A NATURALIST VERSION OF CONFUCIAN MORALITY FOR HUMAN RIGHTS

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Abstract

This article analyzes the source of Confucian universal morality and human dignity from the perspective of the classic saying, "what follows the *dao* is good, and what *dao* forms is nature" (*jishan chengxing*) found in the Great Commentaries of the *Book of Changes*. From a Classical Confucian perspective, human nature is generated by the natural *dao* of tian, so human dignity and morality also emerge from the natural *dao* of *tian*. This article discusses the relationship between the Confucian *dao* of *tian* and the moral notion of human rights which ensues from the historical tradition of Chinese exegesis on this subject. Specifically, the authors reconstruct a naturalist version of Confucian morality which inherently motivates the beneficial outcomes generally associated with the modern Western conception of human rights. The authors argue that such a framework, which would draw upon Confucian "natural goodness within human nature" differs significantly from the more commonly accepted Mencian version of human morality dependent upon the premise that "human nature is good". This intra-mural differentiation within Chinese philosophy can be helpful in structuring dialogue with various Western theories of human rights.

บทคัดย่อ

บทความนี้วิเคราะห์กำเนิดศีลธรรมสากลของขงจื้อและศักดิ์ศรีของความเป็นมนุษย์จากแง่คิดแห่งคติธรรมที่ว่า "สิ่งที่ตามเต๋าย่อมดี และสิ่งที่เต๋าก่อรูปก็คือธรรมชาติ" ซึ่งปรากฏอยู่ในอภิธรรถกถาแห่งคัมภีร์ที่ว่าด้วยความเปลี่ยนแปลง

ตามแนวคิดของขงจื๊อดั้งเดิม ถือว่าธรรมชาติของมนุษย์เกิดมาจากธรรมชาติของเต๋า
แห่งสวรรค์ ดังนั้น ศักดิ์ศรีและศีลธรรมของมนุษย์ย่อมผุดออกมาจากธรรมชาติ
ของเต๋าแห่งสวรรค์นั้นด้วย บทความนี้อภิปรายถึงความสัมพันธ์ระหว่างเต๋าแห่ง
สวรรค์ของขงจื๊อและแนวคิดสิทธิมนุษยชนด้านศีลธรรม ซึ่งเป็นผลมาจากขนบ
ประวัติศาสตร์ของการตีความคัมภีร์ โดยเฉพาะอย่างยิ่ง ผู้เขียนได้สร้างสรรค์แนวคิด
ด้านศีลธรรมของขงจื๊อใหม่ตามแบบฉบับของนักธรรมชาตินิยม ที่เชื่อมโยงกับ
แนวคิดของขงจื๊อเข้ากับเรื่องสิทธิมนุษยชนแบบตะวันตกอย่างอย่างลงตัว
ผู้เขียนได้ให้เหตุผลว่า กรอบแนวคิดดังกล่าวนั้น ซึ่งได้มาจากแนวคิดขงจื๊อที่ว่า
"ความดีตามธรรมชาติภายในธรรมชาติของมนุษย์" ซึ่งแตกต่างกันอย่างมีนัยสำคัญ
จากความเชื่อของเม่งจื๊อเกี่ยวกับศีลธรรมของมนุษย์บนข้ออ้างที่ว่า "ธรรมชาติ
มนุษย์นั้นดี" แนวคิดปรัชญาจีนที่มีนัยต่างกันภายในสำนักเดียวกันเช่นนี้ช่วยให้เกิด
การเสวนากันได้ดีกับแนวคิดตะวันตกที่หลากหลายด้านสิทธิมนุษยชน

Introduction

The search for a Confucian foundation for human rights is a grow-
ing enterprise within contemporary scholarship. Despite the absence of a
well-defined policy of human rights in modern China, many scholars sug-
gest that there are numerous primary and comprehensible ideas related to
human rights embedded within Classical Confucianism. This article re-
constructs a naturalist version of Confucian human rights based on the
hermeneutical tradition built upon the saying within the Great Commen-
taries of the *Book of Changes*: "What follows the *dao* is good, and what
dao forms is nature" (*jishan chengxing* 继善成性). In much the same way
the contemporary Western notion of human rights is expressed by the
United Nations' *Universal Declaration of Human Rights*, the Confucian
conception of human rights is seminally expressed in the statement that
"the benevolent people tend to love others". But precisely how these
two approaches should interface has eluded scholars within the circle of
comparative philosophy. The authors of this article consider the origins
of Confucian personal rights to be the appropriate entry point for tackling

this question.

     According to Clifford Orwin, Christian morality continues in secular clothing despite Richard Rorty's claims that the God is dead, the latest version of Nietzsche's famous claim that "Gott ist todt", (Orwin, 2004: 31-2).[2] The concept of morality in human rights emerged as a real global morality in replacement of earlier formulations of theological morality following the Second World War. The practical impetus which led to the casting of human rights as a moral issue emanated from the United Nations' recognition of the need for an international court to judge the inhumane atrocities which had scandalized Western nations. These included the racial genocide and war crimes of World War II, and extend to more contemporary massacres such as in Yugoslavia in 1993 and Rwanda in 1994. The theoretical foundation for the morality of human rights is stated in Article 1 of the Universal Declaration of Human Rights, which declares that, "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood". The dual implication of Article 1 is that every human being is born with innate dignity and that every human being must respect the innate dignity of other human beings. This term "innate" strongly suggests that the worth of the individual, far from being dependent upon, actually transcends factors of race, color, sex, language, religion, politics and social status, etc.

     What elements, then, constitute the essence or foundation of the "innate dignity" of human beings? While the Universal Declaration of Human Rights implies that humans are "endowed with"…"innate dignity", that document stops short of identifying or explaining the source thereof. The pre-modern conception of an almighty creator-God has been an historical referent for human dignity for most of the world, and theism has also provided the foundation for the morality of human rights by virtue of the West's religious heritage (Perry, 2007: 1-6). But with today's global pluralism and the blurring of boundaries between East and West, an appeal to the God of any one tradition falls short of a universal standard. For this reason, it is necessary to explore a non-religious answer for this question.

     According to Michael J. Perry, the argument for the traditional Western morality of human rights is as follows: John 4:16 states that

"God is love. Whoever lives in love lives in God, and God is in him". We are all sons and daughters of God, and we are brothers and sisters of each other. Thus, everyone possesses innate dignity and should not be harmed; humans should respect and love each other. It is necessary to believe that the God creates humans not only to be brothers and sisters of each other, but also to have union with God through love. This is not only union in an ontological sense, but also the practical recognition that human beings are inseparable, such that we share each other's interests (Perry, 2007: 8-9). In this version, human nature is created by God, and all humans as sons and daughters of God should live as brothers and sisters. The utmost fulfillment for human beings is to attain to unity with God through love.

In contrast, the theoretical vision of a Confucian morality of human rights is naturalist. Confucian human rights emerges from the natural *dao* of *tian*, which differs from the foundation of theological morality based upon the Law of God. In Confucian moral theories, a "*dao's-eye-view*" is relativistic, but it is not moral relativism. However, a "God's-eye-view" entails an absolute frame of reference. A Confucian theory of moral choice needs to examine human ethical behaviors and start with obligation or consciousness.

In fact, Confucian moral facts can involve both beliefs and desires, so a Confucian theory of action can be both "motivational" and "emotivist". This article focuses on the hermeneutical sources for "what follows the *dao* is good, and what *dao* forms is nature (*jishan chengxing*)" in the Great Commentary of the *Book of Changes*, and argues that universality can be found in a Confucian naturalist morality of human rights. Additionally, this article attempts to dialogue with Western ideas of human rights on both theoretical and practical levels.

I. *Hermeneutical sources* on "what follows the *dao* is good, and what *dao* forms is nature (*jishan chengxing*)" in the Great Commentary of the *Book of Changes*

Discussing some hermeneutical sources on"what follows the *dao* is good, and what *dao* forms is nature (*jishan chengxing*)" in the Great Commentary of the *Book of Changes* will help us to clarify the theoretical

development from Mencius' statement that "human nature is good" through the Song-ming Neo-Confucian statement "from goodness to nature". This clarification is heuristic in constructing a naturalist version of Confucian morality of human rights.

According to Xiang Shiling, when Han Kangbo commented on *The Book of Changes* after Wang Bi, Han did not explain the line about "what follows the *dao* is good, and what *dao* forms is nature (*jishan chengxing*)" in the Great Commentary. Thus, at that time, what was not an important theoretical point for Han eventually became a fertile topic of debate in Song-ming Neo-Confucianism. This reflects Neo-Confucianism's theoretical effort to construct a "natural goodness-human nature" framework from the *dao* of *tian* to the dao of human beings. Many Neo-Confucians have worked on separating goodness from nature (Xiang, 2008: 32-42). For example, Cheng Hao uses the line about in the *Great Commentaries* to explain Mencius' idea that human nature is good, and he also claims that it is beyond the expression of "goodness" to describe the ontological a *priori* nature (Cheng, 1981: 10-1). Xiang claims that the *a priori* goodness of nature becomes *post-priori* in the two Cheng brothers (Xiang, 2011: 140). Cheng Yi argues the statement that "human nature is originally good" could be taken as the "goodness of nature" which takes goodness to be a characteristic of human nature; and his elder brother, Cheng Hao also agrees. This paper argues that both Cheng brothers proposed new interpretations on the Mencius' doctrine "human nature is good".

Other Neo-Confucians in the Song Dyansty, like Hu Hong and Zhang Shi, also claimed that goodness is a property *attached* to nature, so goodness should not be taken as an essential character of nature. Su Shi also claims that when *dao* and things meet, goodness emerges, thus, goodness is produced naturally, so it is not viewed in a moral sense any longer. Things naturally emerge and *yin-yang* naturally disappears, so goodness is simply a stage in the creative process of heaven and earth, that is original and ontologically grounded. Su argues that it is possible to reason the existence of a father through his son, but one cannot infer the existence of a son from the father. Su holds that the goodness comes from the *dao*, clearly against the Mencian doctrine of taking goodness to be nature. For Su, goodness is just an effective property of nature, but Mencius

confuses these two, which for Su, is unacceptable. But later, Zhu Xi disagrees with Su because Su takes *dao* and things to be two separable aspects. Chen Chun, Zhu Xi's student, and Xue Xuan during the Ming Dynasty both agreed with Zhu that goodness and nature are inseparable (Xue, 1990: 1297-8).

Keeping with the Cheng brothers' separation of goodness and nature, Zhu Xi claims that the natural pattern (*li*) is always good, and that things within nature accept this to be the case. He applies the Zhongyong's separation of *a priori* and *a posteriori* to argue that, for heaven and earth, it is goodness which precedes nature, but for humans, it is nature which precedes goodness. Thus, Zhu claims that the "what follows the *dao* is good" referring to that which is prior to birth, while for Mencius "human nature is good" applies following birth (Zhu, 1986: 1898). Cai Qing, during the mid-Ming Dyansty, also separated these two (Cai, 1986: 602). His view was succeeded by Wang Fuzhi who clearly argues that "what follows (*jizhi* 继之)" means the horizon between heavens and humans, and there is no separation between "following" and "not-following". Thus, to render tian as nature places it beyond good and evil, and the source of goodness must come after "what follows" or it will fail to be made manifest. It is the human being which follows the *dao* of tian that is good. Wang also claims that human life comes from the *dao* of the yin-yang of heaven and earth. He claims that human nature is good because humanity follows tian/Nature, and it does not mean that before "what follows" it is already good. He criticizes Mencius' "confusion" of the logical relationship between the goodness which connects to nature with "human nature is already good", implying that Mencius takes particulars to be universals. Thus Wang rejects the Mencius claim that human nature is good (Wang, 1988: 959).

In sum, we might argue that Neo-Confucian philosophers transcend the Mencius statement that "human nature is good" by reinterpreting the relationship between goodness and human nature. This philosophical breakthrough could be taken as the theoretical foundation for constructing the universal "natural goodness-human nature" of a Confucian morality of human rights.

II. Naturalist theoretical reconstruction of "Natural goodness-human nature"

As we have demonstrated, there emerged a naturalist theoretical transformation when Neo-Confucian philosophers attempted to develop the Mencius "human nature is good" into a "Natural goodness-human nature" framework. This theoretical breakthrough may serve as a foundation for our forthcoming reconstruction of a naturalist version of Confucian morality of human rights. Just as the theoretical transformation of these Neo-Confucians was motivated by the challenges of contemporary Buddhism, a reconstruction of a Confucian morality of human rights is motivated by challenges from the modern conception of human rights and meta-ethics. Actually, what Neo-Confucians developed as the Mencius "human nature is good" to be "natural goodness-human nature" structure can be seen as a theoretical reconstruction for transforming moralism into naturalism. Thus an initial task for us will be to examine what is necessary to provide this transformation with a modern philosophical face to become a naturalist version.

From the traditional notion of religious-moral foundationalism, natural goodness is the imitation of the goodness of God. God is the complete good, so human goodness is a property of and reflection of the goodness of God. Where religious foundationalism is not accepted, the theologically sympathetic may look to a "God-constructed" naturalist version of goodness. However, in admitting that humans are not "as good as they should be", how can "natural goodness" be "good?"[4] One way of responding is to return to the natural law tradition. For example, Michael J. Perry avers that the natural law of the morality of human rights is untenable without the support of theology, or the existence of God (Perry, 2007: 19).

For those who look beyond the tradition of religious foundationalism, the origin of morals is generally sought either within natural science, or within the dynamic of secular life. Is it necessary to build moral theories upon objective facts as with scientific theories? Are there moral facts? Generally, morality and science have been considered separate discourses (Shafer-Landau, 2003: 67). The classic "is vs. ought" distinction, attributed to Enlightenment philosopher David Hume, enjoins

scientists and philosophers alike not to confuse fact (that which *is*) with value (that which *ought to be*). A similar, although substantively different claim, was made by G. E. Moore in his recognition of the Naturalistic Fallacy which incorrectly identifies what is "good" with whatever may be preferential or bring greatest utility (Moore, 1903). Ethical naturalism considers moral facts to have causal powers, so ethical behaviors are all natural facts and not non-natural facts. Moral realist Shafer-Landau claims that moral facts possess the same ontological status as scientific facts (Ibid., p. 55). His implication is that moral facts operate like scientific and social facts such that they are similarly subject to the rigors of scientific hypothesis testing. Peter Railton considers that moral properties are objective, yet non-cognitive truths (Railton, 2007: 187). Shafer-Landau also admits the objectivity of moral judgment, which is independent from personal thought, and can transcend the concreteness of time and space (Shafer-Landau, 2003: 2). According to these forms of moral realism, ethical normativity does not rely upon God (at least within secular versions), nor upon the existence of human beings, so moral facts are objective facts. However, Martha Nussbaum argues that the "should" in "how humans should act" comes from care and compassion toward others who are less fortunate (Nussbaum, 1996: 27). Rorty does not accept Nussbaum's Mencian way of incorporating an emotional foundation into the determination of human nature as good, and he denies the concept of universal human nature altogether. For Rorty, morality is a construct which relies upon "our Eurocentric human rights culture", (Rorty, 1993: 126) a position criticized by Bernard Williams (Williams, 1983: 33).

While most versions of human rights fundamentalism, religious or not, admit to the innate dignity of every human being, recent theories have questioned the exceptionalism of homo-sapiens, such as Peter Singer's work in animal rights or recent advocacy of the rights of nature itself as in the French *ecologisme* movement. Contemporary science fiction has also raised the spectre of robot-rights, when automatons achieve some form of intellectual or moral sentience.

Yet, while most moral philosophers acknowledge that there are many different kinds of moralities in modern and postmodern times, some, like Michael J. Perry, assert that there is little impetus to fully banish foundationalism or a place-holder for God, at least for pragmatic rea-

sons. As mentioned above, the Universal Declaration of Human Rights seems to reflect this tendency in its invoking of the term "endowed" without stating by whom or what humans are "endowed" with rights. Perry agrees with Philippa Foot that most contemporary moral philosophers rarely question the foundation of morals in the scathing way Nietzsche did (Ibid., p. 23). In this regard, Philippa Foot claims that 'natural' goodness…is attributable only to living individuals and to their parts, characteristics, and operations; and that it is an intrinsic or 'autonomous' goodness in that it depends directly on the relationship of an individual to the 'life form' of its species". (Foot, 2001: 26-7) Foot uses the concept of necessity to explain "natural goodness" just as an oak needs a sturdy root since "the good of the oak is its individual and reproductive life cycle", and this, according to Foot, requires the Aristotelian notion of necessity (Ibid., 46). Human goodness is different from the goodness of animals and plants (Ibid., 51) because humans have good minds, good natures and do good deeds, animals and plants merely respond to their natural environments. Ronald Dworkin considers human specialness to be based on two basic facts concerning human beings: 1. Everyone is the highest product of our natures; 2. the growth of each person is not just a product of nature, but what humans actively achieve. Thus, no one should be offended by others, for humans are unique in two distinct ways: their natures and their human creativity (Dworkin, 1993: 82-3).

In contrast, most Neo-Confucians consider "what follows" as nature, and "completing it is nature" as human creativity. For them, the original meaning of this line in the Great Commentaries is to consider the natural movement of heaven and earth to be good; and individual things come into being because they receive their natures which are formed as *dao* moves. This theoretical framework from the Goodness of the *tiandao* 天道 to the nature of human beings demonstrates that human nature and rights come from a kind naturalist theory of goodness, and not the assertive claim that human nature itself is originally good. The statement that human nature is good may rest upon the dichotomy of good and evil, such that it becomes a kind of assertive claim in the form of subjectivism with simple judgments. On the contrary, a Confucian morality of human rights possesses a naturalist foundation and moral facts like the *dao* of heaven and earth (*tiandi*) 天地之道 is good. However, this good is not the

"good vs. evil" good as in dualist metaphysics, but natural goodness. This kind of naturalist goodness differs from the Aristotelian claim that "some are goods in their own right" and "others goods because of these" (Irwin, 1999: 6, 1096b14-15).

Naturalist goodness can be traced back to commentaries on this line by many Neo-Confucians. For example, Hu Yuan's Commentaries on the *Book of Changes* considers the *tian* to raise the myriad things as natural (Hu, 1986: 466-7). Just as He Kai 何楷 uses the sense of Spring to refer to the creativity of nature, and the goodness of nature is exactly like the naturally growing grasses and trees. This is very similar to the Cheng brothers' claim that what sages did was to transform the good deeds of heaven and earth into particular things, and complete the goodness within human affairs (Cheng, 1981: 29). Zhang Zai claims that such goodness is to describe the sustaining effort of humans' succeeding the natural good accomplishments of heaven and earth (Zhang, 1978: 187-8). In this way, it is possible to take natural goodness as good deeds, so it is resonant with natural cosmological sensibility of the *Zhongyong and the Great Commentaries*. In short, Zhang Zai takes "goodness" to be the property of the succeeding characteristic of the "good" *dao* (Ibid., 192). Cheng Hao makes it clearer that *dao* is to be applied on the achievement and function in succeeding the moving *dao* (Cheng, 1981: 135). Hence, "goodness" is a kind of functional characteristic of natural *dao*. Zhu Xi's commentaries on Zhou Dunyi's Tongshu indicate that goodness starts out as a natural pattern (*li*), even before it possesses its own name, so it comes into its own being. Penetrating (tong) is to name this naturally self-forming process". (Zhu, 2001: 98) This is a kind of naturalist interpretation, and the "goodness" of this creative process is the natural goodness in its ontological sense.

When Zhu Xi answers his students' questions, he claims that the word succeeding (*ji* 继) refers to the incipient nature of movement, which is both the end to stability and the starting point of motion (Zhu, 1994: 2). This is to explain the succeeding (*ji*) from the perspective of the cosmological beginning and things which are about to come into beings (Zhu, 1986: 2388). Both Cai Qing and Lai Zhide in the Ming Dynasty clearly define "goodness" as cosmological ontological being which transcends concrete forms and materials. Wang Fuzhi also comments that succeed-

ing (*ji*) is the moving horizon between the heavens and human beings (Wang, 1988: 825).

Zhu Bokun considers this line to indicate that all things that succeed the pattern of yin-yang are perfect, and all natures are complete with both yin and yang, so all natures are also perfect (Zhu, 1998: 79). Yang Qingzhong points out that Zhu's idea takes "goodness" to be perfect, and not the goodness which is juxtaposed against evil (Yang, 2005: 217). Thus, the perfect completeness of human being comes from the ontological goodness of complete natural *dao* of *tia*n. To claim that "human nature is good" is just a kind of judgment concerning the completeness of human nature. Along these lines, the good in "human nature is good" as moral judgment should be based on the naturalist moral fact of the *dao* of *tian*. Accordingly, the Confucian morality of human rights should be based upon this version of moral judgment about "human nature is good". In this way, the goodness of human nature should not rely on any dogmatism, solipsism or subjectivism relating to particular religious foundations, but on the "good" natural facts starting from the natural movement of *tiandao*. As such, this constitutes a theoretical version of naturalism.

III. Confucian natural morality and Western morality of human rights

Regardless of their theoretical differences, both the naturalist version of rights in the Confucian "natural goodness-human nature" framework and the Western traditional morality of human rights promote the duty of humans to act morally according to their consciences and to respect the human rights of others. Thus, the respect for human dignity needs to be demonstrated in moral behaviors by each individual or communally by moral actions.

Generally, the religious version of Western morality of human rights based upon religious foundationalism is experienced by the believer as a form of Divine Command Theory (DCT) and incorporates the epistemologies of natural law, known and evolved facts, the revealed scriptures, religious experience, and supernatural experiences. As for DCT, human obedience is obligatory, and the commands come from God's orders, which supersede human authorities. This is often seen as a view of

human freedom. On the other hand, theistic morality is not always portrayed as external to individual will and conscience. The problem of obeying external law as opposed to internal conscience is a theme addressed throughout the Judeo-Christian Scriptures, giving rise to an "internalizing" solution in the words of the prophet Jeremiah which allows the individual to obey God autonomously: "I [God] will put my law in their minds and write it on their hearts". (Jeremiah 31:33 and Hebrews 10:16, New International Version). Nonetheless, even when the individual is free to choose and endorse personal moral actions, how does the epistemology of hearing or knowing the Will of God achieve consensus in a system which fosters personal interpretation of the will of God. In a pluralistic society, individuals and communities, religious or not, must determine what it means to act according to conscience, regardless of one's religious belief as to what informs the conscience.

While there may be ineffability between differing interpretations of God's Will for theistic moral agents, there is no lack of potential conflict within the competing moral visions of non-theists. Secular versions of human rights may move society beyond theological foundations, but the question of where to anchor moral values remains. There are several moral sources of human action in the naturalist version of Confucian morality for human rights: the conscience one is born with and develops from early life; sympathy based upon conscience which leads to a natural moral sense and desires; community wisdom or social convention, which is different from any transcendental theories; and, particularly important in Confucian societies, and the canonical teachings of sages passed down as part of family tradition and cultural values. All these sources rely, to varying extent, on the ancient classics to provide moral wisdom and guidance for life. In what way, then, may we draw upon the classics to inform our contemporary moral notions, especially with respect to human rights morality?

One approach is to apply to our contemporary world the basic concepts of virtue explicated in the classic texts, fostering a dialogue with human rights thinking. One of the most prominent virtues is the notion of ai *ren* or "benevolent love". Irene Bloom believes that Mencius recognizes the ideas of human equality, responsibility, relationship, and dignity as compatible to virtues held by a consensus of modern civiliza-

tions (Bloom, 1998: 94-116). Henry Rosemont opposes the assumption of the autonomous individual in contemporary human rights thinking as incompatible with the role-embedded individual in Confucian ethics and political rights. Rosemont agrees with Roger Ames in establishing an alternate vocabulary if Westerners want to discuss Confucian ethics and politics (Rosemont, 1998: 55). Wejen Chang holds that contemporary human rights thinking and the Confucian version of human rights are conceptually compatible, and that they should be theoretically combined even though they were rooted in different histories in practice (Chang, 1998: 134).

Chung-ying Cheng has theorized that the language of Confucian virtues and duties may be translated into corresponding rights language in that rights and duties are, in some ways, mirror-like corollaries. According to Professor Cheng, individuals-in-community should become aware of their responsibilities (not just their rights) for the community and for the public. Since no one could be separated from her community, this sensibility should motivate individuals to participate in public affairs to the extent of their capacity. Extreme forms of public expression which may result in rebellion might occur if individuals are given no recourse to participate in public affairs properly. Cheng concludes that people have a right to contend for freedom and for the practice of virtues by their leaders (Cheng, 1998: 151). Along these lines, an important contribution of the Confucian version of human rights, based on "natural goodness-human nature", is the understanding of moral obligation. Confucian moral obligation has no need of transcendent sources or commands, as it is generated from socially defined moral roles, and it becomes morally obligatory based upon non-particularistic, yet situational contexts.

Consequently, conflict may not always be avoidable between one's personal self- interests and social-political interests when the Confucian "natural goodness-human nature" framework interacts with contemporary human rights. There are several views on record for resolving this type of conflict: Julia Ching holds that, as far as the circle of East-Asian Confucian societies is concerned, the human rights situations in Japan, South Korea, and Taiwan has experienced great improvement in the 20th Century. Human rights is an effective Chinese concept, Ching asserts, at least in the following three aspects: 1) there is a Confucian version of

human rights; 2) most East Asian countries recognize the idea of human rights; and 3) there is no conflict between democratic practice and the Confucian tradition in East Asian countries. Therefore, Ching concludes that there is no essential conflict between the Western notion of human rights and that of the Confucian tradition in theory; but conflict might occur when political rights are interfered with by powerful authorities (Ching, 1998, 67-82). D. W. Y. Kwok points out that to be a Confucian person means to learn "rites", but education in "rights" is often missed. According to Kwok, all nations of Asia experienced numerous political revolutions and transformations during the 20th Century, so no single form of government and society can be said to be purely Confucian. The key to developing and practicing Confucian human rights today depends upon whether Confucianism's advocates can enlarge the concept of "person", and provide the common people with legally insured rights (Kwok, 1998: 83-91). Randall Peerenboom is sensitive to the real Chinese situations in which Communist Party leaders like Deng Xiaoping have emphasized the unity of thought, and Confucian "rites", Peerenboom also points out, are not "rights". At the very least, rights exist to protect individuals and minorities from unjust treatment by majorities (Peerenboom, 1998: 249-253). Toward this end, China's current leaders have on their plates the need to address both the language and substance of rights as a primary issue in the emerging China of the 21st Century. That there may be no single solution for all countries can be seen in the fact that Taiwan and Singapore are considered states with exemplary human rights practices, yet their citizens do not enjoy the same freedoms of expression guaranteed by the United States Constitution's First Amendment. Each country will draw a different line in the balance between individual rights and the needs of the majority and state.

The Confucian naturalist framework of "natural goodness-human nature" offers practical aide to the human rights situations in contemporary Chinese society. The recognition of the indigenous place of human rights in Chinese thought enables today's China to embrace human rights as authentically Chinese. This is significant as China interacts with Western and other nations which appeal to human rights as a universal standard by which to judge the legitimacy of all political regimes. Confucian-derived human rights theory and practice ensure that the call to human

rights is not a foreign imposition but an embracing of ancient and classical Chinese heritage. Nationally sponsored research into the cultural roots of human rights in China, via Confucian studies, also positions China to become a major contributor to and authority on human rights as a global dialogue.

As the course of history and Chinese civilization has shown, Confucianism may be co-opted by authorities, whether governmental or religious, as a form of social control. Many human rights abuses in Chinese history have been attributed to Confucianism for this reason, including the subjugation of women through practices such as foot-binding or polygamy. Conservative political movements have often justified corruption by appeal to Confucian rites and values. What is important to keep in mind is that none of this has truly represented the spirit of Confucianism which advocates for the individual and the powerless in society. Authentic Confucianism, derived from the canonical texts, rather than from social customs, has produced the highest levels of intellectual advancement and freedom in China's history. Examples of these ideals include the aesthetic developments of intellects pursuing personal freedom in the Wei-Jin Dynasties, the robust individuality of characters in literature such as the *Dreams of Red Chamber*, historical novels like *Three Kingdom Romance* and *All Men are Brothers*, where personal characters are distinctive and rise above corrupted social values. The Confucian "natural goodness-human nature" framework inspires individuals to fight for human rights as rights to be defended for one's community and social context.

Traditionally, the Confucian practice of morality of human rights stresses the consistency of personal behavior and social circumstance, negating one's selfish desires from "conquering oneself" (*keji* ??), to "extinguish one's personal desire (*mie renyu* ???), and disregarding one's own rights in order to be recognized by authoritarian or ritualized society, and fulfilling the value of "goodness" in social norms. There is an historical embedded-ness to many of the traditional concepts associated with Confucianism. Yet, change has been a constant factor in China's long history, and change in customs and practices has occurred with the social expression of Confucianism. Contemporary Chinese society has much room within it for the revisioning of Confucian social practice, es-

pecially with the Confucian naturalist version of "natural goodness-human nature" framework as it is disseminated and put into practice.

In traditional Confucian society, "rites" are demanding requirements for persons, and the ethical standards or norms for individuals who will be engaged in society. It is a Confucian view that rites are helpful in sustaining stability and family and community well-being, so there is a temptation for leaders to practice authoritarianism in ensuring that people follow ritual systems. However, "rites" might not always accommodate the moral "goodness" of human nature, so sometimes following rites becomes a social requirement for purposes other than the well-being of the individual.[5] In this way, at the individual level, "rites" and "rights" may actually work in two opposite directions. "Rites" are limitations upon individual freedoms for the purpose of sustaining the community. "Rights" are limitations on the greater community in order to sustain the freedoms of the individual. This is one of the many challenges facing any measure of social change within China.

The authors are confident that, on the public level, it is possible for China to develop a naturalist version of Confucian morality of "natural goodness-human nature" that is consistent with both tradition and contemporary reality in Chinese culture as it dialogues with the Western conception human rights.[6] The conflict between individual freedoms and social good will require a careful weighing of input from citizens at all levels. Some theories have been developed to solve this kind of conflict such as the traditional "*dao* of rules and rectangles (*xieju zhi dao* ????)", Yang Fu translates John Stuart Mill's On Liberty to be "a theory of the rights and demarcations between community and individuals (*qunji quanjie* ????)". Whatever the theoretical foundation, practical tools will be necessary for widespread understanding and equitable practice. While many scholars have realized that the practice of the Western notion of human rights in East Asian countries should not be indiscriminately transplanted into the Chinese mainland, nor should there be a wholesale importing of Western ideology and legal mechanisms, the West provides significant historical and philosophical resources. Nonetheless, China will have to set its own pace for any political transformation and will need to refine its own ideology, not based upon Western foundations for human rights doctrine, but building upon Confucian morality of "natural goodness-human

nature". This may one day lead to a fully developed Confucian theory of human rights both based on traditional Confucianism and in response to Western notions of human rights.

Conclusion

Compared with previous religious, scientific or secular versions, the naturalist framework of Confucian morality for "natural goodness-human nature" appears to provide a more universal and pragmatic approach to human rights for China (Zhang, 2009: 483-92.).[7] Based on the hermeneutical tradition of the line "what follows the *dao* is good, and what *dao* forms is nature (*jishan chengxing*)", the authors have offered a Confucian naturalist version of human rights in this article. We have come to recognize that the freedom of Confucian individuals is based upon the "natural goodness-human nature" of the *dao* of *tian*/heavens. To put this in terms of the naturalist framework, "natural goodness-human nature" provides the theoretical foundation for "good" Confucian moral actions. And it is based on this naturalist "natural goodness-human nature" framework that Confucians encourage all people to cultivate their natures to be better persons, and "rest in the utmost good" in the end. The process of cultivating natural goodness starting from human nature is a process of choosing "good" actions based on naturalist "natural goodness-human nature". From this perspective, humans possess rights when they make "good" choices in order to fulfill their natures (*chengxing* ??). This follows from the Confucian naturalist version of human rights which corresponds to the Western idea of God-endowed human rights. These two theories, each of which works in its respective venue, offer a basis for comparison, contrast, and synthesis between China and the West in the area of human rights and social philosophy.

Endnotes

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[2]Nietzsche published *The Gay Science* in 1882, and proposed "Gott ist todt" in its vol. 3, 108 (1988a?S. 467).

[3]In July 1998, 120 members of the United Nations voted to pass the Rome Statute of the International Criminal Court (ICC), often referred to simply as the Rome Statute. Subsequently, the first international penal court was established at the Hague, in Holland. The Rome Statute has been in effect since July 2002, with 119 official parties and 139 signatories. See United Nations Treary Collection, Databases, at http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no= XVIII-10&chapter=18&lang=en., downloaded 11/1/11. China was initially active in the early development of the Rome Statute, yet has not signed onto nor approved it.

[4]This question also emerges within Christian theology as an implication of the Doctrine of the Fallenness of Man, which states not that humans are everywhere "as bad as they could be", but rather, that they are nowhere "as good as they should be". For St. Paul, this condition of humanity has direct bearing upon the moral evaluation of nature. For even with his general acceptance of Platonic dualism, St. Paul does not isolate humanity and nature into separate compartments, but instead imputes upon nature the fallenness of man: "For the creation was subjected to frustration, not by its own choice…" (Romans 8:20a, New International Version)

[5]Thus, Confucius emphasizes the need for truthful feeling (i.e., being authentic) when practicing ritual propriety, especially because of the human tendency to place social requirements above personal feelings.

[6]Although the Western view that all humans are born with equal human rights takes the form of a naturalist claim similar to the one argued in this paper for Confucianism, the history of Western human rights shows that what is now considered natural or even secular has been strongly influenced by dualist transcendence at its origin. The Confucian naturalist view described in this paper differs from the Western view as it holds that, to perpetuate what is natural goodness is to succeed the *dao* of *yin − yang*. Thus the Confucian naturalist perspective does not depend upon a transcendental point of view.

[7]Zhang Xianglong regards Confucianism to be a typical non-universalism because it considers truths to be intrinsically correlated with the changing processes of our ordinary lives. Accordingly, the Confucian perspective appears to be lively and active when it contributes to a healthy cultural environment and denies the necessity of universal values derived from the standards that operate on higher than everyday life. His conclusion is drawn from the perspective of the communication of Confu-

cianism with other cultures. This being said, it is still possible for Confucianism to provide a relatively universal version of the morality of human rights even though Confucianism is typically famous for its non-universalism in cultural dialogue.

References

Bloom, Irene (1998). "Mencius Confucianism and Human Rights", in CHR.

Cai, Qing, (1986). *Introduction to the Book of Changes* (Yijing Mengyin????), in *Complete Collections in Four Treasures* (Siku Quanshu) vol. 29. Taipei: Taiwan Commercial Press.

Chang, Wejen (1998). "Confucian Theories of Norms and Human Rights", in *CHR*.

Cheng, Chung-ying (1998). "Transforming Confucian Virtues into Human Rights", in *CHR*.

Cheng, Hao & Cheng, Yi (1981). *Collected Works of Cheng Brothers*. Beijing: Zhonghua Books.

Ching, Julia (1998). "Human Rights: A Valid Chinese Concept?" in *CHR*.

de Bary, Wm. Theodore & Tu, Wei-ming (1998). (Ed.) *Confucianism and Human Rights* (CHR). New York: Columbia University Press.

Dworkin, Ronald (1993). *Life's Dominion: An Argument About Abortion, Euthanasia, and Individual Freedom*.

Foot, Philippa (2001). *Natural Goodness*, Oxford University Press.

Hu, Yuan (1986). in *Complete Collections in Four Treasures* (Siku Quanshu) vol. 29. Taipei: Taiwan Commercial Press.

Irwin, Terence (1999). *Aristotle Nicomachean Ethics*. Translated with introduction, notes, and glossary (2nd edition), Indianapolis/Cambridge: Hackett Publishing Company, Inc.

Kwok, D. W. Y. (1998). "On the Rites and Rights of Being Human", in *CHR*.

Moore, G.E. (1903). *Principia Ethica*. Cambridge University Press.

Nietzsche, Friedrich (1988). *The Gay Science*. Walter Kauffmann (Trans.), Knopf Doubleday Publishing Group.

Nussbaum, Martha C. (1996). "Compassion: The Basic Social Emotion", in *Social Philosophy and Policy*.

Orwin, Clifford (2004). "The Unraveling of Christianity in America", *The Public Interest*, Spring 2004.

Peerenboom, Randall (1998). "Confucian Harmony and Freedom of Thought", in *CHR*.

Perry, Michael J. (2007). *Toward a Theory of Human Rights: Religion, Law, Courts*. Cambridge University Press.

Railton, Peter (2007). "Moral Realism", in *Foundations of Ethics: An Anthology*, edited by Fuss Shafter-Landau and Terence Cuneo, Blackwell Publishing.

Rorty, Richard (1993). "Human Rights, Rationality, and Sentimentality", in *Shute*, Stephen & Hurley, Susan (eds.), *On Human Rights: The Oxford Amnesty Lectures*.

Rosemont, Henry (1998). "Human Rights: A Bill of Worries", in *CHR*.

Shafer-Landau, Russ (2003). *Moral Realism: A Defense*. Oxford University Press.

Wang, Fuzhi (1988). *Completed Works of Wang Fuzhi* (Chuanshan quanshu????). Changsha: Yuelu Books.

Williams, Bernard (1983). "Auto-da-Fe", New York Rev., Apr. 28, 1983.

Xiang, Shiling (2008). "The establishment of Ontology in the Song Dynasty from the perspective of 'what succeeds is nature' and 'nature is good'". In *Journal of Hebei Scholarship* (Hebei Xuekan).

Xiang, Shiling (2011). *The Studies of li and the Book of Changes* ?????. Changchun Press.

Xue, Xuan (1990). Notes of Reading (dushulu ???), in *The Complete Works of Xue Xuan* (Xuexuan quanji ????). vol. 1, Taiyuan: Shanxi People's Press.

Yang, Qingzhong (2005). *Studies on the Classics and Commentaries of the Book of Changes* (Zhouyi Jingzhuan Yanjiu ??????), Beijing: Commercial Press.

Zhang, Xianglong (2009). "The philosophical feature of Confucianism and its position in inter-cultural dialogue: Universalism or non-universalism?" in *Frontier of Chinese Philosophy*, 2009, 4(4): 483-92.

Zhang, Zai (1978). *The Completed Works of Zhang Zai* ???. Beijing: Zhuanghua Books.

Zhu, Bokun (1998) *A History of the Studies of the Book of Change*s. Vol.

1. Beijing: Huaxia Press.

Zhu, Xi (1986). *Conversations with Students* (Zhuxi Yulei????). Beijing: Zhonghua Books.

Zhu, Xi (2001). *The Complete Works of Zhu Xi* ????. Vo. 13. Shanghai: Shanghai Ancient Books & Hefei: Anhui Education Press.