

Review

Reviewed Work(s): Confucianism and Human Rights by Wm. Theodore de Bary and Tu Weiming

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WM. THEODORE DE BARY and TU WEIMING (eds.). *Confucianism and Human Rights*. New York: Columbia University Press, 1998. XXIII, 327 pp. US\$ 46.00. ISBN 0-231-10936-9

The fifteen papers in this volume together with Wm. Theodore de Bary's wide ranging introduction and two epilogues are the result of a conference held in 1995 at the East-West Center in Honolulu. This is an important book not because the contributors and editors have reached definitive conclusions, but because of the questions they pose and the differing perspectives they have brought to bear on the relationship between Confucianism and human rights.

A basic question concerns the definition of human rights in Chinese and how to understand it. Julia Ching points out that the term *renquan* is not an exact equivalent as *quan* refers more to power than to right (p. 71). The term, moreover, does not occur in classical Confucian writings; human rights is a Western import, as several of the contributors state. According to D.W.Y. Kwok, the notion of being born with rights originated in the West (p. 83), and Joan Judge notes that Heaven's origin of rights was mentioned only in the late nineteenth century (p. 200). Randall Perenboom flatly denies that rights were part of Confucian theory, or that they had a role in everyday life in traditional China (p. 237). On the other hand, most of the contributors also maintain that nothing in Confucianism contradicts human rights, while several of the papers make a strong case for, at least, the presence of a foundation of human rights in classical Confucianism.

Irene Bloom argues that Mencius's thought contains the ideas of rights and human rights. In her view, he advocated two principles which are at the basis of human rights; one is a human moral potential shared by everyone, the other is the nobility of Heaven. The first is correlated with equality and the second with human dignity (p. 111). These two principles, human rights as individual rights and individual dignity, are further reiterated by Louis Henkin (p. 311). Taking a different approach, Wejen Chang emphasizes the importance of recipro-

city in Confucianism, and that all reciprocal relations are conditional one upon the other. Thus, the context of society becomes explicitly important in Chang's essay. A person's right (he calls it *fen*, share, or entitlement) is that which others will grant or allow (p. 132). Although Henry Rosemont's argument is based on different premises, he, too, stresses the social framework of Confucianism in which people "define themselves in terms of kinship and community rather than as rights-bearers" (p. 64).

Aside from stipulating a foundation for human rights in classical Confucianism, these contributors also pose the question whether rights are natural and individual or as contingent on the social setting. Whereas Rosemont's position assumes that the Western concept of a free and autonomous individual is fallacious, because it ignores "the inherent sociality of human beings" (p. 55), Chung-ying Cheng attempts to find a compromise between the two positions which stress either the individual or society. He does this by relating rights to duties and by considering the individual in relation to virtues (virtues are implemented as duties). Virtue is both individual and social, argues Cheng, it is "self-cultivation and self-transformation toward the goal of social and even political integration" (pp. 145-146). The practice of virtue is contingent on human nature and necessarily implies individual rights. Stating it in somewhat different terms, Tu Weiming essentially supports Cheng's position: the justification for human rights is found in the "dignity and worth of the self as a center of relationships" (p. 304).

Are human rights then a basic, a core human value which transcends cultural differences and differences of formulation? Sumner B. Twiss affirms unequivocally that human rights as moral expectations are held by different cultures (p. 31) and all "share a set of core values" (p. 36). Twiss rejects the view of those

who maintain that some traditions are incompatible with human rights. Julia Ching supports this when she concludes that human rights are compatible with Confucian culture and can be adapted to Confucian tradition (p. 79).

How nineteenth and twentieth century intellectuals have dealt with human rights in relationship to tradition is not treated in as much detail as one would like. The two papers by Joan Judge and Peter Zarrow, which discuss late Qing ideas, show how the question of rights was linked to political issues rather than an individual moral imperative. The first paper is more narrowly focused on editorials in *Shibao*, the Shanghai-based newspaper, while the second addresses views held by Liu Shipai (1884–1919) and Liang Qichao (1873–1929).

As reformers, both the *Shibao* journalists and the two intellectuals held a number of views in common; among them the concept of the nation as an entity was especially important to the journalists and to Liang. Although natural rights (with their origin in Heaven) were mentioned by others, the journalists were more concerned with collective rights. Accordingly, they subordinated the moral imperative of individual human rights to collective rights of citizens and the citizens' responsibility for the nation (p. 200). Liang similarly considered the exercise of human rights within the context of the state and toward the end of building the group (p. 225). Liu Shipai's ideas of human rights, on the other hand, were an integral part of his emphasis on equality and the just society. His concept of rights was social, encompassing not only the nation but all humanity (p. 215). Both papers reveal changes in the Confucian discourse by individual morality assuming a secondary role. But lacking here is a discussion of how a subsequent generation dealt with rights, what May Fourth intellectuals, like Liang Shuming and Hu Shi, for example, had to say.

According to Yu Feng, "Without a legal system, it is impossible to safeguard human rights" (p. 159), and he goes on to show that China had a tradition (although it certainly never developed as an articulate tradition)

which limited autocratic authority. Powerful rulers were warned to heed laws and regulations. Ron Guey Chu cites examples from the Ming dynasty where rites functioned as limits to imperial authority. But the fact is that China did not develop a strong legal system for safeguarding rights, even if, as Alison W. Connor writes, Qing law (at least, in theory) contained some protective devices for transgressors of the law. Or if, according to Julia Ching, various freedoms (speech, press, assembly, etc.) are presumably guaranteed by China's 1982 constitution. Implementing safeguards and enforcing constitutional rights was and is quite another matter.

That human rights are so vulnerable in China is, no doubt, due to a variety of factors, including perhaps a lack of appreciation for legality, suggested by Jeremy T. Paltiel (p. 271). It may also be related to what Randall Perenboom describes as the emphasis on "right thinking rather than the right to think" (p. 236). Earlier traditional tendencies (or pressures) to achieve unity of thought continue today and are in marked contrast to freedom of thought championed by Western democracies. Yet, Merle Goldman also reminds us of other Confucian literati tendencies still present today: the insistence of some men to criticize those in power (p. 262), despite the lack of legal means to protect the critics.

This, then, is a rich volume, offering many perspectives that can and should be tested in continuing to explore approaches to Confucianism and present concerns. One might have wished for more detail in some essays, or the inclusion of additional topics that are all too briefly mentioned. But as stated in the preface, other conferences were held meanwhile and more publications on this subject are expected to appear.

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