Rights, and 'Cultural Relativism.'" Eds. Wm. Theodore de Bary and Tu Weiming, *Confucianism and Human Rights*. New York: Columbia University Press, 1997.
- Hinton, David, ed. *Mencius*. New York: Counterpoint, 1998.
- Hunt, Arnold D., Hunt, Marie T. Crotty, Robert B. Crotty, eds. *Ethics in the World Religions*. Revised Edition. San Diego: Greenhaven Press, 1991.
- Rachels, James. "The Ethics of Virtue." *Vice and Virtue in Everyday Life: Introductory Readings in Ethics*. 7th Edition. Eds. Christian Hoff Sommers and Fred Sommers. Belmont. CA: Wadsworth, 2007.
- Svensson, Marina. *Debating Human Rights in China: A Conceptual and Political History*. Lanham, MD: Rowman and Littlefield, 2002.

Twiss, Sumner B. "A Constructive Framework for Discussing Confucianism and Human Rights." *Confucianism and Human Rights*. Eds. Wm. Theodore de Bary and Tu Weiming. New York: Columbia University Press, 1997.

Twiss, Sumner B. "Confucian Values and Human Rights." *Human Rights and Responsibilities in the World Religions*. Eds. Joseph Runzo, Nancy Martin, Arvind Sharma. Oxford: One World, 2003.

UN Universal Declaration of Human Rights. <http://www.un.org/en/documents/udhr/>. Retrieved March 26, 2012.

Weatherley, Robert. *The Discourse of Human Rights in China: Historical and Ideological Perspectives*. New York: St. Martin's Press, 2001.

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