Liberal Rights or/and Confucian Virtues?

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LIBERAL RIGHTS OR/AND CONFUCIAN VIRTUES?

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Virtues or Rights?

We are living in a rights-infatuated time. Not only in business organizations and labor unions, but also in our schools and neighborhoods, we hear: "My rights, not my responsibilities," "My rights, not my obligations," and "My rights, not the ramifications of my actions"—*my* rights, and when *my* selfish lifestyle falls apart, *you* take the responsibility, *you* handle my obligations, *you* overcome the ramifications of my actions.[1]

Only a few of us are surprised by this attitude. It is becoming an accepted view of ordinary life in a liberal, democratic society. In the field of philosophy, we hear the claim that we cannot do moral philosophy without rights—"there cannot be an acceptable moral theory that is not rights-based."[2] When we look into the patterns of contemporary social ethics, we feel the heat of rights and litigation fever. Moral problems are posed, debated, and solved solely by means of a quasi-legal term, "rights." Rights are such a dominant moral currency in our time that not only problems between one human and another human but problems between human and nonhuman subjects are also treated in terms of rights. As the title of Richard Morgan's recent book indicates, we are living under the sway of a "*Rights Industry*."[3] It is far from my intention to belittle or undermine the significance of rights in our moral life. The problem I would like to raise in this essay is the danger of the immoderate practice of rights; that is, an individual's bullheaded insistence on rights under some inappropriate circumstances may bring about the danger of "a right to do wrong"[4] or "rights damnably insensitive."[5]

In contrast to a liberal, rights-based morality, Confucianism provides a radically different picture of morality. Being a morality based on virtue, what Confucianism takes seriously is not rightful claims or self-assertions, but the virtues of caring and benevolence. What Confucian morality suggests to us is not that one stand up as a person qua autonomous being, but that one become a person of excellence *(chün-tzu)*. Unlike the liberal priority of the right over the good,[6] Confucianism gives priority to becoming a good person over being a right-claimer.

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Confucianism regards self-assertion as inimical to the maintenance of social harmony. What is deemed of primary importance in the Confucian ethical scheme is not procedural justice or individual rights, but becoming a person of *jen*. The society that Confucians aim to build is not one that is an aggregate of self-interested claimers, but one composed of virtuous individuals who live in harmonious relationships with other members of a community. Thus, Confucians emphasize the primacy of virtues over rights, the primacy of substantial justice over procedural

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justice, and the primacy of the common good over rational self-interest. In sum, what Confucianism focuses on is not a morality of autonomy but a morality of harmony, not a possessive individualism but an organic holism.

Extremes are found both in rights-based morality and in Confucian virtue-based morality. As Confucians see it, the virtues of modesty and benevolence are crucial for maintaining harmonious relationships with other members in a community. But, as Joel Feinberg indicates, "not to claim in the appropriate circumstances that one has a right is to be spiritless or foolish."[7] On the other hand, as liberals see it, having rights is good since this enables us to "stand up like men."[8] However, insistence on rights under some inappropriate circumstances does not necessarily help us to "stand up like men," but causes us to become cold-blooded "rights-maniacs." Claiming rights on some occasions does not lead to the display of the claimer's dignity; instead, "it reveals his ungoverned rage at what he sees as a damnably insensitive, confrontational world."[9]

While persons who never assert their rights in appropriate circumstances are morally slavish, persons who are too pushy in asserting their rights are, on some occasions, morally insensitive. "A person who never presses his claims or stands on his rights is servile, but the person who never waives a right, never releases others from their correlative obligations, or never does another a favor when he has a right to refuse to do so is a bloodless moral automaton."[10]

Can these two extreme views of morality be reconciled? Is the Confucian virtues-based morality reconcilable with individual rights? In other words, can Confucianism adopt individual rights in its ethical scheme while preserving the substantive content of virtues? In turn, can a rights-based morality embrace communitarian virtues within its ethical scheme without losing its protective function, namely protecting individual autonomy and liberty against arbitrary intervention?

Liberty or the Common Good?

The controversy over rights-based morality and Confucian virtue-based morality in contemporary Korea can be traced back to a deeper origin—a different emphasis on liberty and the common good which are the starting points of Western liberalism and Korean Confucianism, respectively.

Liberalism is a moral and political thesis that takes liberty as the fundamental source of other values. Liberals contend that all the (moral and political) values and principles are to be derived from the ultimate source of liberty. Being committed to a presumption in favor of liberty, liberals endorse the principle of noninterference. No one should interfere with anyone else without justification—while one can do anything

if one does *not* interfere with anyone else. For liberals, the purpose of (criminal) law is merely to prevent individuals from harming each other. The purpose of morality is merely to secure more options in action and choice by securing a maximum degree of noninterference, and nothing more.

Liberals regard all rival visions of life as equally good. So long as one does not inflict harm on others, and so long as one does not violate the rights of others, one may do whatever one wants and live one's life in whatever way one prefers. Tolerance is the first virtue of liberalism. Liberals do not want to adopt a public policy that favors one vision of a life over another. What they solely count as moral is noninterference or non-harming. What is lacking in liberalism is a vision of a good life.

In the view of liberals, liberty is undoubtedly an important good in our troubled world since it provides us with more options and less interference. However, do more options and less interference promise to bring about a genuine sense of freedom? Confucians would suggest that more options and less interference do not necessarily constitute genuine freedom. According to Confucianism, one may fail to be free, even if open options are provided, unless one can overcome one's inner constraints—that is, lower desires or first-order desires. What is primarily important in achieving a genuine sense of freedom, according to Confucianism, is self-overcoming, self-cultivation, and self-realization. Confucians recommend that we turn our eyes to our *selves,* not to external conditions. For example, in archery, if we fail to hit the center of a target, Confucians recommend that we blame neither the wind nor the arrows, but our *selves.* Confucius says: "In archery we have something like the way of the superior man. When the archer misses the center of the target, he turns around and seeks for the cause of his failure in himself."[11]

Confucians maintain that genuine freedom can be achieved not by securing more options, but by overcoming one's lower desires while spontaneously (as well as intentionally) internalizing community norms. Confucius says: "At seventy, I could follow what my heart desired, without transgressing what was right."[12]

In short, for Confucius, a genuine sense of freedom can be found in a virtuous and spontaneous conformity to community norms that one believes to be worthy of following. In contrast to the liberal emphasis on individual rights, Confucian communitarianism gives a central place to the concept of virtues—qualities necessary for one's successful contribution to the good that is common to all members of a community. In the eyes of Confucians, the liberal view of freedom is an impoverished one, since it provides only a negative sense of liberty without an aspiration for the good life. Confucius, if he were living in our time, would agree with Michael Sandel in saying that the liberal view of freedom is "thin" and "devoid of inherent meaning."[13] Confucius would also join Alasdair

MacIntyre in saying that the liberal self is disembodied from "narrative history," lacking "character" and "social identity."[14]

Confucian morality is a morality of aspiration. It recommends to us a type of character that we should endeavor to fashion, a kind of personhood that we should strive to achieve, a kind of community that we should try to establish. However, liberals would doubt whether the Confucian view of freedom can effectively cope with the "totalitarian menace."[15] What liberals fear is what Isaiah Berlin calls "monstrous impersonation," which consists in oppressing the actual wishes of persons in the name of *real selves* on behalf of some superpersonal collective entity, such as a state, a nation, a class, or the march of history itself.[16] According to Berlin, the political doctrine of self-realization is a position that ignores the actual wishes of persons or societies, and it bullies, oppresses, and even tortures them in the name of their real selves, in the secure knowledge that whatever is the true goal of human beings must be identical with their freedom—the free choice of their true, albeit submerged and inarticulate, selves.[17]

Against the Confucian self-realization view of freedom, liberals claim that self-realization is crucial to developing an admirable character and to attaining ideal personhood, but when there are suppressions and tortures, achieving self-realization would be harder, if not impossible. Having a vision of a good life is a high-order human good; but it would be limited without choice and opportunity. Being embedded in inherited tradition and received values is good for the solidarity of a community; but it would be blind without critical reexamination and the availability of options. Becoming a good person and maintaining harmonious relationships with others is crucial to the life of a community; but what is dangerous is blind conformity and forgetting to reexamine given roles, inherited traditions, and received values.

On the other hand, against the liberal emphasis of individual rights, Confucians would recommend that even if rights are an effective means to protect ourselves from unjust intervention and arbitrary suppression, this barrier should be removed in some contexts (for example, when we are facing loving members of a family or the impoverished members of a community). Recognizing what rights we have is one thing, but more importantly, recognizing when and against whom we should exercise these rights is another. Confucians would maintain that the liberal person requires excellence of character and a vision of a good life as preconditions for the practice of rights.

While virtues need protection and critical reexamination, rights need moderation and self-restraint. Can Confucian communitarianism include individual rights in its ethical scheme without incoherence? In turn, can liberalism allow communitarian virtues within its ethical scheme?

Beyond Negative Liberty

Negative freedom is concerned with the question, "How much moral space should be left open for individuals to do what they want without being interfered with by other persons (or by the state)?" According to this understanding of freedom, to be free means not to be interfered with in one's pursuit of self-interest. Liberalism seeks to expand the range of options for individuals in ways that do not interfere with the legitimate interests of others. Thus, according to liberalism, one may do whatever one wants to do as long as one is not inflicting harm on others or violating the rights of others. However, the negative libertarian's conception of freedom is a minimalist one. It does not inspire us to have a vision of a good life; and it does not take seriously virtues, character, and community. It does not provide a moral reason to help the imperiled needy; moreover, in some inappropriate circumstances, it allows individuals the right to do wrong. If noninterference is the only condition of being free, then a chronic alcoholic and a drug addict might be said to be free as long as nobody interferes with their interests and rights. However, from a Confucian point of view, they are not free, because of their weakness of will, internal constraints, and conflicting desires.

The Confucian conception of freedom consists in self-overcoming and self-realization. It derives from the desire of human beings to be able to make their own decisions. Confucians, as proponents of positive freedom,[18] want their lives and decisions to depend on the higher-self, not on the lower-self. According to the Confucian self-realization view of freedom, mere absence of external constraints cannot be accepted as a sufficient condition of being free. An individual with desires in sharp conflict is not free even if open options are guaranteed. Thus, for Confucianism, what is important for achieving genuine freedom is overcoming the conflict of desires, that is, self-mastery, self-government, and the axiological ordering of desires. Mencius says:

> There is nothing better for the nurturing of the heart than to reduce one's desires. When a man has but few desires, even if there is anything he fails to retain in himself, it cannot be much; but when he has a great many desires, then even if there is anything he manages to retain in himself, it cannot be much.[19]

Mencius holds that the most important factor that prevents a person from being free is not external obstacles, but internal ones. According to Confucianism, an increase of negative liberty (such as the availability of options secured by noninterference) would not end the strife among conflicting desires. What is needed is the notion of *significance*—some ordering of goals, motivations, and desires—an axiological awareness of higher and lower, noble and mean, good and bad, integrated and frag-

mented. The condition for the possibility of self-realization is found in the axiological ordering of conflicting desires in terms of *(second-order) desirability*. A hierarchical ranking of desires serves to make the desires one's own. One identifies oneself (or one's character) with one's most significant desires. If the significant desires of the self are fulfilled, the self flourishes.[20]

Self-overcoming or self-mastery is a precondition for the display of virtues. One is displaying benevolence *(jen)* if one acts out of a high-order desire to benefit others by overcoming one's own selfish desires; one is displaying courage if one acts out of what one takes to be desirable by overcoming one's desire for the safety of one's person. In this way, virtues are excellence of character concerned with free (in the absence of internal constraints) activity in the contribution of distinctively human good. Thus, for Confucians, the self-overcoming of conflicting desires and the cultivation of character naturally lead one to be free. Confucius says: "Look at the action of a person, observe his motives, examine what he likes and dislikes. In what way is a man's character hidden from the view of others? How can a person conceal his true character?"[21]

Character is the reservoir of virtues, vices, habits, experiences, desires, and purposes that define specifically the identity of a person. The significance of character is that it carries with it this ensemble of qualities inseparable from the context of community, such as family, friendship, neighborhood, school, and so on.[22]

A person who possesses virtues is freer than a person who lacks them, in the sense that one will act out of one's significant desires without frustration and internal conflicts. Confucius' remark that "at seventy, I could follow what my heart desired, without transgressing what was right" expresses his accomplishment of freedom in the sense of self-mastery and self-realization.

As Confucians maintains, self-mastery is an important condition of achieving a genuine sense of freedom. However, if only internal factors are counted as constraints, then a self-cultivated prisoner locked in a jail might be said to be free. But, in fact, he is not. While liberals emphasize the external factors as constraints of freedom, Confucians emphasize the internal factors. Self-overcoming or self-mastery is crucial to building up an admirable character and the attainment of ideal personhood, but when there are suppressions and tortures, it will be harder (if not impossible). Conversely, open options and less interference are crucial for maintaining a comfortable life and for protecting the security of the person; but, without an axiological ranking of conflicting desires, *one can become a slave of desires. Having open options without self-mastery is blind; self-mastery without the availability of options is empty.*

Through the mutual criticisms of the liberal and the traditional Con-

fucian conceptions of freedom, what is presented before us is not a simple choice between negative liberty and positive freedom, but a complementary or mutually supportive relationship between the two senses of freedom. A total freedom includes *both* maximization of options *and* self-realization. A liberal person needs self-overcoming and the cultivation of his character, and a Confucian person needs the availability and protection of options in choice and action.

Beyond a Minimal Morality

Liberalism can be understood as the moral and political rhetoric of rights. Having rights is good since rights protect a sphere of autonomy and the fundamental interests of individuals. Having rights enables us to "stand up like men"[23] and "encourages the patients [or recipients] of rights-infringing actions to feel resentment, to protest, to take a firm stand."[24] The language of rights provides us "the possibility of modifying and creating institutions."[25]

Rights function to protect the sphere of autonomy and the ulterior interests of persons. However, in some inappropriate circumstances, rights blind our eyes from moral sensitivity. Under some circumstances, the talk of rights does not make one "stand up like a man," but "instead it reveals his ungoverned rage at what he sees as a damnably insensitive, confrontational world."[26] People who are too pushy about their rights in some circumstances are "crabby, thin-skinned, cantankerous, touchy, and quite possibly bitchy."[27] J. L. Mackie says that "duty for duty's sake is absurd, but rights for their own sake are not."[28] If rights for their own sake are not absurd, then rights can be asserted or claimed at all times. The impoverishment of Mackie's view is due to its sole concern with the minimal requirements of morality, neglecting the possibility (or necessity) that, in some circumstances, rights may be waived, yielded, or sacrificed for other moral reasons.

A rights-based morality is minimalist in comparison to the Confucian morality. It is minimalist in the sense that it delimits the arena of moral discourse to a narrow sector of human experience. It is also minimalist in the sense that it makes minimal demands upon the moral character of agents, requiring little or nothing of them in the way of Confucian morality.[29] What a rights-based morality counts as moral is solely concerned with what Stephen Hudson calls "the requirements of morality"—rights, duties, and obligations.[30] The minimal requirements of morality share a set of characteristics. That is, whether they are rights or duties, they are *required, demanded, enforced,* or *exacted.* A rights-based morality, in this sense, is an "external morality"[31] construing morality as a mere system of constraints without the depth of personal significance.

The language of rights and correlative obligations, when expressed by means of deontic morals, includes three categories of actions: (1)

actions that are duties or are obligatory or are required, (2) actions that are permissible in the sense that they are neither obligatory nor forbidden, and (3) actions that are forbidden.[32] The moral dimension of the language of rights (that is, the morally obligatory, the morally indifferent, and the morally prohibited) is minimalist because it cannot take into account other normative categories that are also significant parts of human experience, such as supererogatory and meritorious acts.[33] For example, rights cannot require benevolence *(jen);* they do not provide a moral reason to act benevolently in the way that they can compel one to perform those duties specified by corresponding rights. Roger Ames states:

> The celebration of human rights as a means to realizing human dignity is of course overstated, unless by human dignity we mean the barest possible existence. To use human rights as a measure for the quality of life possible within community is like using minimum health standards as a universal index on the quality of restaurants.[34]

According to Confucianism, the field of moral problems is so large and varied that the narrow subfields picked out by the language of rights fails to include the full range of significant human experiences. Confucian virtue-based morality, in contrast to rights-based moralities, is *maximalist* in the sense that nothing in human experience is void of moral significance, and the moral situation is the life of each person in its entirety. While a rights-based morality covers only the minimum dimensions of moral actions (that is, right, permissible, and wrong), Confucian morality covers the *maximum* range of human actions as a field for self-cultivation.

What the Confucian morality suggests and recommends that we do is not limited to these minimal requirements. For Confucians, there are ranges of actions that are not obligations or duties but are deserving of a morally favorable predicate—actions that are desirable for persons to perform if they want themselves and their community to flourish. Actions in this category can be called, using Hudson's language, "Counsels of Moral Wisdom."[35] For Confucians, nothing in the entire range of human actions is devoid of moral meaning.[36] Confucians acknowledge that the whole realm of morality is broader than its minimal requirements. Confucianism, as a morality of virtue, stresses the importance of self-overcoming, self-cultivation, and self-realization. Confucius says: "If the people are led by laws, and if they are guided by punishment, they will try to avoid the punishment, but they will have no sense of shame. If they are led by virtue, and if they are guided by the rites, they will have the sense of shame, and moreover will become good."[37]

If Confucius were alive today in our rights-infatuated times, he would say, "if people are guided by rights, they will have no sense

of shame." Shame is a feeling experienced upon the loss of self-dignity. A dignified practice of rights requires excellence of moral character as its precondition. Eliot Deutsch maintains that *the consummate moral act* involves more than fulfilling what is required by a minimum baseline of right/wrong. He puts it this way:

> Just as with works of art, some action contents are richer than others.... When I see other persons, I do not just see certain shapes and sizes, colors and forms. I see meaningfully the embodiments of various qualitative achievements as well. And when I see an action occurring I don't just see a piece of brute behavior that I describe in mere reportorial, physicalist terms. I see, rather, the action as it expresses, embodies, exhibits qualities of both an aesthetic and ethical kind.[38]

Given the distinction between the requirements of morality and the counsels of moral wisdom, we are not left with a simple choice between the two distinct ranges of moral actions. In the reconstructed Confucianism, the two dimensions of morality are to be understood as mutually supporting and complementary, instead of incompatible or exclusive. Rights are necessary because they can protect a baseline of human interests and moral space in which one can freely choose and act. Rights are necessary because they are minimum conditions for human flourishing. And, moreover, a consciousness of one's rights is necessary for the supererogatory virtues, for the latter cannot even make sense, except by contrast with the notions of due, entitlement, and desert.[39]

However, rights are not sufficient to produce the good life or the ideal personhood. "Understanding that one has rights ... is not sufficient for one to have an admirable character, for one might yet be a mean-spirited pharisee, unwilling ever to be generous, forgiving, or sacrificing."[40] What is to be added to the minimal requirements of morality is the importance of the excellence of character, virtues, and significance—an axiological ordering of goods.

Toward a Coordination of Rights and Virtues

The dichotomy of a morality of rights by extreme liberals and a morality of virtues by extreme communitarians is too monolithic, and gives little heed to the diversity of human interests, desires, motives, and purposes. A person who vigorously claims rights and entitlements in some adversarial situations might be a loving and generous person in other contexts. Conversely, talking in terms of rights may not be appropriate in some relationships; however, in other competitive or adversarial circumstances, talking in terms of rights may be an effective way to express one's dignity and self-esteem.

For example, in a loving husband-wife relationship, it will be inappropriate to say that "I have a right to sleep with you" or "You have a

duty to make love with me."[41] Conversely, it would be expecting too much if we ask those laborers of Korea who have been exploited by large financial combines *(chaebŏl)* to "love your sweating employers."

Unlike the extreme liberal (or negative libertarian), who does not want to allow moral reasons other than rights and duties, and also unlike the extreme communitarian, who solely emphasizes commitments and virtues, the rationally reconstructed 'post-Confucianism' recognizes the importance of both rights and virtues, claims and concessions, and self-assertions and the virtue of benevolence. According to the rationally reconstructed post-Confucian moral ideal, a society without benevolence, friendship, and gratitude will be an unpleasant or an unlivable one; at the same time, a society that does not respect and protect the moral space of self-direction, self-government, and self-flourishing will be a demoralizing and intolerable one.

Through the mutual criticism of liberalism and Confucianism concerning the relation between rights and virtues, what is presented before us is not a simple choice of *either* rights *or* virtues, but a harmonious coordination of rights (as basic requirements of morality) and virtues (as counsels of moral wisdom). The minimalist nature of rights-talk and the maximalist aspiration of virtues, when integrated into one moral schema, will lead to a richer and more comprehensive appreciation of human development.

NOTES

1 – Roger C. Palms, "Rights," *Decision,* May 1990, p. 22.

2 – J. L. Mackie, "Can there Be a Right-Based Moral Theory?" in *Theories of Rights,* ed. Jeremy Waldron (Oxford: Oxford University Press, 1984), p. 176.

3 – Richard Morgan, *Disabling America: The "Rights Industry" in Our Time* (New York: Basic Books, 1984).

4 – See Jeremy Waldron, "A Right to Do Wrong," *Ethics* 92 (1981).

5 – See Michael J. Meyer, "Dignity, Rights, and Self-Control," *Ethics* 99 (1989): 525.

6 – See John Rawls, "The Priority of Right and the Ideas of the Good," *Philosophy and Public Affairs* 17 (1988).

7 – Joel Feinberg, "The Nature and Value of Rights," *Journal of Value Inquiry* 4 (1970): 252; reprinted in *Bioethics and Human Rights,* ed. Elsie L. Bandman and Bertram Bandman (New York: University Press of America, 1986), p. 27.

8 – Ibid.

9 – Michael J. Meyer, "Dignity, Rights, and Self-Control," p. 525.

10 – Joel Feinberg, "A Postscript to the Nature and Value of Rights," in Bandman and Bandman, *Bioethics and Human Rights,* p. 32.

11 – *Doctrine of the Mean* 14.

12 – *Analects* 2 : 4.

13 – Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge: Cambridge University Press, 1982), p. 175.

14 – See Alasdair MacIntyre, *After Virtue* (Notre Dame: University of Notre Dame Press, 1984), esp. chap. 6, "Some Consequences of the Failure of the Enlightenment Project."

15 – The term "totalitarian menace" is Charles Taylor's. See "What's Wrong with Negative Liberty," in his *Philosophy and the Human Sciences* (Cambridge: Cambridge University Press, 1985), p. 215.

16 – See Sir Isaiah Berlin, "Two Concepts of Liberty," in *Political Philosophy,* ed. Anthony Quinton (Oxford: Oxford University Press, 1967), pp. 151–152.

17 – See ibid., p. 151.

18 – Regarding this point, Hsieh Yu-wei's interpretation of Confucian freedom is illuminating. He states, "The freedom advocated in Confucian ethics is the freedom to do good or the freedom to choose what is good. It is ethical freedom of choice." See Yu-Wei Hsieh, "The Status of the Individual in Chinese Ethics," in *The Chinese Mind—Essentials of Chinese Philosophy and Culture,* ed. Charles A. Moore (Honolulu: University of Hawaii Press, 1967), p. 310.

19 – *Mencius* 7B : 35.

20 – For an excellent discussion on self-mastery and freedom, see Andreas Eshete, "Character, Virtue and Freedom," *Journal of Philosophy* 57 (1982).

21 – *Analects* 2 : 10.

22 – See Clarke E. Corchran, "The Thin Theory of Community: The Communitarians and Their Critics," *Political Studies* 32 (1989): 433.

23 – Feinberg, "A Postscript to the Nature and Value of Rights," p. 27.

24 – Richard Brandt, "Concept of a Moral Right," *Journal of Philosophy* (1983): 45.

25 – Stuart M. Brown, Jr., "Inalienable Rights," *Philosophical Review* (1955): 202.

26 – Michael J. Meyer, "Dignity, Rights, and Self-Control," p. 325.

27 – Jan Naverson, "Comments on Feinberg's 'The Nature and Value of Rights'," *Journal of Value Inquiry* 4 (1970): 259.

28 – J. L. Mackie, "Can There be a Rights-Based Moral Theory?" p. 171.

29 – David Norton and Edmund Pincoffs, by distinguishing ethics of rules and ethics of character, criticize modern rule-oriented ethics as moral minimalism. See David Norton, "Moral Minimalism and the Development of Moral Character," in *Midwest Studies in Philosophy* 13, ed. Peter A. French et al. (Notre Dame: University of Notre Dame Press, 1988), pp. 180–195; Edmund L. Pincoffs, *Quandaries and Virtues* (Lawrence: University Press of Kansas, 1986), pp. 41–47.

30 – See Stephen Hudson, "Taking Virtues Seriously," *Australasian Journal of Philosophy* 59 (2) (1981): 190–192.

31 – The term "external morality" is Antonio Cua's. Cua characterizes Hsün-tzu's conception of morality as an "external morality" in contrast to the Mencian "internal morality." According to Cua, while internal morality stresses the notions of motivational structure, ideal way of life, and ideal personhood, external morality focuses merely on the narrow sense of morality as a system of constraints or external impositions. I think Cua's distinction between internal morality and external morality can also be used to illuminate the distinction between Confucian virtue-based morality and liberal rights-based morality. See Antonio Cua, "Morality and Human Nature," *Philosophy East and West* 32 (3) (1982): 279–294.

32 – See J. O. Urmson, "Saints and Heroes," in *Essays in Moral Philosophy,* ed. A. I. Melden (Seattle: University of Washington Press, 1958), pp. 198–216.

33 – See Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon Press, 1986), pp. 195–197.

34 – Roger T. Ames, "Rites as Rights: The Confucian Alternative," in *Human Rights and the World's Religions,* ed. Leroy S. Rouner (Notre Dame: University of Notre Dame Press, 1988), p. 13.

35 – See Stephen Hudson, "Taking Virtues Seriously," pp. 191–193.

36 – The moral dimension of Confucianism includes not only supererogatory and meritorious acts, but also those actions which are adjudged nonmoral in modern ethics. For example, from the Confucian perspective, the six arts *(liu-yi)*—that is, poetry, music, ritual,

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archery and charioteering, calligraphy, and arithmetic—are regarded not as mere hobbies or amusements, but as disciplinary instruments for establishing and cultivating one's character. See Tu Wei-ming, "The Idea of the Human in Mencian Thought," in *Confucian Thought: Selfhood as Creative Transformation* (New York: State University of New York Press, 1985), pp. 96–100.

37 – *Analects* 2 : 3.

38 – Eliot Deutsch, *Personhood, Creativity and Freedom* (Honolulu, University of Hawai'i Press, 1982), pp. 129–130.

39 – As Feinberg maintains, "Waivers and gratuity can exist only against a background of understood rules assigning rights and duties. Forgiving debts obviously would not be possible without the prior practice of loaning and repaying with its rule-structured complexes of rights and correlative duties." See "A Postscript to the Nature and Value of Rights," p. 33.

40 – Ibid., p. 33.

41 – John Hardwig gives many interesting instances of rights-talk out of context. For example, if a faithful husband of thirty-seven years were, on his deathbed, to turn his wife and say, "My conscience is clear, Helen, I have always respected your rights," the wife's whole marriage would turn to ashes (John Hardwig, "Should Women Think in Terms of Rights?" *Ethics* 94 [1984]: 443).

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Notes

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