

CLASSICAL CONFUCIANISM AS A VISION FOR THE EXEMPLARY  
TREATMENT OF PERSONS - A CONTRIBUTION TO THE EAST-WEST  
DISCOURSE ON HUMAN RIGHTS

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凡事豫則立, 不豫則廢.  
— 小戴禮記

“In all things success depends on previous preparation,  
and without such previous preparation, there is sure to be failure.”  
-*The Classic of Rites: Zhong Yong* (Ch. 22)

According to the Confucian tradition, the greatest preparation one can have is the influence of exemplary individuals, especially from the “root” or outset of one’s preparation. Such has been the privilege of my education in the Department of Philosophy at the University of Hawaii. My first teacher, the late Professor Irving Copi, who also gave me my first academic job as his grader, taught me not only the rigor, but the joy of logic, which has served as the groundwork for all of my further study and writing.

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My thanks end where my life journey began, with my parents William and Marian Akina, whose investment of their lives in me and my siblings, has given us the strong foundation upon which to accomplish all that we set our hearts to do. To them I dedicate this product of filial love and benevolence.

## ABSTRACT

Classical Confucianism, through its repository of canonical texts, offers a compelling vision for the exemplary treatment of persons that is ancient in origin, relevant to the needs of present-day China, and contributory to future East-West discourse on human rights. The first of two independent prongs in this dissertation argues that Classical Confucianism generates a foundation for cultivating human creativity and excellence. Imbedded within a picture of the ideal functioning society in the *Da Xue* 大學, (conventionally translated “Great Learning”) and explicated as exemplary personhood (*junzi* 君子) within the *Lun Yu* 論語 (the “Analects”) are the rudiments for a universal, normative standard of exemplary treatment of all members of society. The metaphysical roots for this standard are presumed by Classical Confucian literature such as the *Shujing* 書經 (“Book of History”) and most notably the *Yijing* 易經 (“Book of Changes”) in which principles such as the harmonization and creativity of nature are understood also as human processes which society is called to cultivate within all individuals. Through the application of Onto-hermeneutics (a hermeneutical method developed by Professor Chung-ying Cheng) to the relevant texts, the concept *Tianming* 天命 as moral authority (conventionally, *Mandate of Heaven*), emerges as the universal, normative standard for the exemplary treatment of persons. The effective implementation of the Classical Confucian vision, resulting in such widespread personal cultivation at the level of self-actualization (as in Abraham Maslow’s hierarchy of needs), entails the prior satisfaction of lower order human needs.

The second-prong of this dissertation examines the notion of human rights within the Western liberal democratic tradition (i.e., Hobbes, Locke, Rousseau, et al) and considers the analysis of rights by Wesley Hohfeld and conceptions of justice by John Rawls. As a work in comparative philosophy, this dissertation argues that the virtues and duties in Classical Confucianism implicitly generate the standard of universal humane treatment of persons sought after in the liberal democratic (i.e., social contractarian) tradition. A definition of human rights is offered in which the content of rights is differentiated from the mechanism of rights, thereby providing a framework for recognizing comparable outcomes (i.e., the content of rights) between two otherwise incommensurable systems (i.e., incommensurable at the level of mechanism). This analysis makes possible the translation of virtues-duties language into claim-rights language, yielding a set of comparable foundational concepts for an East-West approach to human rights. It is the author's conviction that China, by drawing upon its rich philosophical heritage, is in a position to offer the world a system of values for the exemplary treatment of persons, contributory to the human rights discourse.

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## INTRODUCTION

On October 8, 2010, the following remarks by a high ranking official in China's Foreign Ministry opened a Society Section article in *Xinhua* 新华通讯社, the newspaper known to English readers as *China Daily*: "Awarding the Nobel Peace Prize to Chinese *Liu Xiaobo* 劉曉波 desecrated the prize and could harm China-Norway ties."<sup>1</sup> China's official shock and dismay were conveyed by the spokesman on behalf of his government's leadership. Beijing's disapprobation for the Nobel committee's choice of *Liu Xiaobo* cited Norway's alleged insensitivity to the relationship between *Liu* and his country. In the eyes of official China, *Liu Xiaobo* is a "...criminal sentenced by Chinese judicial authorities for violating the law." To invoke a Confucian sensibility, he has violated his "filial" obligation in relationship to his "parent," the state.

Recent attempts to "re-brand"<sup>2</sup> the Chinese Communist Party in the image of a contemporary *Kongzi* 孔子 (i.e., Confucius), with measures such as the generous funding of Confucius Institute programs worldwide, would seem to bolster the ancient sage's role as moral referee. Yet the *Kongzi* 孔子 of any contemporary vision may not be the

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<sup>1</sup> "Nobel Peace Prize Pick Distorts Award's Aim," *China Daily News* (Xinhua News Agency), 09 October 2010, [http://www2.chinadaily.com.cn/china/2010-10/09/content\\_11387687.htm](http://www2.chinadaily.com.cn/china/2010-10/09/content_11387687.htm) (accessed October 8, 2010)

<sup>2</sup> Jeffrey Wasserstrom, editor of the *Journal of Asian Studies*, describes China's current "re-branding" campaign as an effort to "...foster an image of China as a place that has found an appealing way to combine humanistic traditions (represented by Confucius, now back in favor) with impressive strides toward economic modernity." Jeffrey N. Wasserstrom, *New York Times*, 08 October 2010, <http://www.nytimes.com/roomfordebate/2010/10/08/when-dissidents-win-the-nobel-peace-prize/power-in-a-symbol> (accessed October 9, 2010).

Confucius who once governed the ancient state of Lu. According to recent historians, there are no less than a dozen *Kongzi* 孔子 from which to choose when re-envisioning the Chinese master.<sup>3</sup> And while *Kongzi* 孔子 is readily identified with popular notions of “creative transformation,” the words and ideas attributed to him as a political philosopher or a reformer of culture are of less concern to many today than is his newly discovered fashionableness.

Regardless of which *Kongzi* 孔子 one may conjure to rationalize a current policy, the fact that an appeal to Confucianism rings true as an authentic and authoritative source of Chinese propriety reveals a deeply rooted, ages-old, national consciousness. For purposes of this present work, I leave to historians the reconstruction of the personages of *Kongzi* 孔子, but turn, instead, to the repository of words and ideas which have been studied for nearly three millennia as the canonical product of Confucian philosophy.

While a clear judgment via the application of Confucian ideas to the “outside world’s” honoring of a Chinese dissident may be thwarted by political and perceptual complexity, the fundamental question for both government and subject remains essentially Confucian: how should individuals in relationship with one another treat each other? The complaint of each party is also essentially Confucian: the manner of one in treating the other has been less than exemplary.

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<sup>3</sup> See, for example, Nylan, Michael and Wilson, Thomas, *Lives of Confucius*, (New York: Double Day, 2010), 193-194. These historians argue that the rapid sociological and political changes in China from the end of the 19<sup>th</sup> Century to the present have given birth to the greatest number of subjective Confucius personas.

That both a government and a dissident should accuse the other of being “un-Confucian” demonstrates the resilience of Confucian ideas which have defined a culture and an appeal to these ideas as an implicit source of moral authority. It is the contention of this work that these ideas constitute an intellectual reservoir from which to draw resources applicable to Chinese and global circumstances in the present day.

One of the most problematic conflicts between nations at the start of the 21<sup>st</sup> Century stems from the question of whether human rights is a universally applicable moral concept. Governments of Western democracies frequently characterize China’s treatment of its vast populace as failing to ensure the human rights enumerated within normative standards such as the *Universal Declaration on Human Rights*<sup>4</sup> and doctrines such as *Basic Rights*<sup>5</sup> as articulated by recent United States presidential administrations. The response of Chinese apologists has ranged from the specific, that is, a denial of alleged rights violations, to the general, a denial that legal rights language has any relevance whatsoever for a culture which has for three millennia spoken primarily of virtues and duties. The latter approach has emerged as a growing critique of Western rights notions from a Chinese perspective.<sup>6</sup> And in response to external impositions of

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<sup>4</sup> “The Universal Declaration of Human Rights,” adopted and proclaimed by United Nations General Assembly resolution 217 A (III) of 10 December 1948

<sup>5</sup> See Henry Shue. *Basic Rights*, 2<sup>nd</sup> edition. Princeton: Princeton University Press, 1996. Shue characterizes the late 20<sup>th</sup> Century U.S. foreign policy approach to human rights as one predicated upon *Basic Rights* of security and subsistence which constitute “everyone’s minimum reasonable demands upon the rest of humanity” (p. 19).

<sup>6</sup> See representative critical essays in Joanne R. Bauer and Daniel A. Bell. *The East Asian Challenge for Human Rights*. New York: Cambridge University Press, 1999.

rights expectations, Chinese scholarship in the 20<sup>th</sup> Century has generated a philosophical debate over the meaning of human rights language in China.<sup>7</sup>

Is there a way around the stale-mate which occurs when China's treatment of human beings is criticized from a human rights perspective and yet defended from virtue-duties perspective? I hold that there are good reasons to answer yes, and this dissertation will argue that Classical Confucianism, the most revered and indigenous philosophical tradition in China, possesses a vision which can generate beneficial outcomes in the treatment of human beings that human rights advocates will find relevant to their cause. Specifically, many outcomes of the practical application of Confucian thought are identical or similar to the outcomes valued by rights advocates operating in the Western social contract tradition informed by Hobbes, Locke, Rousseau, and eventually John Rawls<sup>8</sup> (i.e., the philosophical antecedents to contemporary formulations such as the

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<sup>7</sup> Recent translation into English of numerous Chinese documents reveals an active dialogue in China throughout the 20<sup>th</sup> Century on numerous aspects of rights and their potential application throughout China. See Stephen C. Angle and Marina Svensson, editors. The Chinese Human Rights Reader: Documents and Commentary, 1900-2000. Armonk, New York: M.E. Sharpe, 2001.

<sup>8</sup> The recognition of John Rawls' work as representative of the Western liberal democratic tradition is not a denial of the significance of contributions by other political philosophers such as Michael Sandel, Alisdair Macintyre, Charles Taylor, nor of the perspectives on justice offered by Amartya Sen and Martha Nussbaum. In my assessment, two features of Rawls' work commend themselves as useful for the purposes of the present dissertation. First, Rawls is one of the most systematic and analytical of contemporary political philosophers, allowing for the kind of precise comparison between Classical Confucian ideas and Western liberal democratic ideas required for the identification of comparable values (see Chapter 9 below). Secondly, to a degree greater than most of his contemporaries, Rawls retains, from Enlightenment writers, the notions of autonomy, counter-majoritarian nature of rights, and dispassionate rationalism in the structuring of society. These and other features produce the most fruitful contrast with Classical Confucianism and avoid the communitarian values which render the work of Sandel, Macintyre, and Taylor more akin (than Rawls) to Classical Confucianism with

*Universal Declaration of Human Rights*). This conclusion, however, does not require the ambitious thesis that the Chinese understanding of roles and duties is commensurable to the idea of rights or human rights within the Western liberal democratic tradition. It only requires the alignment of key outcomes of otherwise incommensurable systems.

## STRUCTURE OF THIS WORK

Part I (Chapter 1) of this dissertation describes what it means to say that Classical Confucianism is a vision for the exemplary treatment of persons. A vision lifts one's eyes to see beyond limited horizons. Looking at the past, this vision focuses upon that which is at the root of Chinese thought and is truly ancient. Looking to the present, this vision focuses on that which is perennial and remains truly Chinese. And looking toward the future, this vision offers a valued contribution to the discourse between East and West on human rights, that which is truly humane. Thus Classical Confucianism offers a Chinese vision that is, at once, ancient, authentic, and contributory to the international discussion of human rights. These three distinctives define a criterion through which Chinese philosophy can build a bridge to Western notions of human rights. This can best be seen, as Chapter One will discuss, when the original spirit of Confucian doctrine (i.e.,

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respect to roles and relationships. For example, in Sandel's critique of Rawls in *Democracy's Discontent*, the "veil of ignorance," at the heart of Rawls' attempt at an unbiased method for justice, is considered both unrealistic for practical application and unachievable. See Michael J. Sandel. *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge: Belknap Press of Harvard University, 1998.

“Confucianism as it was meant to be...” is distinguished from corrupted practices throughout history which have raised doubts over Confucianism’s humaneness.

In the remaining chapters, I attempt to show how the Classical Confucian vision fulfills the criterion of being ancient, authentic, and universal. My approach is two-pronged. First, in Part II (Chapters 2-4), I will demonstrate how Classical Confucianism derives a vision for the beneficent treatment of individuals from the ancient treatise *DaXue* 大學 (the *Great Learning*), and in so doing, offers a compelling philosophical rationale for the exemplary treatment of human beings as normative in society. The *DaXue* 大學 vision of universal personal development throughout society is so lofty an ideal that its pursuit entails the satisfaction of lower order values such as subsistence and security as outlined in Henry Shue’s *Basic Rights* as well as multiple categories of human rights defined in the *Universal Declaration of Human Rights*. In fact, the Classical Confucian vision of personal development goes well beyond the advocacy of human rights outcomes and may be compared to the “self-actualization” of Maslow’s Hierarchy of Needs.<sup>9</sup>

To further reveal the ancient and Chinese nature of Classical Confucianism, in Part III (Chapters 5-7), I propose a philosophical understanding of the classical text *DaXue* 大學. This revered document constitutes a vision of society based upon the metaphysical values embedded within the *Yijing* 易經 (the Book of Changes), mediated

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<sup>9</sup> For the classic formulation of this theory, see Abraham H. Maslow. “A Theory of Human Motivation.” Originally published in *Psychological Review* 50 (1943):370-96.

through the ethical values articulated by later Confucian works, most notably the *Lun Yu* 論語 (Analects), and practically applied in the role of *junzi* 君子, a model agent for personal and societal transformation.

To identify the basis of Confucianism's metaphysically informed ethics, I apply the interpretive methodology of Chung-ying Cheng's Onto-hermeneutics to classical texts. The result is the ability to distill from the Chinese classics a concept of universal moral authority, *tianming* 天命 (conventionally, *Mandate of Heaven*), which may function as a national public rationale for the exemplary treatment of persons. The society-wide benefits of a nation which respects *tianming* 天命 are comparable to the social outcomes in nations which respect "life, liberty and the pursuit of happiness" as formulated in the Declaration of Independence.

Finally, in Part IV (Chapters 8-9), as the second prong of this dissertation, I argue that the emphasis upon virtues and duties within Classical Confucianism implicitly affirms and can fulfill the standards for universal humane treatment of persons advocated by human rights proponents from the liberal democratic (i.e., social contractarian) tradition. A paradox, however, will be exposed in the finding that the Western conception of rights essentially does not exist within Classical Confucian doctrine and, yet, the desired outcomes of rights doctrines, in terms of the humane treatment of persons, are fully advocated by Classical Confucianism. Moreover, it is possible to find language in Classical Confucianism that permits the bridging of Western notions of human rights practice to a Chinese understanding of exemplary treatment of persons

promoted by Classical Confucianism's emphasis on virtue-duties in roles ranging from the parent-child relationship to the state-citizen relationship. Although there is no single word or concept in Classical Chinese for 'rights' in the claim-rights sense, this dissertation will draw upon the analysis of rights and duties as 'corollaries' by legal scholar Wesley N. Hohfeld<sup>10</sup> to show how a *de facto* claim-rights expectation can be supported by Classical Confucian doctrine. This exercise is possible with the translation of values from a virtue-duty language into a rights language. With the ability to distill specific rights from the Confucian texts, I will propose a list of Confucian concepts that are comparable to the values promulgated in John Rawls' *A Theory of Justice (Revised Edition, 1999)*,<sup>11</sup> a representative standard in the contemporary social-contract tradition. While not all Classical Chinese values will have modern Western corollaries and vice versa, a sufficient critical core exists to demonstrate that conscientious practice of specific Classical Confucian virtue-duties will produce specific humanitarian outcomes promoted by human rights advocates.

Either prong of the strategy offered here for navigating the East-West question of human rights may stand on its own as needed. The main point is that China possesses a deep-seated philosophical tradition from which to draw upon in the rebuilding of a post-Cultural Revolution society, now as an ally of nations which value human rights. While the outcome of practicing the Classical Confucian Vision gives promise of satisfying contemporary human rights demands, it goes beyond the appeasement of external

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<sup>10</sup> Wesley Newcomb Hohfeld. Fundamental Legal Conceptions As Applied In Judicial Reasoning. Westport, CT: Greenwood Press Publishers, 1964 (Third Printing).

<sup>11</sup> John Rawls. A Theory of Justice. Cambridge: The Belknap Press of Harvard University Press, 1999.

reviewers and positions China as an original contributor in any international discourse on the exemplary treatment of persons, including that of human rights.

## PART I: THE CLASSICAL CONFUCIAN VISION

## CHAPTER 1: CLASSICAL CONFUCIANISM AS A VISION FOR THE EXEMPLARY TREATMENT OF PERSONS

### THE NEED FOR A CHINESE APPROACH

The intense need for China to be authentically Chinese in all its dealings is often difficult for many observers in the United States and European nations to understand fully. China has experienced unique longevity and continuity as a people, however fractured that experience has been during times of rivaling feudal kingdoms. At the dawn of the 21<sup>st</sup> Century, China, in one form or another, has existed for more than four millennia. Throughout much of its existence, the character *zhong* 中 (center) has signified a name for China as well as an ethnic and national self-conception as the ‘center’ of the world. China’s philosophy, culture and self-identity, defined and reinforced through long millennia, have become irrepressible, albeit subtle, constituents of any enterprise that attempts to bridge China to its surrounding world.

### RESISTANCE TO WESTERN IDEOLOGY

Not surprising, then, resistance to perceived Western imperialism, whether political or ideological, is a major impediment to the advancement of East-West discourse on human rights. Sumner B. Twiss makes the following observation.

The concern is this: human rights appear to many to represent a Western moral ideology intended to supplant the moral perspectives of diverse cultural, religious, and philosophical traditions. This perception has become a

serious obstacle to progress in both intercultural dialogue and comparative ethics when considering human rights.<sup>12</sup>

The consistent posture of the People's Republic of China has been to characterize human rights demands by the United States as politically motivated. The irony, for many in China, is that China is a signatory to the United Nations-sponsored declarations on human rights since 1948, whereas the United States is not. Although participation in such international accords may be more a matter of image than substance – an attempt by China to be perceived as a rights-friendly nation – China remains suspicious of external efforts to monitor its compliance with declared international norms for human rights.

#### RIGHTS LANGUAGE AND THE QUESTION OF COMPATIBILITY

A more philosophical concern over the imposition of Western ideologies is the hermeneutical question of whether the notion of rights is compatible with a Chinese understanding of society and the individual. Roger Ames is one of a growing number of Western scholars critical of attempts to reduce the discussion on human rights to the categories of Seventeenth Century European socio-economic aspirations. Ames takes exception to the idea prevalent in Western liberal thinking that human rights are “unconditional, universalistic, and, in a strict sense, transcendent.”<sup>13</sup> According to Ames, the “universalistic assumption(s)” of “rights defined as existing prior to and independent

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<sup>12</sup> Sumner B. Twiss. “A Constructive Framework for Discussing Confucianism and Human Rights.” Wm. Theodore de Bary and Tu Weiming. Editors. Confucianism and Human Rights. New York: Columbia University Press, 1998. p. 29.

<sup>13</sup> Roger T. Ames. “Continuing the Conversation on Human Rights.” Ethics and International Affairs. 1997. Volume 11. pp. 182-183.

of social obligations is anathema to many of the Asian cultures that have chosen to define the human being as irreducibly social.”<sup>14</sup> The cross-cultural difficulty with most statements of human rights is that they are couched in the language of Western liberal individualism. The very guarantees of such rights often pit the individual against society, government, and even family, creating a cultural and philosophical dissonance for the Asian mind.

### THE RISE OF ‘ASIAN VALUES’

In recent years, significant objection to Western theories of rights based on individualism has been emboldened by the economic gains of emerging East Asian and Southeast Asian nations. Most notable is the case of Singapore’s rapid growth under the leadership of former Prime Minister Lee Kuan Yew. Eschewing the moral decadence of the West and its lack of societal discipline and cohesiveness, Lee championed a relatively authoritarian style of republican democracy on the basis that “Asian Values” calls for law and order, filial piety and social obligation as the foundations for ensuring benefits to the individual. On the surface, these values appear to be Confucian, but Lee’s attraction to them may have had more to do with their utility in reinforcing a conservative political and social vision than with any balanced exposition of the Confucian texts. Emphasizing obedience to elders and to the state, Lee tightly controlled social institutions, the media, labor, and public expression of opinions critical to the government.

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<sup>14</sup> Ibid. pp. 183-184.

In many ways, Lee has become a celebrated icon to the advocates of economic growth in the Little Economic Dragons of East- and Southeast-Asia. The credentials he presents as vindication of “Asian Values” include the high per capita income of Singapore, its low crime rate and its universal health, education and other benefits for citizens. Addressing an audience of trade union members, Lee explained why the adversarial relationship between management and unions, so prevalent in the United States, has been obviated in Singapore by the prosperity brought about through “Asian Values”: “We have avoided this [i.e., strikes, heated negotiations, etc.] because we have spread the benefits of growth... Everyone had better homes which they owned, well-equipped hospitals and good health care with well-trained doctors, extensive sports and recreational facilities... All Singaporean workers, blue collar, white collar, grey collar, managers, executives, investors both domestic and foreign have all benefited.”<sup>15</sup> Lee and other Singapore conservatives hold that the nation’s “shared values” are responsible for its rapid growth. Chief amongst the five “shared values” is “Nation before community and society above self.”<sup>16</sup> From as early as primary school, children in Singapore are taught that compliance with the state and the community is of greater virtue than the Western practice of standing up for one’s individual rights.

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<sup>15</sup> Lee Kuan Yew. Speech at the NTUC 40<sup>th</sup> Anniversary Dinner, Suntec City. September 6, 2001. Singapore Government Press Release. Media Division, Ministry of Information and The Arts. 3/11/02. <http://www.gov.sg/singov/announce/060901sm.htm>.

<sup>16</sup> The remaining national “shared values” of Singapore are: (2) “Family as the basic unit of society,” (3) “Community support and respect for the individual,” (4) “Consensus, not conflict,” (5) “Racial and religious harmony.” The obvious parallels to Confucian values, especially in the first three “shared values” allow for the easy conflation of Confucianism with “Asian Values.” For an official exposition of the “shared values,” see: Singov - The Singapore Government Online Portal. 3/11/2002. <http://www.sg/flavour/values-5.html>.

## ‘ASIAN VALUES’ DRESSED IN CONFUCIAN CLOTHING

By seeking to legitimize authoritarian government as authentically Chinese via identification with Confucian principles, proponents of “Asian Values” have helped to perpetuate a negative stereotyping of Confucianism as anti-democratic. Wm. Theodore de Bary has observed, “...To the minds of many people in both East or West, Confucianism has only been known as a conservative system supportive of family, state, and status quo... In effect, by associating itself with Confucianism, the opposition to democracy and human rights has staked out a higher cultural ground on which to stand.”<sup>17</sup>

That “higher cultural ground” of authentic Chinese values, regardless of how it is defined, has become an important rhetorical asset to be fought over by those who seek validation of their position as worthy of full cultural and political acceptance. Thus, despite its official disavowal of traditional morality and religion, the People’s Republic of China anchors its polemic for the repatriation of Taiwan in language that parallels the Confucian virtue of *xiao* 孝 (filial piety).<sup>18</sup> The rationale that Taiwan must return to its

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<sup>17</sup> Wm. Theodore de Bary. “Constructive Engagement With Asian Values.” Columbia East Asian Review. Fall, 1997. Columbia University. 3/20/2002.  
<<http://www.columbia.edu/cu/cear/issues/fall97/graphics/special/debary/debary.htm>>.

<sup>18</sup> While the People’s Republic of China does not appeal ostensibly to Confucian values for the rationalization of public policy, its most notable argument for a unified China (with reference to Taiwan) is fidelity to the “fatherland.” Accordingly, the historic relationship between Mainland China and Taiwan takes precedence over contemporary notions of rights or self-determination as asserted by the Republic

fatherland is based upon the construct of reality that sees China as a family whose members must be loyal to the parent. The concept of self-determination as a right of a people, let alone individualism, is simply irrelevant to this vision.

The question, then, for an acceptable approach to human rights in China, is one of vision. Any approach capable of making broad-based cultural, intellectual and political inroads will need to be one that is perceived as authentically and anciently Chinese. I propose that Classical Confucianism, when freed from misconceptions about it, satisfies this criterion not only in style, but also in substance. Within the argument of this dissertation, no notion of Chinese rights *per se* is developed. Rather, the duty of government to abide by the Classical Confucian concept of *tianming* 天命 will be presented as an authentically Chinese resource from which a rights understanding can be developed. In Part 2 of this thesis, I will discuss how a language of duties (for government) can be translated into a language of rights (for the people).

## CLASSICAL CONFUCIANISM AS SATISFYING THE CRITERION OF CHINESENESS

The primary sources of distinctively Classical Confucian thought, known as the Four Books, are the Lun Yu 論語 (Analects), Da Xue 大學 (Great Learning), Zhong

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of China. See, for example, “The Taiwan Question and the Reunification of China.” White Papers of China Government. August 1993. Taiwan Affairs Office & Information Office, State Council, The People's Republic of China. 12/2/2000. <[http://english.peopledaily.com.cn/whitepaper/7\(1\).html](http://english.peopledaily.com.cn/whitepaper/7(1).html)>.

Yong 中庸 (conventionally translated ‘Doctrine of the Mean’),<sup>19</sup> and the Mengzi 孟子 (Teachings of Mencius). While textual scholarship raises questions of authorship, the texts themselves are universally regarded as the extant record of what China has historically considered Confucian doctrine.

As an evolving tradition, however, Confucianism has taken various forms over the centuries.<sup>20</sup> The first, known as Classical Confucianism, hails from the Spring and Autumn period (770 – 476 BCE), during which time the primary texts were written and given the basic format they retain to this day. Known as ruxue 儒學 (“School of the Learned”) or rujia 儒家 (“Study of the Learned”), Classical Confucianism consists of the actual or purported teachings of Confucius and his disciples as well as significant interpreters from the Warring States period (475-221 BCE). The most notable of these interpreters are Mengzi 孟子 (Mencius) and Xunzi 荀子.

It is important to clarify that, while the exposition of the primary texts by scholars since the time of Confucius yielded a rich source of values illustrating the ideals of Confucianism in social and governmental practice, their implementation was never fully realized in any Chinese society from the Zhou Dynasty (1066-256 BCE) of Confucius

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<sup>19</sup> This title, used by James Legge and others, has been criticized as an Occidentalism, given its original appearance as the name of a doctrine found in Aristotle’s Ethics (Book II of the Nicomachean Ethics). A suggested alternative is “Focusing the Familiar.” See Roger T. Ames and David L. Hall. Focusing The Familiar. Honolulu: University of Hawaii Press, 2001.

<sup>20</sup> For a comprehensive chart detailing the stages of development in Confucianism, see Xinzhong Yao. An Introduction To Confucianism. Cambridge: Cambridge University Press, 2000. pp. xiv-xviii.

himself (551-479 BCE) to the final dynastic empire, that of the Qing (1644-1911). Furthermore, what has often been labeled Confucian in historical practice, such as subjugation to the will of the state without just recourse, is, in fact, a departure from the ideals of Classical Confucianism. This theme will be developed more fully when we examine the concept of tianming 天命.

According to tradition, Confucius lived with the knowledge that his ideas on the administration of government were not widely practiced. Leaving his modest civic position in the state of Lu to seek out a province in which his philosophy might be accepted, Confucius traveled for thirteen years. Despite his persistent pleading with rulers, none of the two-dozen or so feudal Chinese states he may have visited offered a platform from which to fulfill his social or political vision. Typical was the reaction of Yen Ying, chief minister to duke Ching in whose employ Confucius temporarily served: “Those scholars [Confucius and company], are impracticable and cannot be imitated. They are haughty and conceited of their own views... This is not the time to examine into his rules of propriety.”<sup>21</sup>

Yen Ying was precise, however ironic, in his resistance to the “rules of propriety,” no doubt a reference to the Confucian virtue of li 禮 (ritual propriety or rites). For Confucius, adherence to li 禮 was at once a character virtue and a duty expected of government officials. Moreover, li 禮 was never to be carried out in a perfunctory manner, but from the heart, and with humility. Such humility may have been difficult for

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<sup>21</sup> Legge, op. cit. pp. 68-69.

Yen Ying given Confucius' insistence that rank does not exempt one from the ritual of bowing: "The rules of ceremony prescribe the bowing below the hall, but now the practice is to bow only after ascending it. That is arrogant. I continue to bow below the hall, though I oppose the common practice" (Lun Yu 論語 9.3.2).

## CLASSICAL CONFUCIANISM AS EXEMPLARY MORAL PRACTICE BY RULERS

The theme of self-effacement, found throughout Confucius' instructions to rulers, differentiates his teaching from the actual practice of dynastic autocrats and oligarchs throughout China's history. In much the same way as Machiavelli's *The Prince* served as an ala carte manual for later Western princes, Confucius' sayings became a popular reference for a Chinese ruler's self-development, but not a universally practiced rule for the treatment of subjects. In striking contrast to the view that Confucianism stands for the preservation of a status quo weighted against the interests of commoners, the Classical Confucian writings place the highest ethical and moral obligations upon those who possess rank and privilege. The character of a ruler, not the exercise of raw power, is enjoined as the basis for his rule: "The Master said, 'When a prince's personal conduct is correct, his government is effective without the issuing of orders. If his personal conduct is not correct, he may issue orders, but they will not be followed'" (Lun Yu 論語 13.6).

## VIRTUE AS A BASIS FOR GOVERNANCE

In Classical Confucianism, the essence of governing is the practice of *de* 德 (virtue). To the ruler who demonstrates true *de* 德 by his actions, Confucius is portrayed as ascribing the highest praise: “The Master said, ‘He who exercises government by means of his virtue [德] may be compared to the north polar star, which keeps its place and all the stars turn towards it’” (*Lun Yu* 論語 2.1). Any ruler who is oppressive or inconsiderate of his subjects’ needs is, by definition, lacking in *de* 德: “...There has never been a mean man, and, at the same time, virtuous” (*Lun Yu* 論語 14.7). Thus, Confucius is reputed to have advised a contemporary ruler against the need for any oppressive acts:

Ji Kang Zi [Chi K’ang Tzu] asked Confucius about government, saying, “What do you think of killing the wicked and associating with the good?” Confucius replied, “In your government what is the need of killing? If you desire what is good, the people will be good. The character [德] of a ruler is like wind and that of the people is like grass. In whatever direction the wind blows, the grass bends” (*Lun Yu* 論語 12.19, Wing-tsit Chan translation)<sup>22</sup>

For the classical Confucian ruler, the practice of *de* 德 is not an esoteric or private posture. The cultivation of virtuous character in the *junzi* 君子 (conventionally translated ‘gentleman’ or ‘superior person’) is not promoted for the goal of narcissistic self-development. Rather, a ruler’s virtue must be expressed in the treatment of subjects following the principle of *shu* 恕 (reciprocity): “Tsze-kung [Zigong] asked, saying, ‘Is

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<sup>22</sup> Wing-tsit Chan, *A Sourcebook in Chinese Philosophy*. Princeton: Princeton University Press, 1963. p. 40.

there one word which may serve as a rule of practice for all of one's life?' The Master said, 'Is not RECIPROCITY [恕] such a word? What you do not want done to yourself, do not do to others.'" (*Lun Yu* 論語 15.23).<sup>23</sup> Thus, the Confucian ruler is constrained at all times by a virtue-duty that obligates him to refrain from treating subjects as he himself would not want to be treated. The negative emphasis of *shu* 恕 is intended to produce a moral restraint, preventing the exercise of unbridled power on the part of a ruler.

### CLASSICAL CONFUCIANISM AND THE WELFARE OF THE GOVERNED

Modern day assessments of Confucianism have often failed to recognize the distinction between the Classical Confucian doctrines and the way in which Confucianism was implemented under a succession of rulers and governments throughout China's Imperial history. In 1916, Chen Duxiu, who would later help organize the Chinese Communist Party, wrote the following:

Confucius lived in a feudal age. The ethics he promoted are the ethics of the feudal age. The social mores he taught and even his own mode of living were teachings and modes of a feudal age. The objectives, ethics, social norms, mode of living and political institutions did not go beyond the privilege and prestige of a few rulers and aristocrats and had nothing to do with the happiness of the great masses.<sup>24</sup>

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<sup>23</sup> In the James Legge translation, this passage of the *Lun Yu* appears as 15:23; in later translations, notably that of Ames and Rosemont, it appears as 15:24. See Roger T. Ames and Henry Rosemont, Jr. The Analects of Confucius – A Philosophical Translation. New York: Ballentine Books, 1998. p. 189.

<sup>24</sup> Wm. Theodore de Bary et al., eds. Sources of Chinese Tradition. New York: Columbia University Press, 1960. Vol. 2, pg. 156.

Duxiu's objection to Confucianism was based upon its practice and interpretation by the ruling classes of feudal society. While Duxiu identified Confucius with the ruling classes, he did not address the marked contrast between the actual Confucian teachings on the duties (and virtues) required of rulers and the practices of feudal rulers that fell short of the ideal. The "happiness of the great masses" is indeed a Classical Confucian ideal as well as the evidence that a government's authority is legitimate. We can certainly agree with Duxiu that a return to the norms of feudal society would not serve the social welfare of the Chinese (or any people) today. However, the rejection of Confucian ideals would go beyond any necessary objection to feudal culture. The task for the development of a rights-equivalent doctrine based upon the values of Classical Confucianism will be to identify what kernel of Confucian teaching remains relevant in a post-feudal world. In Part 4, it will be argued that the language of Confucian duties incumbent upon government can be translated into the language of rights, thereby leaving behind the trappings of a feudal society in which talk of rights would be tenuous given the potentially absolute prerogatives of a ruler.

Only the most cynical understanding of Confucianism would suggest that the government's violent reaction to the student demonstrations in *Tiananmen* Square during the Spring of 1989 is an instance of authentic (e.g., "Classical") Confucianism. Such a perspective would fail to weigh the fact that Confucian values ultimately spell out the responsibilities of rulers. On the question of proper exercise of authority, the *Lun Yu* 論語 records a dialogue in which *Zi Zhong* asks Confucius to illustrate the appropriate conduct of a ruler toward the people. Confucius' reply describes the *wu mei* 五美 (*Five*

*Excellent Practices*): “When the person in authority is beneficent without great expenditure; when he lays tasks *on the people* without their repining; when he pursues what he desires without being covetous; when he maintains a dignified ease without being proud; when he is majestic without being fierce” (*Lun Yu* 論語 20.2.1). Ferocity toward one’s own people is a clear violation of the Confucian ideal for a ruler.

PART II: THE *DAXUE* 大學 AS PRIMARY RESOURCE FOR  
THE CLASSICAL CONFUCIAN VISION

## CHAPTER 2: THE *DAXUE* 大學 ON SOCIETY

The ancient treatise *DaXue* 大學 (the *Great Learning*) is the source of the vision which characterizes Classical Confucianism. It is a compelling philosophical rationale for the beneficent treatment of human beings as normative. The *DaXue* 大學 presents an argument for the development of human potential (through self-cultivation) which is so lofty an ideal that, when seen as an end for all, promotes the universal satisfaction of lower order values such as subsistence and security as outlined in Henry Shue's *Basic Rights* or in multiple categories of human rights defined by the United Nations Declarations.<sup>25</sup> Informed by the essential values of the *DaXue* 大學, the Classical Confucian vision of personal development presupposes the satisfaction of basic human needs throughout society.

In this chapter (Ch. 2), I put forward the first of three premises related to the *DaXue* 大學 values. Premise 1: The *DaXue* 大學 value for all persons is the development of human potential and the resultant transformation of society into an environment which sustains individual human flourishing. The provision of educational opportunity for all toward this end is an ethical imperative articulated within ancient Chinese philosophy. In chapter 3, I offer Premise 2: Classical Confucianism draws upon the *DaXue* 大學 as its informing source for the virtues and roles it articulates for normative social order. The influence of the *DaXue* 大學 pervades the key work in the transmission of Classical Confucian values, the *Lun Yu* 論語, providing a vocabulary of

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<sup>25</sup> See Chapter 1 for a definition of subsistence and Basic rights.

cultural assumptions against which to interpret the frequently context-free aphorisms of Confucius. Finally, in Chapter 4, I will present Premise 3: Commitment to Classical Confucian ethics, infused with the *DaXue* 大學 vision, entails the satisfaction of basic human needs as a minimal<sup>26</sup> provision for all members of society. This final premise is offered to demonstrate that a society which embraces and pursues the *DaXue* 大學 values as offered by Classical Confucianism will in effect demonstrate an inherent commitment to realizing the basic outcomes of security and subsistence generally advocated in Western articulations of human rights. Later chapters of this dissertation will develop this concept.

At the outset, a general overview and analysis of the content of the *DaXue* 大學 will be useful before explicitly examining these three premises.

### THE *DA XUE* 大學

It was during the Zhou Dynasty (c. 1050–256 BCE) that the Classical Confucian virtue of *li* 禮 (i.e., ritual propriety) was codified into formal rituals, ostensibly replicating ancient practices as documented in the oldest of Confucian sources such as the *Shijing* 詩經 (i.e., *Book of Songs*). The virtue of *li* 禮 prescribed for society the proper modes of conduct in public settings, such as government and civil life as well as in

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<sup>26</sup> I use the term ‘minimal’ here as a relative place-holder for those standards which particular governments and societies must determine for themselves to be appropriate. Classical Confucianism cannot offer a precise operational notion of what minimal is, but provides a frame of reference in which a sufficiency of human necessities is required for the fulfillment of the social vision of the *DaXue* 大學.

private settings such as in the home and familial relationships. Much Classical Confucian teaching on *li* 禮 concerns itself with appropriate social protocols as in the following instruction:

Lin Fang asked what was the first thing to be attended to in ceremonies. The Master said, "A great question indeed! In festive ceremonies, it is better to be sparing than extravagant. In the ceremonies of mourning, it is better that there be deep sorrow than a minute attention to observances."

- *Lun Yu* 論語, 3.4 <sup>27</sup>

The Confucian aim of *li* 禮, indeed, was never purely formal or external, but focused upon the transformation of human character as in the following statement attributed to Confucius:

It is by the Rules of Propriety that character is established.

- *Lun Yu* 論語, 8.8.2

In the development of *li* 禮 as a Classical Confucian virtue, the environment of the *Zhànguó Shídài* 戰國時代 (i.e., *Era of the Warring States* from 476 BC – 221 BC), rife with violence and instability, should be borne in mind as a contrast to the civility the virtue aims to cultivate. It was not a culture of respect and courtesy that produced the value of *li* 禮, but a culture sorely in need of these expressions of virtue. Consequently, the development of *li* 禮 did not emerge from the way the ancient Chinese behaved, but from the ideals to which they aspired.

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<sup>27</sup> Except where otherwise specified, passages in English from the *Lun Yu* 論語, *Da Xue* 大學 and *Zhong Yong* 中庸 are taken from James Legge, Confucian Analects, The Great Learning and The Doctrine of the Mean, (New York: Dover Publications, 1971).

Following their transposition from the *Li Ji* 禮記 (i.e., *Book of Songs or Record of Ritual*) by the neo-Confucian<sup>28</sup> scholar *Zhu Xi* (1130-1200), the *DaXue* 大學 and constituent text *Zhong Yong* 中庸 (conventionally, “Doctrine of the Mean”) have constituted the central core of Confucian and neo-Confucian ethics. These works, usually studied in tandem, serve as a bridge within the canon of Confucian literature, reflecting the metaphysical influence of the ancient *Yijing* 易經 (i.e., *Book of Changes*) and subsequently infusing a neo-Confucian metaphysics into the *Lun Yu* 論語. The *DaXue* 大學 and *Zhong Yong* 中庸 have served as Classical Confucian and neo-Confucian lenses through which to interpret and apply the *Yijing* 易經 and the *Lun Yu* 論語.

Both the *Da Xue* 大學 and *Zhong Yong* 中庸 outline a process of personal and global transformation, commencing in the cultivation of an exemplary leader (i.e., the *junzi* 君子) and culminating in the harmonization of the state and the world. While each work presupposes the inter-connectedness of human being and cosmic functioning, the *Da Xue* 大學 adopts the frame of reference most suited to a learner, a pedagogical sequence for transformation, while the *Zhong Yong* 中庸 addresses broader metaphysical implications. The *Zhong Yong* 中庸, with its metaphysics, will be discussed further in Chapter 5.

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<sup>28</sup> The term neo-Confucian generally refers to rationalistic scholars who revived Confucian philosophy, starting in the 10<sup>th</sup> Century. These scholars served as both apologists and stylists of Confucian thought and practice over the following eight centuries against a pluralist cultural background which included Taoism and Buddhism.

Owing to its educational purpose, the *Da Xue* 大學 summarizes or abstracts its message via a rhythmic ode reminiscent of the *Shijing* 詩經 (*Book of Songs*). The ancient sages, the *Da Xue* 大學 tells us, viewed the prosperity of their political states and the world in general as the ultimate outcome of a sequence beginning with their inner-most selves. What transpires in the visible and material universe begins in the invisible heart-mind. External harmony is the result of proper internal character. Virtues are seen as interdependent stages within a journey of moral cultivation from the individual to society at large as this seminal passage within the *Da Xue* 大學 describes:

The ancients who wished to illustrate illustrious virtue throughout the kingdom, first ordered well their own States. Wishing to order well their states, they first regulated their families. Wishing to regulate their families, they first cultivated their persons. Wishing to cultivate their persons, they first rectified their hearts. Wishing to rectify their hearts, they first sought to be sincere in their thoughts. Wishing to be sincere in their thoughts, they first extended to the utmost their knowledge. Such extension of knowledge lay in the investigation of things. Things being investigated, knowledge became complete. Their knowledge being complete, their thoughts were sincere. Their thoughts being sincere, their hearts were then rectified. Their hearts being rectified, their persons were cultivated. Their persons being cultivated, their families were regulated. Their families being regulated, their states were rightly governed. Their states being rightly governed, the whole kingdom was made tranquil and happy.

-*Da Xue* 大學,  
*Text of Confucius*, 4-5

This is how Wing-tsit Chan in his classic anthology of Chinese philosophy translates the eight aspects of the *Da Xue* 大學 :

(1) the investigation of things

- (2) the extension of knowledge
- (3) sincerity of will
- (4) rectification of the mind
- (5) the cultivation of personal life
- (6) the regulation of the family
- (7) the ordering of the state
- (8) peace throughout the world<sup>29</sup>

A process reading<sup>30</sup> of the *Da Xue* 大學 will show that its eight aspects are not a list of distinct values or practices, but the related elements of a dynamic system designed to cultivate the transformation of individual members and the whole of a society. More will be said of this in Chapter 5 when Professor Chung-Ying Cheng's theory of onto-hermeneutics is applied. That the *Da Xue* 大學 recognizes an organic process of cause and effect in moving from the individual to society and the world is explicitly noted by the text itself:

It cannot be, when the root is neglected, that what should spring from it will be well ordered.

-*Da Xue* 大學,  
*Text of Confucius*, 7

This metaphor of connectedness, nurturing, and growth predicts (negatively) what will fail to result from an absence of the organic process. Each step within the *Da Xue* 大學 vision is the “root” of a following step. A modest augmentation of Chan's language helps to elucidate the systematic flow of the *Da Xue* 大學. This reveals how the scope of

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<sup>29</sup> From the opening section of the *Da Xue*: “When things are investigated ... peace throughout the world.” From “The Great Learning” in Wing-tsit Chan, *A Source Book in Chinese Philosophy*, (Princeton: Princeton University Press, 1973), 33.

<sup>30</sup> A process reading of texts presupposes an ontology of *becoming* as advocated by Charles Sanders Peirce, John Dewey, Alfred North Whitehead, and Martin Heidegger, among others. Specifically, Chung-ying Cheng's theory of Onto-hermeneutics will be applied in Chapter 3.

influence intended by the *Da Xue* 大學 begins with self-cultivation and culminates in global change.

- (1) The investigation of *happenings*<sup>31</sup> leads to...
- (2) the extension of knowledge, *resulting in*...
- (3) sincerity of will, *which produces*...
- (4) rectification of the mind, *which is followed by*...
- (5) the cultivation of personal life, *yielding*...
- (6) the regulation of the family, *which insures*...
- (7) the ordering of the state, *and culminates in*...
- (8) peace throughout the world.

Having noted the flow and connectedness of each process in the *Da Xue* 大學, an analysis of the “root” process from which all others flow will demonstrate the primacy of personal transformation through learning. While a commentary upon the *Da Xue* 大學 would elaborate on the distinctives of processes (2) – (8), these processes will be noted only briefly below, where attention will be given to *ge-wu* 格致, the investigation of happenings, constituting the “root” or first process.

## THE *DaXue* 大學 AS A VISION FOR THE DEVELOPMENT OF HUMAN POTENTIAL

### (1) The Investigation of Happenings

*Ge-wu* 格致 (the investigation of happenings) is based upon the metaphysical presupposition that human beings are born into an objective world “of happenings” that

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<sup>31</sup> In keeping with the assumptions of a process metaphysics, the one noun of Wing-tsit Chan’s English translation I would change here is “things,” substituting the word “happenings” to translate *ge-wu* 格致. See further explanation in text below.

can be experienced. “Happenings” has become a preferred translation over the traditional “things” of James Legge, Wing-tsit Chan and others because it minimizes the importation of Western substance metaphysics, allowing for the Chinese view of reality as a field of interconnectedness. Moreover, in Chinese philosophy, this world of interconnected happenings which exists is accepted at face value as what constitutes reality. It is not hypothesized; it is encountered. Thus, Chinese philosophy begins at the point of responding to encountered reality, a “myriad of wonders” or *wanwu* 萬物 (i.e., “ten-thousand happenings”). Huaiyu Wang explains the perspective of interconnectedness imbedded within the concept of *ge-wu* 格致.

The literal meaning of *ge wu*, therefore, is “to let things come,” or “to let things be encountered.” In the context of the Great Learning, the phrase carries the extended meaning of *gan tong* 感通. It means to open oneself to and be affected by things around, that is, to open oneself to the engagement and comportment with things and events in the surrounding world. Only when one opens oneself to the surrounding things and events around one will true knowledge of the world and the self arrive.<sup>32</sup>

Consequently, the Investigation of Happenings entails an empirical realism. When *Fu Xi* (circa. 2800 BC) designed the original arrangement of the trigrams of the *Yijing* 易經, he started with a short list of basic, elemental happenings in the world presumably evident to all human beings: sky, wind, water, mountain, earth, thunder, fire, and lake.<sup>33</sup> Common experience is the basis of encountering these primary happenings.

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<sup>32</sup> See Huaiyu Wang, “On Ge Wu: Recovering the Way of the Great Learning,” *Philosophy East and West* 57, no. 2 (April 2007): 211

<sup>33</sup> Richard Wilhelm and Cary F. Baynes, *The I Ching*, (Princeton: Princeton University Press: 1977), *l-li*, 357.

When arrayed in an 8 x 8 square, these happenings yield the 64 hexagrams, the *Yijing*'s 易經 collection of process happenings constituting the basis of reality. The value-ladenness of the *Yijing*'s 易經 hexagrams is what informs the resultant trail of explanatory commentaries within the work, from the writings of ancient sages through the neo-Confucian scholars.

The *Yijing* 易經 stood as a backdrop against which Confucius and the neo-Confucians understood the ethical implications of reality. For this reason, Wing-tsit Chan has summed up all Chinese philosophy in one word, “humanism – not the humanism that denies or slights a Supreme Power,<sup>34</sup> but one that professes the unity of man and Heaven.”<sup>35</sup> The notion of the unity of man and heaven, inherent in the *Da Xue* 大學 eight step sequence, reflects the ontological view of the *Yijing* 易經 that all things in the universe are interwoven and that humanity is the bridge between earth and heaven. In the *Yijing* 易經, Confucius found a metaphysical structure and the ontological foundations of *di* (universal source, order, power, etc.) as well as *dao* (literally, way or path). His distinctive contribution to Chinese thought was not to innovate metaphysics, but to translate ancient philosophical antecedents into new and original ethical practices. While the *Yijing* 易經 presents the universe as the interconnectedness of natural happenings, the *Da Xue* 大學 humanizes it. Confucius viewed the study of the philosophical as a prelude to an ethical life:

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<sup>34</sup> Chan evidently did not see the problem with his harmonizing tendency (i.e., in claiming no conflict between the conflation of “man and heaven” and the existence of an ontologically separate God).

<sup>35</sup> Wing-tsit Chan, A Sourcebook..., 3.

If some years were added to my life, I would give fifty to the study of the *Yijing*, and then I might come to be without great faults.

- *Lun Yu* 論語, 7.16

While the “reflective life” for Socrates as well as for the pre-Socratics before him generated questions such as “where did everything come from?” and “what is everything made of?” (although Socrates would later subordinate these queries to questions of *telos* or meaning), the ancient Chinese philosophers were absorbed in understanding “what is?” and “how is it?” An intensely “this-worldly” curiosity motivates the investigation of processes and defines the role of anyone born into the world as a learner about the world. The pursuit of such learning results in value-knowledge precisely because the physical realm is inseparable from value in ancient Chinese thought. And while this is not alien to the teleologies of both Plato and Aristotle, the ecological nature of Chinese thought is driven by the elemental categories of the *Yijing* 易經, starting with the eight happenings. Moreover, the *Da Xue* 大學 presumes that all knowledge (i.e., of happenings) yields moral knowledge. Thus, the investigation of happenings, as an initial process for humanity and human beings, results not only in an empirical awareness of elements such as *sky, wind, water, mountain, earth, thunder, fire, and lake*, but also of the values required for moral sense. As first-order learning in the *Da Xue* 大學 vision, the investigation of happenings opens the “gate by which first learners enter into virtue.”<sup>36</sup> The practice of virtue is the aim of learning such that, “Learners must commence their

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<sup>36</sup> From Master Ch’ang’s prologue to the *Da Xue*, part of the extant text.

course with this, and then it may be hoped they will be kept from error.”<sup>37</sup> The error to be avoided is not merely epistemic, but moral, as pertaining to character development and personal transformation.

In the history of neo-Confucian interpretation of the *Da Xue* 大學, a split emerges between the respective schools founded by Zhu Xi and Wang Yangming (1472-1529). The relevance of this split for the meaning of the investigation of things and consequent implications for the extension of knowledge is based upon competing interpretations of the term *ge* in *gewu*. Jig-Chuen Lee, who has compared the various interpretations offered by contemporary sinologists, writes:

...the difference between Chu's (sic.) [i.e., Zhu Xi] interpretation of *ko-wu* (sic.) [i.e., *ge-wu*] and Wang's interpretation of the same term boils down to the different understanding of the word "ko (sic.)" [i.e., *ge*] Chu takes it to mean "investigate" whereas Wang takes it to mean "rectify." The fact that Chu and Wang understand "ko" differently is not a trivial matter. It reflects not only the possible different readings of the text in *The Great Learning*; it also points to the significant difference between Chu's system and Wang's.<sup>38</sup>

According to Lee, the difference between the two leading neo-Confucian interpreters is that Zhu Xi sees the moral recognition of right from wrong as a capacity discovered through empirical investigation, whereas Wang Yangming sees the ability to tell right from wrong as innately present within individuals, needing only to be “rectified” or cultivated.<sup>39</sup> While the divergence of these two viewpoints raises interpretive issues

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<sup>37</sup> Ibid.

<sup>38</sup> Jig-Chuen Lee, "Wang Yang-Ming, Chu Hsi, and the Investigation of Things," *Philosophy East & West* 37, no. 1 (1987): 26.

<sup>39</sup> Ibid., 33.

for the initial *Da Xue* 大學 processes, it does not change the fundamental outlook of the *Da Xue* 大學 that moral knowledge is the root of an organic system of personal transformation, culminating in global transformation. Wing-tsit Chan thus retains the language of Zhu Xi when he characterizes that philosopher's understanding of the investigation of things and the extension of knowledge as "moral awakening."<sup>40</sup> Although Zhu Xi would here mean an awakening which results from the *Da Xue* 大學 processes, and Wang Yangming would see the awakening as an outgrowth of innate human knowledge via the aid of those processes, the primacy of moral awakening is not disputed in either view. Professor Cheng articulates the resulting insight of Chinese philosophy that moral knowledge is the product of learning or education in the broadest sense:

...the investigation of things covers not only the natural world, but also human capacities and virtues as well. It is not simply a matter of observing the characteristics of things, but is a matter of defining and setting up a standard of the true and the right. In fact, a broad conception of this sort explains how investigating things and attaining knowledge make possible the achievement of social harmony and political order in the world on a solid basis.<sup>41</sup>

The investigation of happenings, then, serves as a foundation for the moral development of the individual which, in turn, results in a moral orientation that will transform society. This is what is meant by the metaphor of the properly cultivated root growing into that which is well ordered. Accordingly, the *Da Xue* 大學, via its eight-sequence refrain,

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<sup>40</sup> Wing-tsit Chan, trans., Instructions for Practical Living and Other Neo-Confucian Writings, by Wang Yang-ming, (New York: Columbia University Press, 1963 ), xxxii.

<sup>41</sup> Chung-ying Cheng, New Dimensions of Confucian and Neo-Confucian Philosophy, (New York: State University of New York Press, 1991), 228.

brings into focus each stage as it grows from the root of its prior stage. And this growth is a moral practice. For example, at the initial stage, “the investigation of happenings leads to the extension of knowledge” is a moral practice, just as “the cultivation of personal life, yielding the regulation of the family” is a moral practice. The reason that each stage is a moral practice is that there is a presumed moral imperative in moving from one stage to the next, from the root to the cultivated plant. For example, from the initial stage, it is morally good and imperative to transform the investigation of happenings into knowledge, but it would be a less than moral act to investigate happenings apart from the interest in extending knowledge. Similarly, at the second stage, it is morally good and imperative to transform the extension of knowledge into the sincerity of will, whereas, to extend one’s knowledge with no commitment to sincerity of will would be immoral. Ultimately, at the seventh stage in the *Da Xue* 大學 sequence, the ordering of the state presupposes a moral commitment to peace throughout the world, whereas the use of state power in a manner contrary to peace would be immoral. Throughout the *Da Xue* 大學 sequence, morality is imbedded within the proper growth and functioning of the stages of transformation.

A briefer analysis follows now for the remaining *Da Xue* 大學 processes which stem from the investigation of happenings.

## (2) The Extension of Knowledge

Although Confucian sages have never questioned the privileged place the *Da Xue* 大學 assigns to the investigation of happenings, they have differed over how the closely

related process of the extension of knowledge, should be understood. Zhu Xi, in his commentary upon one of the first interpreters of the *Da Xue* 大學, Zengzi (505-436 B.C.), writes that the meaning of the terms investigation of happenings and extension of knowledge “is now lost.”<sup>42</sup> While the investigation of happenings is associated with a “moral awakening,” the extension of knowledge is predicated upon epistemological considerations. Zhu Xi, perhaps the most influential of the neo-Confucians for his role in editing the *Four Books*, has left the strongest imprint upon the *Da Xue* 大學 as editor of our surviving text. Zhu Xi insisted upon an ontology of form in which the *li* (principle or pattern), is embodied “above form” and the *qi* (material force), is embodied “below form”.<sup>43</sup> In contrast, Wang Yangming held that the *li* is inherent in the mind and does not require the discovery of external principles.

### (3-5) Sincerity of Will, Rectification of the Mind, the Cultivation of Personal life

This conflict between the Zhu Xi “School of Principle” and the Wang Yangming “School of Mind” has produced two distinct approaches to cultivation of personal life. For Zhu Xi, the self-cultivation of knowledge (*zhi*) requires the active investigation of all happenings, from natural phenomena to literature, from inanimate objects to the lives of virtuous individuals. Knowledge is developed and extended through reflection and

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<sup>42</sup> Wing-tsit Chan, A Sourcebook..., 89.

<sup>43</sup> “Within heaven and earth there is principle and *qi*. Principle is the Way above form and the root that produces things. *Qi* is the vessel that is below form, that produces the frame of things.” Zhu Xi, “Appendix to Master Zhou’s Book of Comprehending” in Wing-tsit Chan, Chapter and Verse Commentary on the Great Learning, Sishu Wujing, (Beijing: Zhongguo Shudian, 1985)

logical analysis upon the fruits of investigation. The goal of reflection is to identify underlying individual principles (*li*) which reveal patterns and identities of specific phenomena, leading to discernment of a unifying principle (i.e., *tai ji* – “the Great Ultimate”) which ties together all existence. The result of this rigorous process is rectification of the mind, a state in which emotions, passions, and thoughts are tranquil, harmonious and productive.

*Wang Yangming* similarly strives for the rectification of the mind, yet his approach to knowledge (*zhi*) and the investigation of all happenings draws upon inward character reflection, for he holds that the mind contains all necessary moral principles (*li*). Rectification for Wang is a process of using the mind’s innate knowledge of the good to correct and expel ideas which are not good. The mind then may view the world through the perspective of principles (*li*) it imposes upon all phenomena, whether human or inanimate.<sup>44</sup> In his commentary on the *Da Xue* 大學, Wang writes: “When the mind is free from the obscuration of selfish desires, it is the embodiment of the Principle of Nature, which requires not an iota added from the outside.”<sup>45</sup>

The conflicting interpretations of *Da Xue* 大學 by *Zhu Xi* and *Wang Yangming* are ultimately based upon differing views of human nature (性 *xing*). *Zhu Xi*, who follows Mencius in the belief that human nature is good, provides a metaphysical

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<sup>44</sup> “...for instance, in the matter of serving one’s parents, one cannot seek for the principle of filial piety in the parent... one cannot seek for the principle of loyalty in the ruler... They (principles) are all in the mind... for the mind and principle are identical...” Wang Yang-ming, *Inquiry on the Great Learning*, 3B in Wing-tsit Chan, *A Sourcebook...*, 667.

<sup>45</sup> Ibid.

understanding of how good as a principle inheres humanity, given the *li/qi* dualism. Interaction with the environment and the experience of living expose the individual to patterns (*li*) of goodness which reinforce his/her inner sense of goodness. Similarly, the individual may be exposed to patterns of evil and be thus influenced accordingly. Therefore, intentional education, predicated upon the investigation of happenings, is crucial for shaping the human nature and cultivating *ren* 仁 (humane benevolence). For Wang Yangming, the process is reversed. The principle of goodness is resident within the human nature, such that the individual draws *ren* 仁 from within and extends it to the external world through family, society, and the state.

(6-8) The Regulation of the Family, The Ordering of the State, Peace throughout the world

As has been suggested above, the pronounced conflict over human nature and primary epistemology found in the differing interpretations of Zhu Xi and Wang Yangming does not impair the pragmatic emphasis of the *Da Xue* 大學 vision in locating the transformation of society within the personal development of the individual, leading to the renewal of the family, the state and the world. Although Confucian and later neo-Confucian scholars do not share a consensus on human nature as to whether it is innately good or evil, there is broad consensus upon the Confucian ethical imperative of universal education for self-development. Professor Roy Perrett has made the same observation with reference to two of the leading Confucian antagonists in the debate over human nature.

...both Mencius and Xunzi can offer coherent explanations of evil without resorting to the notion of Evil, notwithstanding their opposition on the optimism/pessimism issue about human nature. Indeed a Western moral philosopher considering these two competing Chinese theories about human nature is likely to be more struck by their shared emphasis on the importance of self-cultivation in order to achieve genuine moral action and their mutual optimism that this can be done than by their disagreement about human nature. This commonality, of course, is part of what makes them both Confucian philosophers, notwithstanding their differences.<sup>46</sup>

Classical Confucianism, in contrast to most strains of contemporary and later Daoism and Buddhism, has consistently promoted the filial, civic and political application of human self-development, as fostered by the *Da Xue* 大學. It is fundamentally Confucian to be socially minded and to view humanity (within society) as the nexus of nature and heaven. Although history does not attest to the successful implementation of the ideals of *Da Xue* 大學 during all of Chinese civilization, its principles articulate the Chinese value of public life. Yet, it must be borne in mind that what is understood in the West as civic engagement (e.g., participation in the Greek *polis* or city-state) may be somewhat incommensurable with the Chinese notion of service to one's ruler. Civic engagement, whether at the state-craft level or in a common village, historically took on the form of filial relationship with one's ruler in ancient China, evoking more of a sense of extended family than citizenship, per se. Nonetheless, the calling to some form of public or communal service, far from being exclusively elitist, is a calling both for the emperor and the common person. Therefore, education is to be universal, and all people are to be empowered for self-development and moral

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<sup>46</sup> Roy W. Perrett, "Evil and Human Nature," *The Monist* 85.2 (2002).

cultivation,<sup>47</sup> so that they may participate, to an appropriate level, in the community at-large. With the most profound social implications, the *Da Xue* 大學 proclaims:

From the Son of Heaven [i.e., the emperor] down to the mass of the people, all must consider the cultivation of the person the root of everything besides.

-*Da Xue* 大學,  
*Text of Confucius*, 7

Wing-tsit Chan clarifies Legge's translation "root of everything besides" to mean "foundation of everything."<sup>48</sup>

As a standard for both those of noble birth and those of common descent, the cultivation of personal character is thus the foundation for civic, political and economic life.<sup>49</sup> While *Zhu Xi's* commentary is replete with examples and applications, the crucial assumptions throughout the *Da Xue* 大學, evident even apart from *Zhu Xi's* interpretation, are that human life is to be valued, society is to be built upon virtuous individuals and families, and that *ren* 仁 (humane benevolence) is to be the standard for the treatment of fellow human beings. The *Da Xue* 大學 is thus an optimistic call to the cultivation of a better humanity, beginning with the character development of the individual. The next chapter will demonstrate how Classical Confucianism in the *Lun Yu* 論語 (*Analects*) draws upon the *Da Xue* 大學 vision for its inspiration and provides a manual of sorts for the practical implementation of that vision.

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<sup>47</sup> *Da Xue* 大學, Commentary Chapter 2.

<sup>48</sup> Wing-tsit Chan, *A Sourcebook...*, 86.

<sup>49</sup> *Da Xue* 大學, Commentary Chapter 9.

### CHAPTER 3: THE *DAXUE* 大學 ON VIRTUE

This chapter examines the second premise of the *DaXue* 大學 vision: “Classical Confucianism draws upon the *DaXue* 大學 as its informing source for the virtues it articulates for normative social order. Although the *Lun Yu* 論語 may be regarded as the “Portable Confucius,” popularizing the widely known phrase, “Confucius says...,” the influence of the *DaXue* 大學 vision upon this Classical Confucian manual is unmistakable.

When Emperor *Shi Huang Di* in 213 B.C. issued an edict to burn all Confucian works except for the *Yijing* 易經, the *Qin* Dynasty (221-206 B.C) witnessed a period of public repudiation of Confucius’ teachings. The ban was repealed under the *Han* Dynasty (206 B.C. – 220 A.D.) and the Confucian civil service examination system was inaugurated.<sup>50</sup> Perhaps because it is the most pragmatic and aphoristic of the Confucian works, the *Lun Yu* 論語 (compiled throughout the Spring and Autumn Period of the Warring States era, ca. 475 BCE - 221 BCE) became the standard *de rigeur* for protocol and administrative management in Imperial China. In his analysis of the textual

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<sup>50</sup> Ichisada Miyazaki clarifies that the influence of the examination system during the Han dynasty was minimal since only the elite had access to the examinations. Ostensibly, these elites would have been granted preference for governmental positions irrespective of any examination system. Miyazaki points out that it was not until the *Sui* emperors (589-618) that the examinations were open to non-elites and that it was not until the *Sung* Dynasty (1130-1200) that nationwide systematization and access were achieved: “...when the old aristocracy no longer existed and rule by civilian bureaucrats was perfected.” See Ichisada Miyazaki, China's Examination Hell: The Civil Service Examinations of Imperial China, trans. Conrad Schirokauer, (New York: Weatherhill, 1976), 9.

development of the *Lun Yu* 論語, Daniel Gardner notes that the neo-Confucian philosopher *Zhu Xi* 朱熹 (ca. 1130-1200) edited earlier versions, which largely contained non-contextualized sayings, reformatting the work into line by line dialogues between Confucius and his various disciples.<sup>51</sup> The resulting edition, while evocative of the Socratic dialogues in its didactic nature, tends to be more proverbial in tone due to the terseness and brevity of each “lesson.” Although not designed for the purpose of casuistry, numerous adages within the *Lun Yu* 論語 are cast as practical problems to be solved by philosopher-rulers under the tutelage of Confucius, as in the following passage.

When the Master went to *Wei*, *Zan Yû* acted as driver of his carriage. The Master observed, "How numerous are the people!" *Yû* said, "Since they are thus numerous, what more shall be done for them?" "Enrich them," was the reply. "And when they have been enriched, what more shall be done?" The Master said, "Teach them."

-*Lun Yu* 論語 13.9

In this short exchange, a practical problem becomes a lesson for rulers on philosophically informed governance. Confucius invites the learner’s question with his acknowledgement of the region’s robust population. Typically, a growing population would indicate economic and social prosperity, regarded by many rulers as an end in itself. Confucius admonishes *Zan Yû* that, beyond maintaining peace and security, the role of the state is to provide economic well-being (Ames and Rosemont translate “Enrich them” as “Make them prosperous”<sup>52</sup>). Yet, even peace and prosperity for the masses is insufficient to discharge the ruler’s duty. The former are but necessary

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<sup>51</sup> Daniel K. Gardner, *Zhu Xi's Reading of the Analects: Canon, Commentary, and the Classical Tradition* (New York: Columbia University Press, 2003), 7-10.

<sup>52</sup> Roger T. Ames and Henry Rosemont, Jr., *The Analects of Confucius – A Philosophical Translation*, (New York: Ballentine Books, 1998), 164.

conditions for the highest vision of society, the personal development of individuals through education.

The ruler's proper concern for the education of the great masses within his charge is not to be construed solely as the provision of minimal necessities for civic order. The context of the dialogue with Confucius is one of escalating expectations which reorients the role of peace and subsistence from ends to necessary conditions for the attainment of the social ideal, education for all. For Confucius, the properly functioning state provides its citizens with peace, prosperity and education – the conditions and opportunity for their personal development.

From where did the *Lun Yu* 論語 and other Confucian works acquire their pervasive emphasis upon the value of education for personal development? Confucius regularly denied authorship of the underlying content he expounded: “A transmitter and not a maker, believing in and loving the ancients...” (*Lun Yu* 論語 7.1.1). For Confucius, the writings of earlier sages were not merely a rich trove of wisdom to be drawn upon in constructing a new synthesis. He appealed also to the way of life, the path of learning (*xue* 學), exhibited by the philosopher-kings of old and evident in the revered and beloved scholars of his day like “old Pang” who exemplified “the silent treasuring up of knowledge; learning without satiety; and instructing others without being wearied” (*Lun Yu* 論語 7.1.1 -7.1.2).

Karyn Lai has analyzed the criticism levied by the later Mohists, Legalists, and Daoists that Confucius and his disciple blindly venerated the past as authoritative:

...these other thinkers made an incorrect assumption about the Confucians' use of the past. While the Confucians appealed to the past selectively and creatively (i.e., they drew on aspects of the past when it suited their arguments), the other thinkers believed that the Confucians appealed to the past as authoritative, in other words, that they appealed to the past as unquestionable authority. In philosophical terms, the other thinkers accused the Confucians of fallacious appeal to tradition.<sup>53</sup>

Lai continues:

For the Confucians, learning (*xue*), that is, information-gathering and knowledge-acquisition, is only a part of self-cultivation: when Confucius describes his stages of development (from fifteen to seventy years), *xue* is the project at the very first stage, when he was fifteen.

-*Lun Yu* 論語] 2:4<sup>54</sup>

What makes Lai's argument work is her general recognition that learning encompasses far more than content transmission, and the *Lun Yu* 論語 is rich in its contextualization of learning within the totality of personal and social life, especially as apprenticeship. Unfortunately, and this does not detract from her overall thesis, Lai specifically confines the meaning of the term *xue* 學 to content -gathering and -acquisition (cf. the above quote). This is likely due to the exclusive emphasis in her work upon Confucian references to the *Odes* (i.e., the *Shijing* 詩經, also called *Book of Songs*) when identifying antecedents of Confucian thought.

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<sup>53</sup> Karyn Lai, "Learning from The Confucians: Learning from The Past," Journal of Chinese Philosophy 35, no. 1 (2008): 98.

<sup>54</sup> *Ibid.*, 114.

While the *Lun Yu* 論語 and the later *Mengzi* 孟子 draw liberally upon the canon of lyrical expressions within the *Odes* (i.e., the *Shijing* 詩經), as is common in Chinese literature, Lai fails to examine the most obvious ancient work to inform not only the *Lun Yu* 論語, but the entire Confucian tradition, and that work is the *Da Xue* 大學. An analysis of the relationship between the *Da Xue* 大學 and the *Lun Yu* 論語 will show that the works are connected on at least two levels. First, there is an ostensible connection between the title as well as the major topic matter of the older work and the younger one. Secondly, there is an organic connection between the systematic process of transformation (from individual to world) defined in the first work and the lifestyle-practice illustrated in the second work. What the *Da Xue* 大學 theoretically constructs as a vision for the world, the *Lun Yu* 論語 illustrates through a model of an individual human and his/her behavior.

The opening sentence of the *Lun Yu* 論語 positions the concept of *xue* 學 (as in *Da Xue* 大學) for primacy throughout the work: “The Master said, ‘Is it not pleasant to learn [i.e., *xue* 學] with a constant perseverance and application?’” (*Lun Yu* 論語 1.1.1). “Learning with perseverance and application” could very well serve as a title to the *Lun Yu* 論語 as it broadly summarizes the thrust of its collected aphorisms and links it to the central idea of *xue* 學 in the *Da Xue* 大學. As noted above, in the *Lun Yu* 論語 the admired Old Pang’s *xue* 學 consisted of “treasuring up of knowledge,” “learning,” and

“instructing others,” practices complementary to the *Da Xue* 大學 processes of (1) investigation of things, (2) extension of knowledge, and (3-8) the social/civic virtues.

When James Legge (1815-1897), Protestant missionary and eventually Oxford’s first professor of the Chinese language, encountered the *Da Xue* 大學, he was struck by the diversity of interpretations of the opening term and title.<sup>55</sup> According to Legge, some ancient commentators saw the work as the “foundations for administration of government;” others interpreted the title to mean “the highest principles;” and still others saw the work as the validation of the role of “adult” education (i.e., *da* 大 or *big*, as opposed to *xiao* 小 or *little*, as in *little* child). The latter is reflected in the contemporary usage of the term *Da Xue* 大學 to mean university as opposed to *xiao xue* 小學, elementary school. For Legge, the work’s contents speak to all of these values.

Extant versions of the *Da Xue* 大學 open with a preamble attributed to “the philosopher Chang” which states:

That we can now perceive the order [i.e., the way] in which the ancients pursued their learning [i.e., *xue* 學] is solely owing to the preservation of this work, the *Analects* [*Lun Yu* 論語] and *Mencius* [*Mengzi* 孟子] coming after it.”<sup>56</sup>

This foreword attests to both the primacy of *xue* 學 (learning) in the *Da Xue* 大學 and its informing role for the Classical Confucian works, starting with the *Lun Yu* 論語.

Moreover, Master Chang makes explicit the use of the term *xue* 學 as an ideological bridge between the two works.

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<sup>55</sup> Legge, *Confucian Analects...*, 355.

<sup>56</sup> Ibid.

Before considering a more organic connection between the *Da Xue* 大學 and the *Lun Yu* 論語, a note on the Confucian understanding of *xue* 學 will underscore the consanguinity of the two works. Confucius objected to efforts in his own day to reduce the meaning of *xue* 學 to content acquisition alone, even if that content was from the *Odes* (i.e., *Shijing* 詩經):

The Master said, "Though a man may be able to recite the three hundred odes, yet if, when entrusted with a governmental charge, he knows not how to act, or if, when sent to any quarter on a mission, he cannot give his replies unassisted, notwithstanding the extent of his learning, of what practical use is it?"

-*Lun Yu* 論語 13.5

Confucius was distraught over the tendency of formalized Chinese education to equate learning with rote memorization as, he feared, that would ultimately lead to a disregard for personal transformation and practical application. Ironically, his teachings would first achieve widespread distribution only after their assignment as material to be memorized for the civil service examinations. One Chinese historian sums up this reduction of Confucian philosophy to perfunctory practice:

If the Confucianism of the Sung and Ming periods was the "learning of principle," or "the learning of the mind-and-heart," the Confucianism of the Ch'ing, at least down to the early nineteenth century, was the "learning of ritual." Ling T'ing-k'an epitomized this learning in the statement "The Way of the sages is nothing but [observing] rituals."<sup>57</sup>

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<sup>57</sup> Kai-Wing Chow, Ethics, Classics, and Lineage Discourse (Stanford, CA: Stanford University, 1994), 223.

Here, “[observing] rituals” connotes legalism, a far cry from heart-felt adherence to the virtue of *li*. Similarly, learning for Confucius requires that the learner love the endeavor, as Franklin Perkins explains:

...we would expect Kongzi to say that his students should desire (yu) or set their intentions on (zhi yu) learning. The use of hao, however, exceeds this basic requirement. Although the phrase “love of learning” appears in only eight passages in the Lun Yu, its importance is indicated by the fact that Kongzi and Yan Hui, two of the “stars” of the LunYu, are both distinguished by their love of learning [*hao xue*].<sup>58</sup>

Moreover, 好學 *hao xue* (the love of learning) must be prioritized as a virtue itself in a unique category. Confucius viewed learning as a gateway to the other virtues. Essentially, one acquires 德 *de* (virtue) by learning.

In this light, the *Da Xue* 大學 conceives of *xue* 學 as a dynamic process for learning as opposed to the acquisition and storage of information as if knowledge were a commodity. Moreover, *xue* 學 is a process which must be loved, and that is what produces the virtuous life. “What the Great Learning [*Da Xue* 大學] teaches [*xue* 學], is...”, in the end, “...to illustrate illustrious virtue [*de* 德] (*Da Xue* 大學 1.1). This latter phrase, “to illustrate illustrious virtue” (i.e., 在明明德 *zai mingming de*), is literally translated “[while in the act] of showing virtue.” Reflecting this nuance, the *Lun Yu* 論語 veers away from cataloguing and rigorously defining whatever may be called *de* 德 (virtues.) It lacks the instantiation of Platonic forms and the precise Aristotelian

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<sup>58</sup> Franklin Perkins, “Love of Learning in the Lun Yu,” Journal of Chinese Philosophy 33, no. 4, (2006): 505-506.

formulations of virtues as the midway between deprivation and excess.<sup>59</sup> Instead, the *Lun Yu* 論語 takes its cue from the *Da Xue* 大學 and shows how the virtues (*de* 德) are expressed in the context of social roles. The virtues are seen as they are practiced by the virtuous engaged in society, not as objects which exist in and of themselves.

The focal point of this practice or *zai mingming* 在明明 (...the act of showing) is the *junzi* 君子, a model role-player. The *junzi* 君子 is the one who plays the role in society of showing the practice of (*de* 德) while interacting with other role-players. The learner knows how *de* 德 is by observing the *junzi* 君子. Confucius, who was reluctant to speculate about metaphysics and preferred practical examples of behavior over the exposition of moral principles, may best be described as possessing what William James calls:

...the attitude of looking away from first things, principles, 'categories,' supposed necessities; and of looking towards last things, fruits, consequences, facts.<sup>60</sup>

So, just as truth for American Pragmatists William James and Oliver Wendall Holmes, became "that which works," then, if the behaviors and practices of a *junzi* 君子, to use a phrase by James "work satisfactorily... they will be true."<sup>61</sup> Antonio S. Cua, who recognizes the pragmatic value of Confucius' emphasis upon *junzi* 君子 understands Confucius' rationale for it in a fairly narrow sense:

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<sup>59</sup> Nicomachean Ethics II 6.

<sup>60</sup> William James, "What Pragmatism Means" (1907) in William James, *Pragmatism and Other Writings*, (New York: Penguin Books, 2000), 29.

<sup>61</sup> William James, "Pragmatism and Humanism" in *Ibid.*, 109.

Confucius made extensive use of the notion of *junzi*, instead of principles, for explaining ethical virtues and instruction. Plausibly, Confucius's notion of *junzi* reflects his concern for flexibility in coping with changing circumstances. ...Confucius's ethical thought, unlike that of Mencius (Mengzi) or Xunzi, is best characterized as an ethics of *junzi* or paradigmatic individuals.<sup>62</sup>

While Confucius may have been concerned for flexibility in the application of virtues, it is more likely that his *junzi* 君 was designed to show the *Da Xue* 大學 values of personal development and societal transformation. The eight *Da Xue* 大學 processes constitute rich theoretical constructs, as the history of neo-Confucian exposition demonstrates, but for Classical Confucianism, birthed in the wake of China's Warring States Period, the pragmatic question of how to build a better world takes precedence over any form of speculation. The *junzi* 君 of the *Lun Yu* 論語 is the practical exemplar of the eight *Da Xue* 大學 processes.

A cataloguing of what the *Lun Yu* 論語 teaches about the *junzi* 君 will reveal that the *junzi* 君 plays a role uniquely efficacious for the *Da Xue* 大學 processes. In the following sampling of doctrines related to the *junzi* 君, the relationship between the *Da Xue* 大學 teaching and the *junzi* 君 lifestyle becomes evident. The *junzi* 君 personifies through social roles the values of the *Da Xue* 大學.

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<sup>62</sup> Antonio S. Cua, "Virtues of Junzi," *Journal of Chinese Philosophy*, Supplement 1, no. 34 (2007): 125.

It should be noted, however, that the *junzi* 君 practices will not always line up with exact definitions of a *Da Xue* 大學 process (in part because no such definitions are given), but may show one or more aspects of a role in play. Furthermore, as noted above, the *Lun Yu* 論語 translation is by James Legge who renders *junzi* 君 as “superior man.” Tu Wei-ming speaks of the “profound person.”<sup>63</sup> Other designations have included “gentleman” (Waley,<sup>64</sup> Lau,<sup>65</sup> Graham<sup>66</sup>), a now archaic reference to the Latin *genus* (upper-class family), and a direction taken more recently by Antonio Cua and others as “paradigmatic individual” and “exemplary person” by Ames and Rosemont.<sup>67</sup> This latter approach of incorporating the social influence of the *junzi* 君 appears more in keeping with the overall *Da Xue* 大學 vision and highlights *junzi* 君 as a normatively rich role.

#### Lun Yu 論語 Examples of the Eight Da Xue 大學 Processes in the Junzi 君 Role

##### (1) Investigation of Happenings

The superior man bends his attention to what is radical (*ben* 本). (1.2.1)

The Master said, “Is it not pleasant to learn (*xue* 學) with a constant perseverance and application?” (1.1.1)

Here, the term *ben* (本), *radical*, refers to the root, origin, or source as in “It cannot be, when the root is neglected, that what should spring from it will be well

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<sup>63</sup> For example, see Tu Wei-ming, “Jen as a Living Metaphor in the Confucian Analects,” *Philosophy East and West* 31, no. 1 (1981): 45-54.

<sup>64</sup> Arthur Waley, *The Analects of Confucius*, (Indianapolis: Hackett Publishers, 1993).

<sup>65</sup> D. C. Lau, *The Analects*, (New York: Penguin Group, 1979).

<sup>66</sup> Angus C. Graham, *Confucius: The Analects*, (Oxford: Oxford University Press: 1989).

<sup>67</sup> Roger Ames and Henry Rosemont, Jr., *The Analects...*

ordered.” (*Da Xue* 大學, Text of Confucius, 7). This notion, from the root, reflects the primary place the *Da Xue* 大學 gives to “investigation of happenings.” The *junzi* 君 is the personification of cultivating one’s life from the root. He desires to construct a mighty, visible tree under which peace reigns, so the place to he starts is at the level of the invisible root, where the *junzi* 君’s own character is developed. The “bending of attention refers to the effort, focus and deliberateness which a *junzi* 君 devotes to self-cultivation.

In the second aphorism, the term *xue* (學) should be understood in the broader sense of the system of processes which constitutes great learning (*Da Xue* 大學). The *junzi* 君 applies constant perseverance and application to the investigation of happenings, especially those happenings which determine his character when he examines and evaluates his treatment of others:

The philosopher Zeng [Tsang] said, “I daily examine myself on three points...” (1.4)

Here, Zeng expresses his commitment to investigate with scrutiny his motives and the manner in which he has treated others (i.e., the three points or ways he has treated others). This self-discipline eventually yields the fruit of extended knowledge.

## (2) Extension of Knowledge

The Master said, “At fifteen, I had my mind bent on learning.” (2.4.1)

“At sixty, my ear was an obedient organ for the reception of truth.” (2.4.5)

The *junzi* 君, given a life-long commitment to the extension of knowledge, demonstrates the *Da Xue* 大學 value of continual personal cultivation.

The Master said, “If a man keeps cherishing his old knowledge, so as continually to be acquiring new, he may be a teacher of others.” (2.11)

The *junzi* 君 preserves ancient wisdom and, yet, expands the frontiers of knowledge. For both the *junzi* 君 and the *Da Xue* 大學, the goal of extending knowledge is always practical. It is service to others, with teaching, therefore, the noblest of professions.

The Master said, “The superior man, in the world, does not set his mind either for anything, or against anything; what is right he will follow.” (4.10)

Commitment to the extension of knowledge is undergirded by a recognition that pre-established perceptions and positions must give way to whatever the facts of a matter show the truth to be.

### (3) Sincerity of Will

Zigong asked what constituted the superior man. The Master said, “He acts before he speaks, and afterwards speaks according to his actions.” (2.13)

“The superior man does not, even for the space of a single meal, act contrary to virtue. In moments of haste, he cleaves to it. In seasons of danger, he cleaves to it.” (4.5.3)

The *junzi* 君 does not merely act with propriety out of discipline or in a perfunctory manner. A *junzi's* 君 actions reflect an inner sincerity of heart and mind (*xin* 心). The opposite of sincerity of will would be feigned sincerity, where external behavior may appear to be virtuous, but the heart and mind are not. To ensure against this, the *junzi* 君

examines himself so that the impression he gives to others is consistent with his internal motivation, as in the following list:

“In regard to his speech, he is anxious that it should be sincere. In regard to his doing of business, he is anxious that it should be reverently careful. In regard to what he doubts about, he is anxious to question others. When he is angry, he thinks of the difficulties (his anger may involve him in). When he sees gain to be got, he thinks of righteousness.” (16.10)

Similarly, a *junzi* 君 honors and appreciates all persons for their own talent and ability, not for their social standing or pragmatic value to him. This authentic treatment of individuals as intrinsically worthy of value is comparable to the Kantian maxim not to treat persons as merely means to an end:

The superior man honours the talented and virtuous, and bears with all. He praises the good, and pities the incompetent. Am I possessed of great talents and virtue?-- who is there among men whom I will not bear with? Am I devoid of talents and virtue?-- men will put me away from them. What have we to do with the putting away of others?” (19.3)

#### (4) Rectification of the Mind

The Master said, “In the Book of Poetry are three hundred pieces, but the design of them all may be embraced in one sentence—‘Having no depraved thoughts’.” (2.2)

“At seventy, I could follow what my heart [i.e. *xin* 心, heart-mind] desired, without transgressing what was right.” (2.4.6)

The power of the heart and mind (*xin* 心) is seen in the role of thoughts to guide or mislead an individual. The *junzi* 君 fills his heart and mind (*xin* 心) with the wisdom contained within classical odes and poetry, as well as by experience. In so doing, he is

eventually able to follow his heart and mind with confidence, a capacity achieved only in old age.

The Master said, “You [Yu], shall I teach you what knowledge is? When you know a thing, to hold that you know it; and when you do not know a thing, to allow that you do not know it;-- this is knowledge.” (2.17)

The Master said, “The mind of the superior man is conversant with righteousness; the mind of the mean man is conversant with gain.” (4.16)

As the above aphorisms illustrate, throughout the *Lun Yu* 論語, growth in knowledge is always accompanied by growth in character or virtue (e.g., “The mind of the superior man is conversant with righteousness”). This dynamic, present in the individual *junzi* 君, is similarly held to be true of society as a whole in the *Da Xue* 大學 vision, wherein the public growth of knowledge results in the public growth in character.

#### (5) Cultivation of Personal Life

The Master said, “What the superior man seeks, is in himself. What the mean man seeks, is in others.” (15.20)

Zilu asked what constituted the superior man. The Master said, “The cultivation of himself in reverential carefulness.” “And is this all?” said Zilu. “He cultivates himself so as to give rest to others,” was the reply. “And is this all?” again asked Zilu. The Master said, “He cultivates himself so as to give rest to all the people. He cultivates himself so as to give rest to all the people:-- even Yao and Shun were still solicitous about this.” (14.45)

In no practice more than in self-cultivation does the *junzi* 君 show himself to be the embodiment of the *Da Xue* 大學 vision. The ideal of influence emanating from the

individual to the world is only accomplished through self-cultivation of personal character and capability.

The *junzi* 君 is, therefore, not concerned with public status or fame, nor is he concerned with material needs or insurance against poverty. The *junzi* 君 pursues truth, a value of the *Da Xue* 大學 vision for society.

The Master said, “A man should say, I am not concerned that I have no place, I am concerned how I may fit myself for one. I am not concerned that I am not known, I seek to be worthy to be known.” (4.14)

The Master said, “The object of the superior man is truth. Food is not his object. There is plowing;-- even in that there is sometimes want. So with learning;-- emolument may be found in it. The superior man is anxious lest he should not get truth; he is not anxious lest poverty should come upon him.” (15.31)

#### (6) Regulation of the Family

The philosopher You [Yu] said, “They are few who, being filial and fraternal, are fond of offending against their superiors. There have been none, who, not liking to offend against their superiors, have been fond of stirring up confusion. The superior man bends his attention to what is radical. That being established, all practical courses naturally grow up. Filial piety and fraternal submission-- are they not the root of all benevolent actions?” (2.1-2)

The *Da Xue* 大學 vision is of a society in which respect for all persons, modeled upon the ideal of a respectful family, constitutes a standard throughout society. The *junzi* 君, by his practice of filial piety, is constantly reminded of his role to serve within a context in

which all members are equally valued. This practice at the family level, exemplified and championed by the *junzi* 君, is what establishes and sustains the standard for society.

The Master said, “In serving his parents, a son may remonstrate with them, but gently; when he sees that they do not incline to follow his advice, he shows an increased degree of reverence, but does not abandon his purpose; and should they punish him, he does not allow himself to murmur.” (4.18)

Filial piety for the *junzi* 君 is not merely a matter of social organization. At the heart of the bonds of family is the notion of relationship and the roles which emerge between related parties. Embedded in such roles, as opposed to freed from them, the *junzi* 君 is required to respond to the ordinary conflicts inherent within human interaction. Thus, the development of personal character values, such as humility and respect, are essential to the emergence of a *junzi* 君, reflecting, once again, the ideals of the *Da Xue* 大學 vision.

#### (7) Ordering of the State

An important question answered by the *Da Xue* 大學 vision is, “How do ideals and values become inculcated throughout the people of an entire nation?” Cultural antecedents such as the records of earlier governmental regimes, heroic or valorized individuals, and statements of national values may be beneficial, but these artifacts are often inaccessible to the masses. The *Da Xue* 大學 vision looks to the practices of exemplary individuals in bringing vision and instruction to the people. Consequently the role of the *junzi* 君, when exercised by government officials, inspires and models a values system based upon the beneficent treatment of all individuals.

The Master said, “If the people be led by laws, and uniformity sought to be given them by punishments, they will try to avoid the punishment, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good.” (2.3.1-2)

While much has been written on the concept of shame within Asian society, for present purposes, it is only important to note that the ideal Chinese ruler, as a *junzi* 君, seeks to govern by character – his own character inspiring the character of his followers.

The Master said, “When a prince's personal conduct is correct, his government is effective without the issuing of orders. If his personal conduct is not correct, he may issue orders, but they will not be followed.” (13.6)

The absence of good character in the ruler has a direct bearing upon the credibility of the ruler and may result in the tangible consequence of becoming ineffective as a leader. This is a pragmatic lesson for the ruler, but the requirement of good character in the leader is more than a tactic in ruler-ship or the perfectionist vision of the self-cultivated individual. Good character in rulers, the practice of being *junzi* 君, is the foundation of the *Da Xue* 大學 vision of cultural transformation:

The Master said, "If good men were to govern a country in succession for a hundred years, they would be able to transform the violently bad, and dispense with capital punishments." True indeed is this saying! (13.11)

The “good men” here are presumably *junzi* 君, but their modeling of righteous behavior does not end with their own notoriety. The *Da Xue* 大學 vision is fulfilled as “principles,” not mere personages govern the land:

When right principles prevail in the kingdom, government will not be in the hands of the Great officers. When right principles prevail in the kingdom, there will be no discussions among the common people. (16.2-3)

(8) Peace throughout the World

The Master was wishing to go and live among the nine wild tribes of the east. Someone said, “They are rude. How can you do such a thing?” The Master said, “If a superior man dwelt among them, what rudeness would there be?” (9.13.1-2)

The *junzi* 君 sees the universal application of character-based leadership. In the above *Lun Yu* 論語 teaching, there is an unabashed confidence that all that is needed to transform a “wild tribe” is a *junzi* 君. The understatement here is that peace anywhere and everywhere throughout the world is possible through the cultivation of individuals of exemplary character. This is precisely the *Da Xue* 大學 vision, which begins with an individual’s self-cultivation and culminates in peace throughout the world.

## SUMMARY

The above survey of passages from the *Lun Yu* 論語 reveals the influence of the *Da Xue* 大學 upon the conceptualization of *junzi* 君 within the *Lun Yu* 論語. The practices of a *junzi* 君 are illustrative of the values of the *Da Xue* 大學 and, instantiate, on a practical level, the aspirations of the *Da Xue* 大學. This organic relationship between the *Da Xue* 大學 and the chief subject of the *Lun Yu* 論語 helps to confirm the premise that

“Classical Confucianism draws upon the *DaXue* 大學 as its informing source for the roles it articulates for normative social order.”

#### CHAPTER 4: THE *DAXUE* 大學 ON HUMAN NEEDS

The purpose of the two preceding chapters has been to elucidate a resource embedded within China's indigenous philosophical heritage, namely, a vision of the individual and society that serves as the backdrop to Classical Confucianism and which can be drawn upon in the current East-West discourse over human rights. By itself, this vision offers a progressive commitment to the development of human potential at all levels of society. This is not to deny, however, that elements of Classical Confucianism have emerged throughout history as models of and rationalizations for elitist, legalistic and non-egalitarian cultural practices. In Chapter 1, several corruptions of Classical Confucian ethics were noted as stereotypical, although frequently accurate, assessments of historic Confucian civilization. The meaning of *Junzi* 君 has often been understood only in light of a cultural Confucianism devoid of the humanitarian emphases of the *Da Xue* 大學 and *Lun Yu* 論語.

Three interpretive trends have consigned the *Junzi* 君 to a vision of Confucian society unconcerned with the self-development of all persons. The first is elitism.<sup>68</sup> Authoritarian regimes have found it a rationalizing convenience to interpret the *Junzi* 君 as an authoritarian philosopher-king. Conditions which inspire this belief may remain to this day, if one can accept Randall Peerenboom's terse observation:

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<sup>68</sup> A history of Confucian elitism may be found in Andrew Nathan, "Sources of Chinese Rights Thinking," in R. Randle Edwards et al., ed., Human Rights in Contemporary China, (New York: Columbia University Press, 1986).

The view that democracy will not work in China and that strong (Neo-Authoritarian) leadership is needed because the masses are incapable of governing themselves--a view with deep historical roots in China--apparently remains widespread, even, ironically, among intellectuals and prominent figures in the 1989 demonstrations.<sup>69</sup>

Nonetheless, there have been attempts to rehabilitate the elitist and authoritarian image of Confucianism by direct appeal to Classical sources. To this end, the Confucian virtues have been isolated and matched with comparable Western virtues as humane values for all to embrace. Yet, to a cultural mindset steeped in the primacy of social roles for the defining of personhood, these humane values do not necessarily carry with them a universal application. As John Berthrong notes, even the humanitarian (and egalitarian) sentiments of Classical Confucianism are easily co-opted into the ideology of strict social roles.

There are a number of ways Confucians respond to the question of elitism and hierarchy. Scholars like Mou Tsung-san have noted that Confucians have read the Confucian virtues in the most conservative and hierarchical way possible. For instance, humaneness and the other prime virtues were seen as part of the Three Major Relationships, namely those between ruler and subject, father and son, and husband and wife.<sup>70</sup>

A second interpretive trend has been to regard Confucianism as a virtue theory in which perfectionism is promoted via the seemingly perfect or perfected *Junzi* 君. This trend, when combined with the prior, results in elitist perfectionism, as in Plato's

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<sup>69</sup> Randall Peerenboom, "The Limits of Irony: Rorty and the China Challenge," *Philosophy East & West* 50, no. 1 (2000): 67.

<sup>70</sup> John H. Berthrong, *Transformations of the Confucian Way*, (Boulder, CO: Westview Press, 1998), 192.

philosopher-kings or Aquinas' scholastic saints or, to consider an extreme example, Nietzsche's *Übermensch*. Similarly, the development of the *Junzi* 君 has been equated with the path which leads to Buddhist Enlightenment and compassionate service to the unenlightened masses as a *bodhisattva*. An interesting commentary upon the reign of the Vietnamese monarch Le Du-tong (1705-1729) reflects the post-Classical Confucian tendency to differentiate the *Junzi* 君 from common humanity.

The pride the government took in its Confucian ideology was asserted with the choice of the title 'Everlasting Prosperity' (Vinh Thin) for the first period of Le Du-tong's reign (1705-29). By the same token, the ruler was hailed as a 'superior man' (quan tu; Ch. junzi) sent by Heaven to rule, radiating moral virtue from the throne, invigorating everything and making the blessings of peace possible, while 'with propriety, righteousness, and officials who knew virtue, the people would come to follow good customs'. Nevertheless, orthodoxy was observed only among an official elite at a distance from the daily lives of the ordinary people... Such figures could also be nurtured by the messianic tradition found in Buddhism. What was commonly expounded was the doctrine of the descent to earth of Maitreya - the messiah Buddha of the future, who was believed to be living in the 'heaven of the satisfied gods' before his incarnation on earth.<sup>71</sup>

A third interpretive trend, common to most global traditions including the West's Judaism, Christianity and Islam, has been to apply Confucian teaching as a reinforcement for the practice of patriarchy. So pervasive has this identification with male dominance been that Confucian writings have served, within Asian societies, as the textual authority for the subjugation of women. While patriarchal privilege is a universal feature within

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<sup>71</sup> Nguyen The Anh, "From Indra to Maitreya: Buddhist Influence in Vietnamese Political Thought," *Journal of Southeast Asian Studies* 33, no. 2 (2002).

Chinese culture, Confucianism in particular has been singled out, leaving the impression upon many that traditions that diverge from Confucianism must somehow be less patriarchal. Most notably, Daoism is often viewed as a “softer” and, therefore, more feminine, tradition. Susan Cahill writes:

Confucians and Daoists have often been construed as opposites and rivals, with Confucianism representing the hierarchical standards and structures of the Chinese patriarchy and imperium and Daoism embodying more egalitarian, individual, and even eccentric values.<sup>72</sup>

In some cases, historians have implied that Confucianism is responsible for exporting patriarchy to China’s neighbors such as Korea and Japan:

...growing familiarity with the Chinese classics ... resulted in broader acceptance of male-dominant gender hierarchy, patriarchy, and patrilineality.<sup>73</sup>

From this perspective, it is difficult to regard the *Junzi* 君 as an authentically liberating individual. At best, it has been suggested in an apologetic comparable to the self-conscious modern defenses of Plato, Aristotle and St. Paul, that Confucius was a man of his times. More often, however, the *Junzi* 君 is seen as the conservative agent of cultural values designed to reinforce the cultural tendency to relegate the influence of women to the fringes of public society. In an observation “meant neither to defend ... nor to condemn,” Professor James Tiles describes the place of foot-binding, a thousand year-long practice, within a broad cultural system:

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<sup>72</sup> Suzanne E. Cahill, "Chapter Ten Body and Practice in the Lives of Daoist Holy Women of Tang China," in Dorothy Ko, Jahyun Kim Haboush, and Joan R. Piggott, eds. Women and Confucian Cultures in Premodern China, Korea, and Japan, (Berkeley, CA: University of California Press, 2003), 251.

<sup>73</sup> Dorothy Ko, Jahyun Kim Haboush, and Joan R. Piggott, eds., *Ibid.*, 65.

Through the imposition of the practice [of ritual foot-binding], Chinese women taught their daughters a discipline of the body that prepared them for the traumas of marriage and childbirth and for the kinds of social self-discipline and self-sacrifice which that society expected of women. The custom helped to create a role in a gender hierarchy in which women had no voice in public affairs and functioned principally as vehicles for the perpetration of a male line of descent.<sup>74</sup>

The *Junzi* 君, in particular, and Confucianism, in general, have been regarded as the social regulating forces of this system such that, although the *Lun Yu* 論語 says little to directly subjugate women, it is seen as the perpetuator of a social order which does.

These three trends, however, fail to take into account the point made in Chapter 1 that there is a line of demarcation between the spirit of Classical Confucianism and the later cultural Confucianism which appropriated the Master's teachings to justify authoritarian, elitist, and patriarchal society. The phenomenon of male-based language and roles in the Classical Confucian literature is incidental to that literature's underlying imperative of promoting self-development through education for all. Whether Confucius himself practiced egalitarianism is a temporal matter. Whether his teachings are transferable to all humans regardless of gender is the more relevant question. Joanne Birdwhistell has concluded that the feminizing of Confucian virtues, wherever permitted by a culture, is a viable way to extend their application universally and has historical precedent.

That the Chinese recognized the gendering of virtues can be seen by the appearance of such works as Ban Zhao's *Instructions for Women (Nujie)* and the Song sisters'

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<sup>74</sup> J. E. Tiles, *Moral Measures: An Introduction to Ethics, West and East* (London: Routledge, 2000), 21.

*Analects for Women (Nu lunyu)* and by the Ming term *nu junzi* (female "gentleman").<sup>75</sup>

The Classical Confucian implication of a *nu junzi* (女君), a female *junzi*, is that women as well as men may pursue self-cultivation and exemplify the eight *Da Xue* 大學 processes as paradigmatic role-players in society. Li-Hsiang Lisa Rosenlee raises doubts about the prospect that women can achieve self-development and the fulfillment of their potential through Confucianism citing the practice of foot-binding as one in which “women subvert the Confucian way of being civilized... by trimming their raw flesh instead of cultivating their whole person” and their lack of access to the educational and economic resources available to men.<sup>76</sup> She continues:

Women’s incomplete personhood is further accentuated by the Confucian ethical project of self-cultivation that begins with the study and appropriation of the classics, the words of past sages, and the Confucian ideal of *junzi* who are not only filial and ritually different, but more importantly, are able to lead the people by virtuous examples... The Confucian project of self-cultivation and the ideal of *junzi*, although they are not gender specific in moral content, are nevertheless beyond the reach of women as gendered beings...<sup>77</sup>

One can agree with Rosenlee that historically Chinese women have faced and continue, in many places, to face barriers to self-development, not the least of which is *de facto* male-privileged access to and control over the resources for self-development and economic advancement. Furthermore, where cultures impose upon women debilitating

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<sup>75</sup> Joanne D. Birdwhistell, "Peimin Ni on Confucius," China Review International 10, no. 1 (2003).

<sup>76</sup> Li-Hsiang Lisa Rosenlee, Confucianism and Women, (Albany: State University of New York Press, 2006), 153.

<sup>77</sup> *Ibid.*, 153-154.

ritualistic practices which are not demanded of men (e.g., foot-binding, genital mutilation, etc.), both economic and esteem disadvantage ensue. Yet her analysis, as she recognizes, fails to differentiate between the cultural factors which have redefined Confucianism as disempowering to women and the self-empowering thrust of the Classical Confucian texts. Although filial piety (*xiao* 孝) and ritual propriety (*li* 禮) are upheld as values in the *Lun Yu* 論語, their instantiated forms are culturally determined. Moreover, Rosenlee employs an elitist and perfectionist conception of *junzi* and thereby consigns the notion to a non-egalitarian framework. This is largely due to the missing piece in her work, an assessment of the influence of the *Da Xue* 大學 vision for the individual and society made manifest through the eight processes. It is worth restating here that the *Da Xue* 大學 democratizes the cultivation of self-development “...from the Son of Heaven [i.e., the emperor] down to the mass of the people,” and asserts that the “root of everything besides” consists in the “cultivation of the person” (*Da Xue* 大學, Text of Confucius, 7). This vision includes all persons, regardless of gender, as the “root of everything besides.”

It is a matter of simple logic to see that the fulfillment of the the *DaXue* 大學 Vision within Classical Confucianism entails the satisfaction of basic human needs throughout society. For widespread self-cultivation to take place the conditions for it must be present. The first condition is material and the second is ideological.

Confucius’ counsel to *Zan Yû* that the people should be educated was predicated upon the assumed prior provision of safety and subsistence needs (*Lun Yu* 論語 13.9).

This is similar to a key presumption in Abraham Maslow's theory of the hierarchy of human needs.<sup>78</sup> According to Maslow, human needs must be met sequentially from the lowest needs to the highest for the full development of human potential. This hierarchy is typically portrayed as a triangle of five levels, representing the following needs, from the base of the triangle (the lowest need) to the apex (the highest need): 1) Physiological Needs, 2) Safety Needs, 3) Social Needs for Love, Affection and Belongingness, 4) The Need for Self-Esteem, 5) The Need for Self-actualization. As a rough approximation, Confucius held that, with the meeting of the lower levels of need (1 and 2), the conditions in society are ripe for providing education to the populous as the means to satisfy the higher levels of need (4 and 5). A middle level of need (3) will be met by the pronounced emphasis upon *ren* 仁 or benevolence as a chief social value.

While I do not propose a strict mapping of the *DaXue* 大學 program for self-cultivation into the typology of Maslow's triangle, it is worth noting that Maslow's classic theory posits a two-fold distinction between the first four levels of need (i.e., physiological needs, safety needs, social contact needs, and esteem needs), called 'deficiency needs,' and the ultimate level, the need for self-actualization. Maslow held that the highest need cannot be satisfied if the deficiency needs go unmet. Based upon later research, Maslow further parsed the need for self-actualization into four levels

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<sup>78</sup> For the classic formulation of this theory, see Abraham H. Maslow. "A Theory of Human Motivation," Psychological Review 50 (1943):370-96.

which he named the ‘growth needs’: Cognitive, Aesthetic, Self-Actualization, Self-Transcendence.<sup>79</sup>

Roger Walsh, in his analysis of modernist culture in the West, underscores the sociological consequences of widespread non-attainment of Maslow’s ‘growth needs’:

Our culture is not aware of the crucial importance of higher motives, of motives toward social contribution, and self-actualization, and self-transcendence... So we see the sensational, ever increasing consumerism. We also see what Abraham Maslow pointed to as the meta-pathologies. Meta-pathologies are the pathologies that arise when the higher-order needs are not satisfied. They are silent, and they are usually not recognized for their true nature and origins in our culture. So they result in things like existential crises, social malaise, anomie, etc.<sup>80</sup>

While the results of meta-pathologies referred to here must be understood within the context of modern Western psychology, Classical Confucianism offers the contrary goods of self-cultivation, social belonging, and societal transformation through the *Da Xue* 大學 processes which satisfy Maslow’s “growth needs.” Moreover, the Classical Confucian understanding of human nature presupposes that human beings cannot achieve complete satisfaction, let alone the maximization of their potentials, exclusively from the necessities for physical life. To use the terminology of Maslow’s hierarchy, somewhere between the meeting of subsistence needs and self-actualization, there is a need for a psychical or spiritual fulfillment. Mencius held that human beings possess a fundamental moral orientation, *xing* 性, or *naturality* (conventionally, *human nature*), which guides

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<sup>79</sup> Maslow, A., & Lowery, R., ed. Toward a Psychology of Being (3rd ed.), (New York: Wiley & Sons, 1998).

<sup>80</sup> Roger Walsh, "Toward a Psychology of Sustainability," Revision 14, no. 2 (1991): 62.

them toward that which is natural. From a pragmatic perspective, good is not a formal concept anchored on the other side of a dual reality, but the practice of living in a natural way that honors and preserves life. Similar to the Kantian imperative not to commit suicide because it would be an act against what is natural,<sup>81</sup> *xing* 性 guides individuals toward choices which preserve and enhance life, as a natural good. Professor Cheng explains this notion as follows:

...whatever "xing" manifests under optimum natural conditions is ontologically good (i.e., good by being ultimately true, and good in at least the sense of commanding and compelling our respect, trust, and acceptance) and therefore should provide a basis and a starting point for moral goodness.<sup>82</sup>

To be kept from being able to act according to *xing* 性, whether forcefully or through privation of the means of living, reduces human beings to a sub-human existence.

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<sup>81</sup> Immanuel Kant wrote: "One sees at once a contradiction in a system of nature whose law would destroy life by means of the very same feeling that acts so as to stimulate the furtherance of life, and hence, there could be no existence as a system of nature. Therefore, such a maxim cannot hold as a universal law of nature and is, consequently, wholly opposed to the supreme principle of all duty." See Immanuel Kant, Ethical Philosophy: The Complete Texts of Grounding for The Metaphysics of Morals and Metaphysical Principles of Virtue (Part II of The Metaphysics of Morals), translated by James W. Ellington, (Indianapolis: Hackett Publishing Co.: 1983), 31.

<sup>82</sup> Chung-Ying Cheng, "On a Comprehensive Theory of Xing (Naturality) in Song-Ming Neo-Confucian Philosophy: a Critical and Integrative Development," Philosophy East & West 47.1 (1997): 33

Professor Cheng continues:

"Xing" is thus conceived by Mencius to distinguish human being as worthy of being human, that is, as above other beings. In this sense, it is the differentia of humanity that defines humanity.<sup>83</sup>

The mandate to empower individuals to live according to *xing* 性 is, therefore, essential to ensure their humanity. In Chapters 4 and 5, I will suggest how this understanding enables Classical Confucianism to offer a good valued within human rights doctrines.

The universal meeting of basic human needs for safety and subsistence is not the goal of Classical Confucianism, but an assumed material condition for a society which embraces a higher vision for all. The second condition is an ideology which firmly embraces the personal development of all individuals. That vision, consistent with the eight *Da Xue* 大學 processes as modeled through the *junzi* 君子, is most succinctly articulated in the preamble of the *Da Xue* 大學 as its purpose statement:

...to renovate the people; and to rest in the highest excellence.

-*Da Xue* 大學 1:1d

The renovation of the people, like the explicit *Da Xue* 大學 processes, begins with individual renovation and culminates in societal renovation.

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<sup>83</sup> Ibid.

The commentary portion of the *Da Xue* 大學 records the 12<sup>th</sup> Century neo-

Confucian interpretation of *Zhu Xi*:

On the bathing tub of *T'ang*, the following words were engraved:-- "If you can one day renovate yourself, do so from day to day. Yea, let there be daily renovation."

-*Da Xue* 大學,  
Commentary 2.1

The call to daily *renovation* (perhaps what moderns would call renewal) of the self underscores the processual nature of education and, hence, the emphasis within the *Da Xue* 大學 upon lifetime learning. What a lifetime of learning can impart is the wisdom of experience. For Confucius, the capacity to learn from one's mistakes (i.e., to "not repeat a fault") was the most prized quality of learning, so much so that it was the reason the Master considered his most beloved disciple to be the greatest learner.

The Duke Ai asked which of the disciples loved to learn. Confucius replied to him, "There was Yen Hûi; HE loved to learn. He did not transfer his anger; he did not repeat a fault. Unfortunately, his appointed time was short and he died; and now there is not such another. I have not yet heard of any one who loves to learn as he did."

-*Lun Yu* 論語 13.9

Mistakes will be made; however, not to repeat the same mistake is the evidence of a learned or renovated person. In his personal testimonial to a lifetime of learning, Confucius made it clear that one is not instantly educated. The renovation that learning brings to the wise sage by the age of seventy is the result of a lifelong process in which the boy is transformed from a youth into a mature "renovated" man.

The Master said, "At fifteen, I had my mind bent on learning. At thirty, I stood firm. At forty, I had no doubts. At fifty, I knew the decrees of Heaven. At sixty, my ear was an obedient organ for the reception of truth. At seventy, I could follow what my heart desired, without transgressing what was right.

-*Lun Yu* 論語 13.9

The energy of youth, seen in the intentionality of a fifteen year-old with a “mind bent on learning” does not constitute a renovation. It is only at seventy, that Confucius could say “七十而從心所欲,”<sup>84</sup> that his heart/mind, *xin* 心, was so renovated that he could follow it without transgressing. What in particular gets renovated through education?

The evolution of translating *xin* 心 into Western languages began with a literal, substance understanding of human organs. *Coeur*<sup>85</sup> in French and *heart* in English were the standard terms from the time of the earliest Jesuit and Protestant translations. Eventually, scholars, both Chinese and Western, established conventions to include the culturally more correct Chinese notion of mind as *heart/mind*, *heart-mind*, and, as Ames and Rosemont suggest, *heart-and-mind*.<sup>86</sup> Ning Yu has proposed the most striking translation of *xin* 心, one which attempts to incorporate the process frame of reference, *thinking/feeling*.<sup>87</sup> The practical outcome of renovating the mind and the heart, as the

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<sup>84</sup> “I could follow what my heart desired...”

<sup>85</sup> As in “A soixante-dix ans, je pouvais suivre les désires de mon coeur sans faire le mal.” - *Lun Yu* 論語 2.4

<sup>86</sup> Roger Ames and Henry Rosemont, Jr., *The Analects...*, 56.

<sup>87</sup> Ning Yu, *The Chinese HEART in a Cognitive Perspective Culture, Body, and Language*, (New York: Mouton de Gruyter, 2009), 154–178.

essence of human being, is reflected in the New Testament statement by the Apostle Paul: “Be ye transformed by the renewing of your mind.”<sup>88</sup>

Emotions play a problematic role in the philosophic self-understanding of pre-Han Dynasty China (206 B.C.- 220 A.D.), evident in the political treatise *Huainanzi* 淮南子, an eclectic blend of Confucian, Daoist and Legalist teaching. *Xin* 心, as thinking/feeling, focuses the intellectual activity, rational judgments and desires of an individual. Emotions such as love, hate, joy, and anger, which have the potential effect of destabilizing *xin* 心, are to be guarded against.<sup>89</sup>

Education thus renews an individual’s heart and mind, such that personal lifestyle is transformed and protected from the excesses of emotion. Yet this is not the ultimate aim of Classical Confucian learning. A society of individuals capable of maintaining control over their emotions is a society which functions properly. At the most mundane level, there is law and order. Thus, the Confucian view of law, particularly in the *Lun Yu* 論語 and the *Mengzi* 孟子, is as a necessary coercive force to be invoked only when the virtue of rulers fails to inspire the people to be virtuous. Yet, at a more profound level, there is the establishment of a society which enables human beings to thrive and flourish. So, while Maslow’s theory has helped to explain the logical argument that the development of the individual’s fullest potentials presupposes the meeting of basic human needs, there is a sense in which Classical Confucianism cannot be explained by a Western personal motivation theory. As in the *Da Xue* 大學 sequence from individual to

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<sup>88</sup> Romans 12:2

<sup>89</sup> Roger T. Ames, "Emotions and the Actions of the Sage: Recommendations for an Orderly Heart in the *Huainanzi*," *Philosophy East & West* 45.4 (1995): 527

the world and back to the individual, Classical Confucianism provides a doctrine for the organic integration of human and humanity. Renovation becomes renaissance.

PART III: THE METAPHYSICAL ROOTS OF THE  
CLASSICAL CONFUCIAN VISION

## CHAPTER 5: *TIANMING* 天命 AND HUMAN RIGHTS IMPLICATIONS

### THE BACKGROUND LITERARY SOURCES WHICH INFORM CLASSICAL CONFUCIANISM

Although the sources attributed to Confucius and his immediate disciples comprise an explicit statement of early Confucian doctrines, they fail to render a complete understanding of the context that informs and pervades Classical Confucianism. Confucius is reputed to have both transmitted and edited a corpus of ancient documents that has attained canonical status in the history of Chinese thought. Known today as the Confucian Classics, these documents include such works as the *Yijing* 易經 (Book of Changes), the *Shujing* 書經 (Book of History), the *Shijing* 詩經 (Book of Songs), the *Li Ji* 禮記 (Record of Ritual), and the *Chun Qiu* 春秋 (Spring and Autumn Annuals). The significance of these classics is that they provide a metaphysical and historical backdrop to the later works attributed to Confucius. In particular, the numerous concepts articulated within the *Lun Yu* 論語 (*Analects*), the *Da Xue* 大學 (Great Learning), the *Zhong Yong* 中庸 (conventionally, ‘Doctrine of the Mean’) and the *Mengzi* 孟子 (the *Mencius*) take on metaphysical and ontological import when interpreted in light of the *Yijing* 易經. It is the transmission of a received philosophical tradition that reinforces Classical Confucianism’s status as authentically and anciently Chinese.

## THE RELEVANCE OF *TIANMING* 天命 TO HUMAN RIGHTS

An essential concept for human rights which illustrates the continuity between Classical Confucianism and the earliest sources of Chinese philosophy is the notion of *tianming* 天命 (conventionally, the ‘Mandate of Heaven’). Throughout the student demonstrations of 1989, Chinese students, intellectuals and workers made frequent reference to the belief that their government had forfeited any legitimate claims to possess the *tianming* 天命 mandate to rule. The human rights scholar and activist Luo Longji<sup>90</sup> had earlier compared *tianming* 天命 to John Locke’s idea of the “right of revolution.” According to Locke, a citizenry has the right to dissolve and replace a government that acts in a manner that is “...contrary to their Trust.”<sup>91</sup> Most Confucian references to *tianming* 天命 (e.g., *Lun Yu* 論語 2.4, 16.8) admonish the ruler to live in awe of and maintain respect for this mandate as a matter of moral self-cultivation. The right to rule is not absolute, but may be forfeited by moral or ethical lapse leading to the loss of *tianming* 天命.

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<sup>90</sup> Born in 1896, Luo Longji participated in the 1919 ‘May Fourth’ student uprising and eventually completed his doctorate at Columbia before returning to Shanghai to take a position at Guanghai University. From there, he wrote prolifically in popular media on the state of human rights in China. See Howard L. Boorman, Editor, Biographical Dictionary of Republican China. New York: Columbia University Press, 1967-71. II. pp. 435-438.

<sup>91</sup> John Locke, Two Treatises on Government. Cambridge: Cambridge University Press, 1960. p. 412. See Treatise II, Section 221, 2-5 and Section 222, 23-24.

## TIANMING 天命 AND THE PROBLEM OF TRANSLATION

The concept of *tianming* 天命 raises a significant issue for understanding the sources which have influenced and shaped Classical Confucianism. Imbedded within the word *tianming* 天命 is the Chinese character *tian* 天. To this day, most native Chinese translators render *tian* 天 as *heaven* for lack of a more precise term in English to embody the Chinese understanding of what is ‘above’ or ‘beyond’ earth. Chinese philosophers frequently speak of *chaoyue* 超越,<sup>92</sup> when referring to ‘transcendence.’ There is no consensus, however, over the meaning of *chaoyue* 超越, which, literally, is the verb “to exceed.”<sup>93</sup> This imprecision is exacerbated whenever *chaoyue* 超越 is equated with Western conceptions of ‘transcendence,’ whether found in the doctrines of Pythagoras, Plato, the Scholastics, Kant, Husserl, or more recent philosophers.

An initial tendency from a Western perspective is to regard the term ‘transcendent’ as a reference to “out there-ness” and to understand heaven as a spatially or spiritually distant realm. Later in this thesis, I will suggest that *chaoyue* 超越, if understood vis-à-vis the sources that inform Classical Confucianism, evokes an understanding of the inter-connectedness of individuals with one another (i.e., as family and society), with nature and with all that is real. What is transcended in *chaoyue* 超越 is individual isolation, reflecting John Donne’s declaration that, “No man is an island.”

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<sup>92</sup> *Chaoyue* 超越 is not a term found in the primary Confucian literature, but in the contemporary vocabulary of Chinese philosophers.

<sup>93</sup> John DeFrancis, editor. *ABC Chinese-English Dictionary*. Honolulu: University of Hawaii Press, 1996. p. 68.

Human existence manifests both a social dimension and participation with all of reality through relational principles or dynamics. Some of these principles or dynamics will be examined in our discussion of the *Yijing* 易經 (Book of Changes) and its relevance to Classical Confucianism. In this light, *Tianming* 天命 underscores the symbiotic relationship between government, the governed and the metaphysical structure of the universe. Just as the people are not autonomous, neither is the ruler.

Chinese translators of *tian* 天 as ‘heaven,’ following the convention established by their counterparts from the West, have often failed to recognize the ideological motivations of Western translators. As a missionary, the Jesuit priest Matteo Ricci (1552-1610) innovatively sought to synthesize Christianity and Confucianism through the fusion of disparate Chinese metaphysical and Western theological concepts. Ricci held that, “from the very beginning of their [the Chinese people’s] history it is recorded in their writings that they recognized and worshipped one supreme being whom they called King of Heaven or designated by some other name indicating his rule over heaven and earth.”<sup>94</sup> Starting from this premise, Ricci and other Jesuits translated concepts such as *tian* 天 as *Heaven* as well as 上帝 *shangdi* as *God*. One of Ricci’s journal entries reads as follows:

Men like to raise their eyes to look at the physical sky [*tian* 天]. While they are in the act of doing so, they all sigh and say, ‘There must be someone who is operating all this [in

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<sup>94</sup> Louis J. Gallagher, S.J., China In The Sixteenth Century: The Journals of Matthew Ricci: 1583-1610. New York: Random House, 1953, p. 93.

the universe].’ This someone is called the *Master-of-T’ien*, or *Deus* in our country.<sup>95</sup>

Following the Jesuits, Protestant missionary James Legge became the most well-known and prolific English translator to make consistent use of the word *heaven* for *tian* 天, a practice that has helped to foster the importing of Western theological concepts into Chinese philosophy.

David Hall and Roger Ames argue that the words *heaven*, *truth* and *self* appear in translations of Confucian works as a result of the “Western ethnocentrism...” of “missionizing Christians” responsible for late-nineteenth and early twentieth-century translations.<sup>96</sup> According to Hall and Ames, these terms promote “connotations of transcendence and spirituality” that are not present in Chinese thought.<sup>97</sup> Thus, in order to avoid linguistic incommensurability, Professor Ames refrains from translating potentially problematic terms in the translations on which he has collaborated.<sup>98</sup> For example, a typical passage from the Ames and Rosemont version of the *Lun Yu* 論語 (*Analects*) reads: “...Does *tian* 天 speak? And yet the four seasons turn and the myriad things are born and grow within it. Does *tian* speak?” (17.19).<sup>99</sup> This simple, yet useful

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<sup>95</sup> Matteo Ricci. The True Doctrine of the Master of T’ien. Taichung (Taiwan): Kuang-ch’i, 1966. p. 3.

<sup>96</sup> David L.Hall and Roger T.Ames. Anticipating China. New York: State University of New York Press. 1995. p. xvi.

<sup>97</sup> *Ibid.* p. xvi.

<sup>98</sup> See Ames and Rosemont. *Op. cit.* p. 46: “Tian is a term that we have chosen not to translate, largely because we believe its normal English rendering as” Heaven” cannot but conjure up images derived from the Judeo-Christian tradition that are not to be found in China.”

<sup>99</sup> *Ibid.* p. 208.

practice, aided by computerized typesetting, helps to minimize the imposition of Western interpretations upon Chinese texts.

#### UNDERSTANDING *TIANMING* 天命 IN CONTEXT

It would be mistaken to suggest, however, that everywhere *tian* 天 is translated as ‘heaven’ a Christian or Western interpretation applies, even in popular literature. Taoist Master Alfred Huang is a typical, non-academic example of a Chinese translator who consistently uses the word ‘heaven’ in his translation of phrases from Confucian literature:

In ancient times, the Chinese believed that the Tao of Heaven was also the Tao of Humanity, especially for an emperor... Confucius said that “with vitality and endurance Heaven acts without ceasing! Heaven’s motion is the healthiest”... The nature of Heaven is to follow the central path with no excess and no insufficiency. Applied to human lives, all our actions should follow the way of Heaven, maintaining an equilibrium. In other words, every action should be in accord with proper time and circumstances.<sup>100</sup>

Nothing in Huang’s commentary or in his translations suggests that, by ‘heaven,’ he is referring to the Christian theological concept. Similarly, scholars unable to read Classical Chinese who have used James Legge’s translations as their link to the primary sources have been able to contextualize their interpretations.

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<sup>100</sup> Alfred Huang. The Complete I Ching. Rochester: Inner Traditions International, 1998. pp. 26-27.

## WHY *TIANMING* 天命 IS MORE THAN A SOCIAL CONTRACT

Therefore, while it is helpful to clarify that Western conceptual categories make poor starting points for translating Chinese philosophical vocabulary, ruling out transcendence altogether imposes a metaphysical and moral naturalism upon the Chinese texts. In particular, an analysis of *tianming* 天命 derived from translations stripped of all vocabulary for transcendence could suggest that the concept is essentially secular. In this respect, *tianming* 天命 could be viewed as the equivalent of a secularized<sup>101</sup> version of John Locke's doctrine of 'trust' in the compact (generated by the social contract) between government and the people.<sup>102</sup> Locke's is a trust between two parties that can be kept or broken. When the trust is broken by governmental leaders, they, "...forfeit the Power, the People had put into their hands, for quite contrary ends, and it devolves to the People, who have a Right to resume their original Liberty, and by the Establishment of new Legislative (such as they shall think fit) provide for their own safety and security, which is the end for which they are in society."<sup>103</sup>

An analysis of literary and philosophical references to *tianming* 天命 will show, however, that it is not essentially a version of the secularized social contract. With

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<sup>101</sup> I use the qualifier 'secularized' here to recognize that John Locke personally understood the social contract within the context of Natural Law as established by God, to whom he considered governments were ultimately accountable. This is the understanding that Thomas Jefferson would later reflect in the language of the Declaration of Independence.

<sup>102</sup> On the compact that exists between government and the people, see Locke, *op.cit.* Treatise 2, Section 14, 8-10; Treatise 2, Section 97, 5-8; Treatise 2, Section 99, 5-10.

<sup>103</sup> Locke, *op. cit.* Treatise 2, Section 222, 20-25.

respect to domestic human rights issues, a valuable backdrop for understanding *tianming* 天命 is in the ancient literature addressing its violation by a ruler. Excerpts from *Mengzi* 孟子 (Mencius) and the *Shujing* 書經 (Book of History) will serve this purpose.

### MENCIUS ON THE VIOLATION OF *TIANMING* 天命

While the *Lun Yu* 論語 (*Analects*) contains no specific instructions concerning the deposing of a ruler who has forfeited the mandate to rule, the *Mengzi* 孟子 (Mencius) includes a handful of passages that address the legitimacy of overthrowing such a ruler without assassination.

King Hsuan [Xuan] of Ch'i [Qi] asked, "Is it true that T'ang [Tang] banished Chieh [Jieh] and King Wu marched against Tchou [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 Tchou [Zhou],' but I have not heard of any regicide."  
(*Mengzi* 孟子, Book I, B8; D.C. Lau translation)<sup>104</sup>

Here, Mencius affirms the deposing of a king who has violated the virtue of *ai ren* 愛仁 (humane benevolence) toward the people. He does not, however, advocate anarchy or direct overthrow of a ruler by the masses. Rather, the representatives or champions of the people (i.e., benevolent leaders) act on their behalf: "[Mencius answered King Xuan],

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<sup>104</sup> D.C.Lau, translator. *Mencius*. London: Penguin Books, 1970. p. 68.

‘If the prince made serious mistakes, they [government ministers] would remonstrate with him, but if repeated remonstrations fell on deaf ears, they would depose him’”

(*Mengzi* 孟子, Book V, B9; D.C. Lau translation).<sup>105</sup>

At first glance the preceding Mencian passage could be marshaled to support a social-contract reading of *tianming* 天命, similar to that in the post-Christian West, with no metaphysical referent. According to Thomas Hobbes, the people have a right to arrange a new contract when the government to whom they have surrendered their sovereignty deteriorates into an oppressive regime.<sup>106</sup> Locke, as well, holds that both parties in the social compact owe obligations to the other and, when one party fails to fulfill its obligation, the other party may reconstitute the contract. But, when read in the context of earlier historical and philosophical tradition, the Mencian passage reflects a motivation that is deeper than a contract between human parties.

#### *SHUJING* 書經 (BOOK OF HISTORY) METAPHYSICS AS A BACKGROUND FOR MENCIOUS

Mencius’ reference to the just deposing of a ruler (Book I, B8) draws both its conceptual framework and language from China’s oldest historical record, the *Shujing* 書經 (Book of History). Reputed to have been abridged and edited by Confucius, the *Shujing* 書經 was considered a major textbook by Confucian scholars during the pre-Qin period. Eventually, the work assumed its place amongst the five Confucian Classics. The

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<sup>105</sup> Ibid. p.159.

<sup>106</sup> On the formation of the social contract, see Thomas Hobbes, *Leviathan, English Works*, 3, p. 1x, 158.

“Speech of *Tang*” constitutes one of the five sections of the *Shujing* 書經 and records the circumstances leading to the establishment of China’s first archaeologically attested dynasty, the *Shang* (ca. 1600-1027 BCE). The *Shang* Dynasty, characterized by its system of writing and the practice of divination, furnished primitive diagrams and texts that were later incorporated into the *Yijing* 易經 (Book of Changes), also known as the Zhou Yi, during the Zhou Dynasty (ca. 1027-256 BCE).

The “Speech of Tang” records the historical milestone to which the Shang dynasty traces its origin, the deliverance of the common people from the unjust oppression of Jie, the last King of Xia. Obviously, history is written by the victors of such battles, and the account paints the heroism of Tang in the most favorable light. Nonetheless, the principles to which the story appeals are an overt expression of the values by which the reign of Tang was justified to the people. The fact that the “Speech of Tang” answers an implicit need for such rationalization indicates that *tianming* 天命 is deeply rooted in the earliest stages of China’s developing political and cultural self-understanding.

The king said: “Come, all of you. Come over and hear what I have to tell you. It is not that I, the humble man, who have the audacity to declare war. It is because the prince of Xia has committed monstrous crimes that Heaven has given me the mandate [*tianming* 天命] to exterminate his kingdom.” (Translation by Wang Shishun and Du Ruiqing)<sup>107</sup>

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<sup>107</sup> Wang Shishun and Du Ruiqing, translators. *The Book of History*. Shandong: Shandong Friendship Press, 1993. p. 103.

The oration continues with a statement of the evidence by which Jie is indicted as having forfeited the mandate to rule: “You may also wonder: ‘What atrocities has the king of Xia committed?’ He has exhausted the strength of his people and practised ruthless exploitation...”<sup>108</sup> This said, Tang, no less than four times in the short speech, declares that the mandate has passed to him and that his cause to depose the king of Xia is just: “Not daring to disobey orders from Heaven [*tian* 天], I cannot but set off on this punitive mission.”<sup>109</sup>

One need not make recourse to later notions of Western transcendence to recognize that *tian* 天 has been regarded throughout Chinese history as more than a socially mandated imperative. While Heaven remains a problematic translation of *tian* 天 whenever it entails reference to Western theologies, a metaphysical understanding of *tian* 天 and other Confucian notions does emanate from the *Yijing* 易經 and its associated pre-Confucian classics.

#### THE PROBLEM WITH NATURALIZING *TIAN* 天

The assertion that *tian* 天 conveys no sense of transcendence whatsoever is generally rooted in the necessary effort to de-Christianize or de-Westernize translations of the Confucian Four Books. This effort to eliminate Western impositions on the text is

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<sup>108</sup> Ibid.

<sup>109</sup> Ibid.

essentially an exercise in deconstruction. A growing postmodern trend in Confucian studies can be seen in the work of the historian Lionel Jensen. Jensen takes deconstruction to its logical end and deconstructs not only the text, but also the person of Confucius. According to Jensen, Confucius is the contrived invention of Sixteenth and Seventeenth Century Jesuit priests, most notably Michele Ruggieri and Matteo Ricci. Jensen writes, “In Jesuit hands the indigenous *Kongzi* [孔子] was resurrected from distant symbolism into life, heroically transmuted and made intelligible as ‘Confucius,’ a spiritual confrere who alone among the Chinese – so their version had it – had preached an ancient Gospel of monotheism now forgotten.”<sup>110</sup> Although Jensen believes Hall and Ames do not go far enough in their deconstruction efforts, he views their work as a “significant rejoinder both to previous contemporary interpreters/translators of Confucian texts such as de Bary and Wing-tsit Chan and to the Anglo-European philosophical tradition.”<sup>111</sup>

While much can be commended in Jensen’s effort to counter co-optations of Confucianism, there is an omission in his work. Beyond an extended note introducing the *Yijing* 易經 as a book of divination and hexagrams,<sup>112</sup> Jensen makes virtually no mention of the background sources from which Classical Confucian draws its metaphysical understanding. His conclusion that the Confucian texts embody no concept of transcendence is based upon exposing later constructs such as those of Western religious interpreters, not on exposing prior sources such as the *Yijing* 易經 or *Shujing* 書經.

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<sup>110</sup> Lionel M. Jensen. Manufacturing Confucianism. Durham: Duke University Press. 1997. p. 33.

<sup>111</sup> *Ibid.* p. 17.

<sup>112</sup> *Ibid.* pp. 333-334. See note 99.

Although the original teachings attributed to Confucius and his disciples make scant explicit reference to metaphysics, it would be inaccurate, for that reason, to characterize them as purely naturalistic. Confucius is described as the compiler and transmitter of an ancient philosophical tradition consisting of those works that would eventually be recognized as the five Confucian Classics. The *Lun Yu* 論語 (*Analects*) portrays him as saying, “A transmitter and not a maker, believing in and loving the ancients, I venture to compare myself with our old P’ang” (*Lun Yu* 論語 7.1). Concerning the highly metaphysical *Yijing* 易經, Confucius proclaimed, “If some years were added to my life, I would give fifty to the study of the *Yi* [*Yijing* 易經], and then I might come to be without great faults” (*Lun Yu* 論語 7.16). The *Lun Yu* 論語 conveys a picture of Confucius as having attained such a condition in the statement, “At seventy, I could follow what my heart desired, without transgressing what was right” (*Lun Yu* 論語 2.4.6). Accordingly, the *Yijing* 易經 played a background role in the development of Confucian thought.

#### CLASSICAL CONFUCIANISM AS RECEIVER AND TRANSMITTER OF METAPHYSICS

Why then are references to metaphysics in general, and to the *Yijing* 易經 in particular, so infrequent within the texts of the *Lun Yu* 論語, the *Da Xue* 大學, the *Zhongyong* 中庸, and the *Mengzi* 孟子? Although there is no consensus as to the actual

role Confucius played in editing the Five Classics, he is portrayed as holding them in high esteem throughout the *Analects*: “The Master said, ‘I am not one who was born in the possession of knowledge; I am one who is fond of antiquity, and earnest in seeking it there’” (*Lun Yu* 論語 7.19). The Confucian works create no new metaphysics, but incorporate the metaphysics of the *Yijing* 易經. What Classical Confucianism does not state explicitly, it presents implicitly by virtue of the historical-philosophical unity it seeks to maintain with its antecedents.

The distinctive contribution Confucius makes to Chinese thought is not as an innovator of metaphysics, but as the unifier of ancient philosophical antecedents with new and original ethical practices. In the *Yijing* 易經, one will find a metaphysical structure of the universe and the ontological foundations of *di* 帝 (universal source, order, power, etc.) as well as *dao*<sup>113</sup> 道 (literally, way or path). The *Yijing* 易經 thus gives rise to both Confucianism and Daoism. Within the Confucian writings, *di* 帝 and *dao* 道 are never isolated from immanent human application, nor is great attention drawn to them as discrete concepts. Instead, the words attributed to Confucius suggest a proclivity to minimize extraneous “metaphysical talk.” While the *Yijing* 易經 presents the universe as cosmic, the *Lun Yu* 論語 (*Analects*) naturalizes and humanizes it. The implication is that concepts affecting human rights such as *tianming* 天命 possess, at once, both social and

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<sup>113</sup> Reference to ‘*dao*’ without a singular article (i.e., ‘the’) reflects the linguistic fact that 道 may be either singular or plural. To speak of ‘*the dao*’ presupposes singularity.

metaphysical dimensions. A proper understanding of the human person in relationship to the *tian* 天 of *tianming* 天命 must precede any development of rights for humans.

THE *YIJING* 易經 AS BACKGROUND PHILOSOPHY  
FOR CLASSICAL CONFUCIANISM

Without the *Yijing* 易經, the Confucian writings are truncated from their source for understanding the universe and the human person. The sixty-four *gua* 卦 (hexagrams or double trigrams) of the *Yijing* 易經 and classical Confucian commentaries upon them, chiefly the *Yizhuan* 易傳 (the *Ten Wings*) provide the fertile soil from which the Chinese worldview emerges. Within their pages, the foundational notion of creativity and change via *yin* 陰 and *yang* 陽 is introduced and developed as a characteristically Chinese understanding of all processes and relationships. Unique amongst ancient Chinese literature, the *Yijing* 易經 not only furnishes a theory of reality, but, equally important, a way of interpreting that reality.

## CHAPTER 6: AN INTERPRETIVE METHODOLOGY

### ONTO-HERMENEUTICS AS INTERPRETIVE METHODOLOGY

A hermeneutic methodology that does justice to the content and the spirit of the *Yijing* 易經 is required for a proper interpretation of its text and an understanding of its major themes such as the natures of reality and the human being. To this end, Chung-ying Cheng has developed onto-hermeneutics, a distinctively Chinese method for interpretation that emerges from the *Yijing* 易經. In the West, attempts at *Yijing* 易經 interpretation are not new. Leibniz was fascinated by the mathematical complexities of the *Yijing* (易經)'s hexagrams, and Carl Jung wrote of its “synchronicity” in his influential forward to the Wilhelm and Baynes translation.<sup>114</sup> However, Cheng's onto-hermeneutics is the first systematic presentation to modern Western scholarship of a *Yijing* 易經-generated interpretation of Confucian thought.

The operant and distinguishing term in onto-hermeneutics is the prefix *onto-*, suggestive of the branch of metaphysics that deals with the nature of being, reality and ultimate substance. Whether the object (or ‘process’) under consideration is a text or a phenomenon in the world, onto-hermeneutics provides a framework for interpretation based upon the holistic integration of all reality. Furthermore, onto-hermeneutics makes

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<sup>114</sup> Jung held that the *Yijing* demonstrates that the Chinese mind “seems to be exclusively preoccupied with the chance aspects of events.” He coined the term ‘synchronicity’ to describe what he held to be the *Yijing*'s perspective on the coincidence of events in contrast to the Western view that events happen in sequence. See Richard Wilhelm and Cary F. Baynes. The I Ching or Book of Changes. Princeton: Princeton University Press, 1950. pp. xxii-xxv.

the *a priori* presupposition that a thing in the world, like a text, is given meaning and context by a metaphysical referent. Professor Cheng writes:

By onto-hermeneutical reflection I have in mind a reflection that would seek an understanding in terms of the meaningful connection of basic notions of a given text, with both intended and factual references to a reality which one could also experience and appeal to independently of the text.<sup>115</sup>

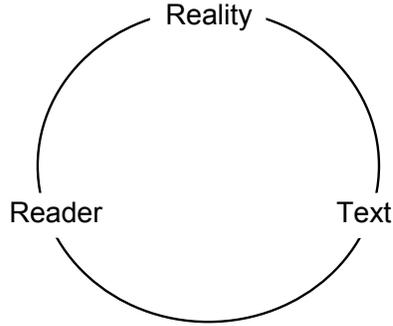
Using the hermeneutic circle,<sup>116</sup> onto-hermeneutics can be viewed as a dynamic and dialectical process that originates from, returns to and continues to proceed out of reality. I leave the term ‘reality’ unmodified by the adjective ‘objective’ to avoid the polarization of the objective and the subjective that occurs in much of the Western philosophic tradition that privileges a reductionist tendency.<sup>117</sup> A simple and typical diagram of the hermeneutic circle helps to introduce onto-hermeneutics:

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<sup>115</sup> Chung-ying Cheng. “Confucian Onto-hermeneutics: Morality and Ontology”. *Op. Cit.*, p. 33.

<sup>116</sup> For an insightful application of the circle metaphor to various hermeneutic traditions, see: Ronald Bontekoe. Dimensions of the Hermeneutic Circle. Atlantic Highlands, N.J.: Humanities Press International, 1996.

<sup>117</sup> See Chung-ying Cheng. “The Origins of Chinese Philosophy.” In Brian Carr and Indira Mahalingam. Companion Encyclopedia of Asian Philosophy. New York: Routledge. 1997. p. 501. Here, Professor Cheng writes: “In separating reality from appearance, objectivity from subjectivity, the ancient Greeks sought the immutable and unmoved as the essence of the real and objective. In contrast, the ancient Chinese from the very beginning recognized and accepted change and transformation as irreducible attributes of the world, including both things and human selves. In fact, when we now look at the main differences between western and Chinese philosophy, we have to point to this fundamental divergence.”



**Figure 1**

Here, the reader interacts simultaneously with reality and text, experience and tradition. Onto-hermeneutics avoids the extreme, on the one hand, of isolating the text as a fixed repository of knowledge inaccessible to the reader, except perhaps by a special revelation as in Gnosticism. It also avoids the postmodern extreme of holding the text hostage to the reader with meaning superimposed by a cultural or personal construct. In essence, onto-hermeneutics resolves what Gadamer calls the two “experiences of alienation” the reader encounters in confronting reality.<sup>118</sup> The first alienation is that of the aesthetic consciousness in which we are “no longer open to the immediate claim of that which grasps us.”<sup>119</sup> The second alienation is that of the historical consciousness, what Gadamer refers to as, “the noble and slowly perfected art of holding ourselves at a critical distance in dealing with witnesses to past life.”<sup>120</sup> Onto-hermeneutics resolves the problem of these alienations by acknowledging the dynamic, symbiotic and holistic

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<sup>118</sup> Hans-Georg Gadamer. “The Universality of the Hermeneutical Problem.” Reprinted in Gayle Ormiston and Alan Schrift. The Hermeneutic Tradition From Ast To Ricoeur. Albany: State University of New York Press, 1990. pp. 147-158.

<sup>119</sup> Ibid. p. 148.

<sup>120</sup> Ibid. p. 149.

process of interaction between human being, ultimate reality and whatever may be encountered as text for interpretation.

In a debate-style exchange of essays with Richard Rorty on the limits of interpretation, Umberto Eco writes: “If there is something to be interpreted, the interpretation must speak of something which must be found somewhere, and in some way respected.”<sup>121</sup> While Eco pleads for the concession of respect for a notion of reality beyond a reader’s construct, onto-hermeneutics proclaims a robust, unified engagement between reader, reality and text. As a distinctive of onto-hermeneutics, this engagement is active, creative and transformative.

#### THE SIX PRINCIPLES OF ONTO-HERMENEUTICS

A basic outline of Professor Cheng’s onto-hermeneutical theory<sup>122</sup> would consist of the following six principles<sup>123</sup> that ostensibly pertain to and emerge from pre-Confucian thought. The six principles are: (1) the principle of ontological reference by way of unification and harmonization; (2) the principle of practical application and

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<sup>121</sup> Umberto Eco. “Interpretation and History.” Umberto Eco, Richard Rorty, Jonathan Culler, and Christine Brooke-Rose. Interpretation and Overinterpretation. Cambridge: Cambridge University Press, 1992. p. 43.

<sup>122</sup> For the definitive collection of Professor Cheng’s essays on various aspects and applications of onto-hermeneutical theory, see Chung-Ying Cheng. New Dimensions of Confucian and Neo-Confucian Philosophy. Albany: State University of New York Press, 1991.

<sup>123</sup> The six principles are enumerated in: Chung-ying Cheng. “Confucian Onto-hermeneutics: Morality and Ontology.” Op. Cit. Especially, pp. 41-53.

constructive participation;<sup>124</sup> (3) the principle of comprehensive observation; (4) the principle of congruence of reciprocal feelings (i.e., the unity of feelings and experience); (5) the principle of practice and self-cultivation; and (6) the principle of unity of virtues and reasons.<sup>125</sup>

The first two of these principles are constructive principles upon which all of onto-hermeneutics rests, and they are derived from the *onto-* (i.e., ontological) emphasis addressed above. Before proceeding to examine the first of these principles, a note on terminology may be in order. In Western philosophy, ontology (that field which deals with questions of being or existence) is considered a branch of metaphysics. One of metaphysics' concerns (in addition to its concern for universals, space and time, essence, causality, etc.) is questions of existence. The overlap of issues within ontology proper and metaphysics in general has led to an interchangeability between the terms ontology and metaphysics. As A.W. Sparkes observes:

Ontology is an important part of metaphysics. In fact, when philosophy courses have titles like 'Metaphysics and Epistemology,' the word 'metaphysics' is being used as a virtual synonym for 'ontology.'<sup>126</sup>

In Cheng's vocabulary for onto-hermeneutics, it appears that metaphysics and ontology are interchangeable concepts. This would be consistent with the onto-hermeneutical principle of unification and harmonization in which becoming (for the

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<sup>124</sup> Ibid. pp. 51-52. (principles 1-2)

<sup>125</sup> Ibid. pp. 41-41. (principles 3-6)

<sup>126</sup> A. W Sparkes. Talking Philosophy. London: Routledge, 1991. p. 208

individual and humankind) is inextricably linked to all of reality. Ontological reference, in this context, is the same as metaphysical reference. Similarly, any reference to transcendence should be understood as metaphysical.

The principle of ontological reference by way of unification and harmonization begins with the premise that a metaphysical context (the basis for ontology) is necessary for understanding that which is immanent. According to Cheng, "...unification and harmonization of any subject matter require a unique ontological reference in order to bring together all the differences into one unity and unity must be capable of comprehending all the differences and collecting them into a harmony."<sup>127</sup> A significant example of a concept that depends upon ontological reference is *xing* 性, the Confucian term denoting "human (or a human's) nature". Onto-hermeneutics views *xing* 性 as "an ontological reality that not only makes the ontology of the human person possible but makes the transformation of the human person possible."<sup>128</sup> An understanding informed by the *Yijing* 易經 recognizes that, without ontological reference, "human nature" (*xing* 性) has no unity or harmony with ultimate reality. Expressed positively, through *xing* 性, individuals link their lives, families, and society to the source of reality, thereby generating knowledge, language and morality as a function of human becoming.

It must be borne in mind that, in *Yijing* 易經 metaphysics, there is no absolute opposition between cosmos and earth, reality and manifestation. The cosmos is not "out

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<sup>127</sup> Chung-ying Cheng. "Confucian Onto-hermeneutics: Morality and Ontology." Op. Cit., p. 51.

<sup>128</sup> Ibid.

there,” but unified and harmonized with the immanent. All cosmic processes are to be understood in light of their relationship to *dao* 道 (the way or path on earth) as a unified whole, somewhat like the later Heideggerian notion of Being (*Sein*), which gives meaning to being (*sein*). *Dao* 道, however, is not separate from *tian* 天. In fact, their consanguinity is one reason that *tian* 天 frequently appears in translations as ‘nature’ rather than ‘heaven.’ *Chaoyue* 超越 (conventionally, but not accurately, translated ‘transcendence’), as applied to a Classical Confucian understanding is not the idea of externality or otherness as in Platonic formalism or theism. Rather, *chaoyue* 超越 unifies reality, ontology, nature, human relationships, and all of life. A proper view of *xing* 性 (human nature) in the everyday world as part of *dao* 道 requires reference to *tian* 天. The first onto-hermeneutical principle calls for the interpretation of human nature and, for that matter, all reality, as part of a whole.

The second principle (practical application and constructive participation) relates all philosophical concepts to the practical and experiential as the ground upon which their meaning is constructed. Actual practices and experiences are the basis for analysis and the lens through which abstract notions are to be viewed and clarified. Thus, onto-hermeneutics avoids the dichotomy between Platonic idealism and radical empiricism by fusing metaphysical reference with naturalistic observation in the construction of phenomenological concepts.

Cheng describes his second principle as the practice of “...extending goodness of human nature to goodness of a humane society.”<sup>129</sup> Goodness and other virtues have their origin in metaphysical phenomena (i.e., principles) such as *tian* 天, but have their manifestation in immanent phenomena such as *xing* 性. *Dao* 道 of goodness (and other virtues) is an integration of *tian* 天 and *xing* 性.

The remaining four principles, (3) comprehensive observation, (4) congruence of reciprocal feelings; (5) unity of practice and self-cultivation; and (6) unity of virtues and reasons, pertain to interpretation and understanding in the world. They speak to the significance of incorporating all relevant resources into the practice of interpretation so that the experience of interpretation is “totalistic.” These resources include the primary texts as well as the historic scholarly tradition of commentary upon and reinterpretation of the text, cultural response to the text, and personal engagement of the text as a source for virtue and divination. The spirit or essence of these four principles is to approach interpretation as a creative, living enterprise, one that is anchored in the text and its ontological referent, and yet open to holistic experience and practical encounter with reality.

#### METAPHYSICS IN THE *YIJING* 易經 AND CLASSICAL CONFUCIANISM

According to Professor Cheng, the metaphysical backdrop to the *Yijing* 易經 and Classical Confucianism is pervasive throughout the primary texts. The central concept of

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<sup>129</sup> Ibid. p. 52.

*tian* 天 (translated in the *Yijing* 易經 as *heaven* by most Western sinologists, notably James Legge<sup>130</sup> and Richard Wilhelm and Carey Baynes<sup>131</sup>) carries with it a metaphysical status that informs the text.

As to the element of *tian* [天], there is obviously good reason to believe that Confucius treated the spiritual and transcendent belief in *tian* [天] as an ultimate source of support and justification, and also as a supreme model of the power and virtue of creativity... This deeper level of onto-cosmology is ever present in Confucius' thinking even in the Analects and it is intended beyond a historical reference.<sup>132</sup>

One of the most significant contributions of Confucius to the interpretation of the *Yijing* 易經 is the discernment of an onto-cosmological perspective within the text. The suffix *-logical* suggests that the *Yijing* 易經 clarifies the way in which the universe is structured and organized around a rational principle. The prefix *cosmo-* directly refers to the universe and relates onto-cosmology to cosmogony (the origin of the universe) and cosmography (the picture of the universe). Onto-hermeneutics thus draws upon a unified understanding of the universe's origins, image and logic as the ever-present context for interpretation of the text and the experience of the reader. Ultimately, Professor Cheng argues that Confucius generates an onto-hermeneutics that presents a "totalistic" context that gives rise to a non-reductionistic philosophy of reality: "... it is Confucius who

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<sup>130</sup> See James Legge. I Ching: Book of Changes. New York: Dover Publications, Inc., 1971.

<sup>131</sup> See Richard Wilhelm and Carey F. Baynes. The I Ching. Princeton: Princeton University Press. 1977.

<sup>132</sup> Chung-ying Cheng. "Confucian Onto-hermeneutics: Morality and Ontology". Op. Cit. p. 38.

transforms the understanding of heaven and earth of the *Yi* into an understanding of the full creative power that would give rise to life and sustain life toward a grand harmony and that [the] human being must emulate this creative harmonization and harmonious creativity in his own development of humanity and human society.”<sup>133</sup> Onto-hermeneutics as an interpretive practice is concerned with understanding the whole system in light of its inter-relatedness and organic nature by way of penetrating analysis and naturalistic observation.

ONTO-HERMENEUTICS APPLIED TO THE *YIJING* 易經  
TO ELUCIDATE *TIANMING* 天命

When applied to the *Yijing* 易經 and the Confucian concept of *tianming* 天命, onto-hermeneutics helps to establish that *tianming* 天命 carries with it a conceptual force that extends beyond the purely social. To demonstrate this, it is only necessary to apply the first principle of onto-hermeneutics, for it reveals the ontological backdrop of *tianming* 天命. While the remaining onto-hermeneutical principles contribute insight into the outworkings of *tianming* 天命 in the human and social context, their role is secondary in establishing the relevance of *tianming* 天命 to human rights.

As noted above, *tianming* 天命 has been approached as a secularized, Western-style social contractarian notion. Onto-hermeneutics develops a vision of *tianming* 天命

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<sup>133</sup> Ibid. pp. 38-39.

as a metaphysical and ontological dynamic that calls forth accountability to the Chinese view of the nature of reality and the human person. A conceptualization of human rights anchored in *tianming* 天命 has the capacity to resonate within the collective Chinese mind as culturally sensitive and culturally informed. Moreover, it can provide the rationale for appeal against a government by its citizens as a philosophical resource for any development of a legal basis for such appeal.

## CHAPTER 7: *TIANMING* 天命 AS A MORAL CONCEPT

Application of the first principle of onto-hermeneutics (ontological reference by way of unification and harmonization) will show that *tianming* 天命, as a moral concept, is a manifestation of the whole of morality. That whole is represented in *dao* 道. Xunwu Chen summarizes the hermeneutical claims that Confucianism makes upon *dao* 道 as follows. Despite Chen's problematic use of the word 'transcendent' in combination with 'immanent,' his summary is useful for its implicit reference to onto-hermeneutical principles:

1. The *dao* is immanent in human history, culture, and human practices; thus the *dao* is both transcendent and immanent.
2. The *dao* expresses itself in the moral principles that we abide by, in rites and institutions within which we operate; thus, the *dao* is the universal that is embodied in the particular.
3. The *dao* is embodied in the ways of the ancient sage kings or present good rulers and princes, etc.; thus the *dao* is the universal that evolves historically.
4. The *dao* is the truth; in terms of it all other truths are understood and interpreted.
5. To understand the *dao*, one must reflect what is near at hand, that is, what one experiences daily and culturally in real life.<sup>134</sup>

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<sup>134</sup> Xunwu Xhen. "Hermeneutical Reading of Confucianism." Journal of Chinese Philosophy. Vol. 27. No. 1. March 2000. pp. 106.

In practice, *tianming* 天命 is a manifestation of *dao* 道 of *tian* 天. Closely aligned with the principles of onto-hermeneutics, *tianming* 天命, like *dao* 道, is (a) unified with all reality by ontological reference (or, as Chen states it, “is both transcendent and immanent”), (b) expressed in moral principles, rites and institutions, (c) historically evolving, (d) integrated with all truth, and (e) apprehended in daily life. The ultimate ontological referent of *tianming* 天命 is explained in the two initial *gua* 卦 (hexagrams) of the *Yijing* 易經 and their attendant explanations and commentaries.

#### THE BASIC METAPHYSICS OF THE *YIJING* 易經 -

The *Yijing* 易經, a collection of sixty-four *gua* 卦 (hexagrams or double trigrams), provides the philosophical foundation of all Chinese thought. The central theme of the *Yijing* 易經 is creative change, and that theme is most expressly developed in the philosophical idea of *yin* 陰 and *yang* 陽, illustrated in this familiar ancient symbol:



**Figure 2**

*Yin* 陰 (i.e., the dark region of the symbol) and *yang* 陽 (i.e., the light region) comprise the two complementary and symbiotic principles (alternatively, forces or modalities) whose perpetual interaction generates the physical and non-physical universe,

including nature and human nature. While Tsou Yen (305-240 BCE) is often credited for the formulation of *yin-yang* 陰陽 philosophy,<sup>135</sup> its origins are so ancient that it is not possible to speak of Chinese thought at any historical point without reference to it. Generally, *yang* 陽 stands for that which is creative, initiating, active, positive, light, hot, hard, dry, etc. *Yin* 陰, correspondingly, stands for that which is receptive, responsive, passive, negative, dark, cold, soft, wet, etc. *Tian* 天 may provisionally be understood as the initiator *yang* 陽 acting upon nature (and human nature) as the responder *yin* 陰. In this interaction, *yin* 陰 and *yang* 陽 give rise to all reality, what the Chinese call “the ten thousand things” (*wanwu* 萬物 or *wanyou* 萬有).

#### AN EXPOSITION FROM THE *YIJING* (易經) ’S FOUNDATIONAL CHAPTERS

Onto-hermeneutics calls for the organic treatment of the *Yijing* 易經, with particular attention to interconnections within the text. The two initial *gua* 卦 (hexagrams), *qian* 乾 and *kun* 坤 (described in the opening chapters of the *Yijing* 易經) lend themselves readily to such holistic interpretation. Specifically, they were written in a manner that demonstrates their interconnectedness. The cosmogenic role of *qian* 乾 as pure *yang* 陽 and *kun* 坤 as pure *yin* 陰 is established by pervasive reinforcement in the *Yijing* 易經 through frequent restatement and literary structure.

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<sup>135</sup> Tsou Yen is probably associated with *yin-yang* 陰陽 philosophy due to his contributions to the development of *wu xing* (The Five Elements) which, in conjunction with *yin-yang* 陰陽, affect changes in nature and human nature. For reference, see Clarence Burton Day. The Philosophers of China. New York: Citadel Press, 1962. p. 10 and 347 ff.

The literary structure used in the development of the notions *qian* 乾 and *kun* 坤 is a parallelism in which explanations and commentary entries concerning one notion deliberately parallel those of the other. Through this parallelism, the *Yijing* 易經 presents a “totalistic” picture of the human person in relationship to the origin of all things. The structure also portrays the material universe as generated by the acting of *qian* 乾 (i.e., pure *yang* 陽) upon *kun* 坤 (i.e. pure *yin* 陰). Examples of parallel statements will illustrate this.

In *qian* 乾, we read:

How great is the fundamental nature of *Qian*! The myriad things are provided their beginnings by it, and, as such, it controls Heaven [see note on ‘Heaven’].<sup>136</sup> (*Qian* 乾, Commentary on the Judgments)<sup>137</sup>

In *kun* 坤, we read:

How great is the fundamental nature of *Kun*! The myriad things are provided their births by it, and in so doing it compliantly carries out Heaven’s will. (*Kun* 坤, Commentary on the Judgments)

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<sup>136</sup> The term ‘Heaven’ in this translation by Richard Lynn does not refer to the Western theological concept. Lynn follows the practice of the majority of native Chinese translators such as Wing-tsit Chan who have used the term ‘heaven’ as the closest English language approximation to *tian* 天. Two worthwhile features of Lynn’s version are his organization of the text so as to show its development by successive redactors and the incorporation of the commentaries of Wang Bi.

<sup>137</sup> Unless otherwise specified, quotations of the *Yijing* are taken from: Richard John Lynn. The Classic of Changes – A New Translation of the I Ching as Interpreted by Wang Bi. New York: Columbia University Press. 1994.

The Judgments and their commentaries do not depend on technical vocabulary, but demonstrate the relative meanings of *qian* 乾 and *kun* 坤 by elucidating the interaction between the two.

In *qian* 乾, we read:

The *Dao* of *Qian* forms the male... *Qian* has mastery over the great beginnings of things... (*Qian* 乾, Commentary Upon the Appended Phrases)

In *kun* 坤, we read:

The *Dao* of *Kun* forms the female... *Kun* acts to bring things to completion. (*Kun* 坤, Commentary Upon the Appended Phrases)

As the parallel statements continue, the process of creativity becomes evident. Through the interaction of *qian* 乾 and *kun* 坤, the universe proceeds from formlessness to form, from non-image to image.

In *qian* 乾, we read:

When [*dao*] forms images we call it *Qian*... (*Qian*, Commentary Upon the Appended Phrases)

In *kun* 坤, we read:

When [*dao*] duplicates patterns, we call it *Kun*... (*Kun* 坤, Commentary Upon the Appended Phrases)

This on-going parallelism establishes that *qian* 乾 and *kun* 坤 are symbiotic and interdependent principles. *Qian* 乾 is the initiator, originator and creative principle. *Kun* 坤 is the responsive, compliant and completing principle. Together, as the agents of change, they are responsible for the existence of the material world as efficient causes in the Aristotelian sense.

*Qian* and *Kun*, do they not constitute the arcane source for change! When *Qian* and *Kun* form ranks, change stands in their midst, but if *Qian* and *Kun* were to disintegrate, there would be no way that change could manifest itself. And if change could not manifest itself, this would mean that *Qian* and *Kun* might almost be at the point of extinction! (*Qian*, Commentary Upon the Appended Phrases)

## DAO 道 IN CONTEXT AND FUNCTION

As its central theme, the principle of creative change permeates the *Yijing* 易經. The rationale for change itself is located ontologically prior to *qian* 乾 and *kun* 坤 in the one principle that appears in the parallel statements as a constant. This is *dao* 道, whole, undifferentiated and unified. The specific translation of the term *dao* 道 is not necessary for inferring its meaning from the context of the *Yijing* 易經 in which *dao* 道 is clearly seen as that which exists prior to and gives rise to *qian* 乾 and *kun* 坤. It is functionally an onto-cosmogenic term with respect to the origin of all things. It is functionally an onto-cosmographic term with respect to the image of all things. And it is functionally an onto-cosmological term with respect to its role as the principle (i.e., Aristotelian final cause) for change, which brings about all things.

The contextual and functional approach of onto-hermeneutics protects the interpretive process from being taken hostage by ideological competition over the definition of isolated words. For example, the translation of *tian* 天 as heaven becomes unproblematic when interpreted contextually in light of the *Yijing* 易經 vis-à-vis an onto-hermeneutical approach. Context and function rule out a simplistic equating of ‘heaven’ in classical Chinese texts with the Christian Heaven. Furthermore, onto-hermeneutics reveals that the idea of *chaoyue* 超越, not as a Western notion of “out there-ness,” but in an inherently Chinese sense, does pervade the pre-Confucian and Confucian understanding of *dao* 道. Simply put, transcendence (for want of a better term) in the *Yijing* 易經 means that nature and human nature do not exist in isolation from an ontological referent. That referent is *dao* 道, and it is not distant, but ubiquitous, manifesting itself in the perpetual symbiosis of *yin-yang* 陰陽. Neither is *dao* 道 morally neutral or indifferent as it informs the moral principles that guide humanity into harmony with nature and itself. *Dao* 道 is also a concept that unites all subordinate principles such as *qian* 乾 and *kun* 坤 as well as “the ten thousand things” (*wanwu* 萬物 or *wanyou* 萬有) generated by the constancy of change.

#### MORAL FORCE AS THE IMPLICATION FOR *TIANMING* 天命

The Mandate of *tian* 天 (*tianming* 天命) carries moral force precisely because it is an expression of metaphysical *dao* 道 applied to the relationship between rulers and the

ruled, government and the governed. With *tianming* 天命, the people have a moral concept to which to appeal as the legitimization of political power. *Tianming* 天命 thus creates a dual accountability for all rulers, one that is immanent as a duty to the people and metaphysical as a duty to *tian* 天 and *dao* 道. In the Chinese worldview, the fulfillment of this duty is essential for the flourishing of unity and harmony within society as the outworking of *dao* 道. Its violation harms society. The onto-hermeneutical principle of ontological reference by way of unification and harmonization provides a methodology for understanding *tianming* 天命 in its historical-philosophical context. That context connects political practice and human rights to the ontological backdrop of *yin* 陰 and *yang* 陽. Classical Confucianism offers *Tianming* 天命 to modern China as a conceptual basis upon which a theory for governmental accountability to a standard for the exemplary treatment of persons can be established.

My purpose in examining *Tianming* 天命 and other metaphysical concepts has not been to suggest that they are efficacious in and of themselves (i.e., that *Tianming* 天命 will hold governments accountable for their actions). Rather, I have argued that, in approaching the discourse on human rights, China can draw upon indigenous concepts deeply imbedded in its philosophical heritage. Specifically, governmental accountability to the highest standards for the ethical and humane treatment of individuals is a fundamental Chinese value that emerges from an ancient Chinese worldview. I hope it has been seen that *Tianming* 天命 embodies an incipient form of democratic ideals that

reveals a shared values structure with liberal democracy for the humane valuation of individuals by their governments, resulting in their exemplary treatment.

*Tianming* 天命 becomes particularly relevant to advocates of human rights as it is translated from a metaphysical construct into tangible practice. The next section of this thesis will examine other concepts that express a Chinese understanding of virtues and duties. As the virtues and duties that Classical Confucianism demands of rulers are transformed into assurances for the exemplary treatment of citizens, outcomes advocated by rights advocates become evident.

Any theory relating to the treatment of individuals that China finds acceptable will need to be authentically Chinese in its genesis and approach. The staying power of Confucianism as it has evolved since classical origins is a fact of Chinese culture and the far-reaching cultures throughout Asia for that matter. Classical Confucianism offers a values structure that is authentically Chinese. We turn now to the question of satisfying expectations of those beyond China.

PART IV: THE CLASSICAL CONFUCIAN VISION AND  
THE WESTERN CONCEPTION OF RIGHTS

## CHAPTER 8: WHAT DOES RIGHTS MEAN?

As the second prong of this dissertation, I will now argue that the emphasis upon duties within Classical Confucianism implicitly affirms many standards for the beneficent treatment of individuals advocated by human rights proponents within the liberal democratic human rights tradition. I will show that some specific outcomes produced by rights, although not explicitly developed as rights in Classical Confucian philosophy, ensue from the socially beneficial outcomes cultivated within Classical Confucianism. These include the performance of virtue-duties by agents toward patients in social roles, ranging from the parent-child relationship to the state-citizen relationship. Since there is no word or concept in Classical Chinese which captures the essence of ‘rights’ in the Western claim-rights sense, this study will draw upon the analysis of rights and duties as ‘corollaries’ by legal scholar Wesley N. Hohfeld<sup>138</sup> to show that *de facto* claim-right expectations may be derived from or correlated with various Classical Confucian doctrines.

While such expectations may provide a tentative bridge for comparison of particular social outcomes articulated via rights-language in one tradition and duty-language in another, the question of commensurability between a rights-based ethical system and one that is duty-based remains. My aim is not to deny any incommensurability between the two systems, nor to suggest that any can be overcome, but to offer a means for determining whether a core set of desired outcomes in one

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<sup>138</sup> Wesley Newcomb Hohfeld. Fundamental Legal Conceptions As Applied In Judicial Reasoning. (Westport, CT: Greenwood Press Publishers, 1964).

system is comparable to a core set of desired outcomes in the other. Specifically, I aim to show that the work accomplished by role-generated duties in Classical Confucian thought yields the safety and subsistence outcomes sought by rights advocates, yet while not invoking a rights rationale.

In this chapter and the next, three questions will be addressed toward the development of an understanding of Classical Confucianism's potential to serve as a bridge between ancient Chinese and modern Western values with respect to the treatment of human beings. The first question is (Chapter 8), "What does 'rights' mean within this discourse on human rights?" Specifically, what are the components of this concept and what ethical work does this concept do? The second question, to be addressed in Chapter 9, is: "To what extent does Classical Confucianism possess such a conception of rights?" Here I will argue that there is a distinctive facet to the idea of rights which is inaccessible within a Classical Confucian focus upon duties or roles. The third question, also to be addressed in Chapter 9, is, "Can Classical Confucianism Generate Rights Outcomes?" To this question, I offer a proposal that draws upon roles within Classical Confucianism which give rise to outcomes elsewhere produced by rights doctrines.

#### WHAT DOES 'RIGHTS' MEAN WHEN SPEAKING OF HUMAN RIGHTS?

On the most general level, human rights are those rights which pertain to all human beings. Any list of such rights, however, especially if it attempts to take into consideration all known cultures, or if it in some way tries to consider "all human

beings,” would be too cumbersome to support a workable definition. Therefore, a narrower core definition of human rights will be required for the purpose of testing the thesis of this chapter.

In Chapter 1, reference was made to the concept of human rights understood by the United Nations Human Rights Commission which produced the Universal Declaration of Human Rights that was ratified by the United Nations in 1948. In subsequent presentations of the U.N. Declaration to that body’s global constituents, efforts have been made to couch the origin of rights within broad global narrative, beginning as far back as Ancient Persia.<sup>139</sup> While this practice gives the appearance of rights as having evolved simultaneously with human civilization, it is more likely the case that, in the wake of World War II, the “barbarous acts which have outraged the conscience of mankind”<sup>140</sup> gave strong motivation to the reaffirmation of concepts already articulated within Western rights documents. Such documents include the *Magna*

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<sup>139</sup> An example of this attempt to cast the origin of the United Nations conception of human rights within a global narrative (i.e., not merely a Western context) can be seen in the prominent display of a replica of the Cyrus Cylinder (539 B.C.) on the second floor public lobby of the United Nations building in New York City and the telling of the following somewhat exaggerated story by human rights organizations: “In 539 B.C., the armies of Cyrus the Great, the first king of ancient Persia, conquered the City of Babylon... He freed the slaves, declared that all people had the right to choose their own religion, and established racial equality. These and other decrees were recorded on a baked-clay cylinder... Known today as the Cyrus Cylinder, this ancient record has now been recognized as the world’s first charter of human rights. It is translated into all six official languages of the United Nations and its provisions parallel the first four articles of the Universal Declaration of Human Rights.” Quoted from Educator’s Guide – Bringing Human Rights to Life, United for Human Rights, 2009, 13.

<sup>140</sup> Office of the United Nations High Commissioner for Human Rights - Geneva, Human Rights: A Compilation of International Instruments, Vol. 1 pt. 1, (New York: United Nations, 2002), 1.

*Carta* (1215), *Petition of Rights* (1628), the *French Declaration of the Rights of Man and of the Citizen* (1789), and the *United States Constitution* (1787) and *Bill of Rights* (1791).

At first, the *Occidental* influence upon the Universal Declaration of Human Rights was denied by John Humphrey, the Canadian international law expert who wrote much of the initial draft. Later, he acknowledged this influence:

At the time, Humphrey claimed that there was no particular philosophical basis for the outline, stating that it was a random synthesis of proposals sent to the Secretariat from all around the world. Humphrey subsequently acknowledged that this was not actually the case. He wrote, "With two exceptions all these texts came from English-speaking sources and all of them from the democratic West . . . . My draft attempted to combine humanitarian liberalism with social democracy . . . . I had myself decided what to put in and what to leave out."<sup>141</sup>

We are therefore working with a notion of rights, particularly human rights, which strongly reflects the Western liberal democratic tradition of establishing protections for individuals against the state. The preamble to the Universal Declaration employs additional language of Western rights documents when it speaks of the "inherent dignity" of all human beings, "equal and inalienable rights," and when it asserts that "human rights should be protected by the rule of law."<sup>142</sup> Specifically, liberty is understood as legal protection against unwarranted coercion of state power.

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<sup>141</sup> Hilary Poole, ed., Human Rights: The Essential Reference. (Phoenix: Oryx Press, 1999), 62.

<sup>142</sup> Office of the United Nations High Commissioner for Human Rights – Geneva, 1.

Diplomatic efforts by Western nations at the dawn of this new century have generally emphasized human rights as the basic provision of safety and subsistence with liberty.<sup>143</sup> Henry Shue argues that these "...three particular substances – subsistence, security, and liberty – are basic rights."<sup>144</sup> The Universal Declaration of Human Rights, while extensive in its outlay of thirty specific rights, includes a foundation comparable to basic rights when it asserts that "Everyone has the right to life, liberty and security of person" (Article 3).<sup>145</sup>

This notion of basic rights provides a practical starting point for the consideration of the thesis that rights outcomes guaranteed in the Western liberal democratic tradition are generated under a different rubric within the Classical Confucian values system. Elements of subsistence and security, two of the three components of basic rights, are immediately recognizable in either tradition. Subsistence is the provision of whatever is necessary for life and health, and security is the provision of whatever is necessary for safety and protection. Liberty, the third component of basic rights, must be limited to the minimal level essential for the appropriation of subsistence and security in order for it to be recognized as an equivalent substance in both systems. Beyond the necessary minimal level needed for security and subsistence, the claims of liberty expand into what may be considered political rights, the formulation of which are dependent upon the nature of political systems. The thesis at hand focuses upon human rights as the basic rights of

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<sup>143</sup> Henry Shue, Basic Rights. (Princeton: Princeton University Press, 1996), 5-9.

<sup>144</sup> *Ibid.*, 9.

<sup>145</sup> Universal Declaration of Human Rights, Op. Cit.

subsistence, security, and the liberty required for the attainment of subsistence and security.

Given this narrowed scope of human rights, we may now inquire into what specific way the term *rights* functions within the concept of human rights. While the history of rights is richly imbued with metaphysical referents from the forms of Plato to the Judeo-Christian God as the source of inalienable rights in the Declaration of Independence, it is not necessary to reach back to the sources or origins of particular rights to understand how rights function. So what is gained pragmatically by declaring that something is a person's right as opposed to a privilege, gift or charity?

According to L.W. Sumner, "rights impose constraints on the pursuit of collective goals."<sup>146</sup> To use the striking metaphor of legal scholar Ronald Dworkin, in a just society, with just collective goals, the rights of an individual may "trump" society's pursuit of the greatest good for the greatest number: "Individual rights are political trumps held by individuals."<sup>147</sup> Rights, then, limit the power of the collective or the state against an individual or group of individual members of society. Similarly, just as rights may prevent the taking of an action against an individual, rights may also require an action by a government or other member(s) of society for the benefit of a rights-holder. The arena of rights, then, is the field of potential conflict between parties related to each other politically, in which one or more parties may hold a claim against another.

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<sup>146</sup> L.W. Sumner, "Rights," Hugh LaFollette, The Blackwell Guide to Ethical Theory. (Malden, Mass.: Blackwell Publishers, 2000), 289.

<sup>147</sup> R.W. Dworkin, Taking Rights Seriously. (Cambridge: Harvard University Press, 1978), xi.

The inherently adversarial nature of this arena in which parties are related to one another politically is what allows for the articulation of rights. A conventional shorthand for viewing the anatomy of a right is to speak in terms of subject, object and content.<sup>148</sup> The one entitled to claim a right is the *subject* of the right, and the one from whom the right is claimed is the *object* of the right, generally an *objective* party as opposed to an ideal. That which is claimed or owed is the *content* of the right. These three components, present in all rights propositions, underscore the essential fact that the formulation of rights is adversarial: A subject holds a claim against an object (i.e., an *objective* party) for the *content* of a right. Thus, a right is not a privilege, gift or bequest, but a claim held by a subject regardless of the willingness, intentions or motives of the object with respect to satisfying the claim.

In the growing religious, cultural and political pluralism within Western nations since the Enlightenment, questions of the origins or universality of rights have not impeded the numerical increase of rights and human rights claims based upon subject, object and content. Richard A. Primus has argued that the proliferation of human rights claims has benefited from adversarial conflicts such as the American Revolution, the Civil War, inter-class strife, and the 20<sup>th</sup> Century Civil Rights movement. Primus concludes:

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<sup>148</sup> A convention used by, among others, L.W. Summers, "Rights," 289.

The practice of calling things “rights” to claim priority and protection regardless of the kind of normative ground offered, and indeed regardless of whether any underlying norm is articulated, has been characteristic of rights discourse throughout American history.<sup>149</sup>

More needs to be said of the structure of rights, and that will be covered below in the analysis of rights and duties.

#### DEFINING HUMAN RIGHTS AS CONTENT AND MECHANISM

At this point we can define human rights in terms of the interaction of two aspects. The first aspect is content, that to which subjects claim entitlement. We are considering here the content of basic human rights, summarized in the term basic rights – the substances of security, subsistence and liberty. Yet the mere existence of this list or any list is insufficient to represent what is meant by the phrase human rights. Human rights exist within a second aspect, a discourse predicated upon adversarial demand in which the claim for content is asserted *against* an objective party. Accordingly, the mechanism for human rights is the demand discourse in which a subject asserts a claim against an objective party for the provision of security, subsistence and liberty. It follows that, where a subject is incapable of personally asserting such a claim that a third party may do so on behalf of the subject. Thus, human rights may exist whether or not subjects

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<sup>149</sup> Richard A. Primus, The American Language of Rights. (Cambridge, England: Cambridge University Press, 1999, 236

claim them personally. They may exist where third-parties such as societies, legal institutions, or nations assert that they exist.

The adversarial nature of human rights postures the subject as an offended, deprived, injured, or even abused party deserving redress rather than one seeking privilege, mercy or charity. The realization of human rights claims is not based upon the goodwill, virtue or charity of the party who is the object of a human rights claim.

Lest one think that the stipulation of human rights entails a vision for society of constant tension and belligerence between subjects and objects of rights, in Western democracies the content of human rights tends to become inscribed within social codes or law along with the specification of who possesses rights to such content. Consider, for example, the Bill of Rights, amendments to the United States Constitution which elevate rights claims (many of which were asserted against King George of England in the Declaration of Independence) to points of law. This phenomenon reflects the universality of human rights claims, which, when legally adjudicated for one individual, becomes law for all individuals. Thus, as Jack Donnelly notes ...

Human rights claims are used principally to seek to alter legal or political practices. Claims of human rights thus aim to be self-liquidating. To assert one's human rights is to attempt to change political structures and practices so that it will no longer be necessary to claim those rights (as human rights). For example, the struggle against apartheid in South Africa was a struggle to change South African laws and practices so that average South Africans could turn to the legislature, courts, or bureaucracy should they be denied,

for example, equal protection of the laws or political participation.<sup>150</sup>

A consequence of the legal encoding of human rights in Western democracies is that claimants to human rights in the West now generally seek the application of law or existing social standards to their cases. Notable exceptions to this may be seen in the historic progress of Civil Rights, where cultural shifts require new legislation such as the Thirteenth Amendment to the United States Constitution which, several years after President Lincoln's Emancipation Proclamation, outlawed slavery in the United States.<sup>151</sup>

Nonetheless, human rights do not exist because of laws; laws relevant to human rights exist because a claim to specific content in a human right has been upheld by a government on behalf of a subject against an objective party. Western democracies may possess a mechanism for the majority of citizens to establish laws reflecting the common good, yet rights are articulated precisely because majority rule must at times be "trumped." The philosophical basis for a human right exists irrespective of its legal status or the form of government. Current legal scholarship recognizes this distinction as is illustrated by this citation from the *Notre Dame Law Review*:

...human rights are by nature universal, natural, and countermajoritarian. Because rights are natural and

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<sup>150</sup> Jack Donnelly, International Human Rights, 2nd ed. (Boulder, CO: Westview Press, 1998), 20.

<sup>151</sup> The two Executive Orders of Abraham Lincoln known as the Emancipation Proclamation (1862 and 1863) freed most slaves in the Confederate States, but did not enumerate all states and did not technically outlaw slavery. The Thirteenth Amendment of 1865 elevated Lincoln's freeing of slaves to the legal right of all persons not be enslaved.

universal, their validity does not depend on endorsement by any particular political process. Because rights are restrictions on democratic governments, their content should not be left up to the democratic process.<sup>152</sup>

Rights, then, are not *bestowed* upon individuals, not even under the most democratic regimes. Human rights do not exist because of the goodness of fellow citizens or rulers, but because of the potential evil of the majority or of rulers. The capacity to view individuals as autonomous from or capable of asserting claims against the State or other citizens is a defining assumption underlying the notion of human rights.

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<sup>152</sup> John O. McGinnis, and Ilya Somin, "Democracy and International Human Rights Law," Notre Dame Law Review 84, no. 4 (2009): IIB

## CHAPTER 9: HOW DOES CLASSICAL CONFUCIANISM RELATE TO RIGHTS?

We can now address the first of two specific questions, “Does Classical Confucianism possess a conception of rights?” In the preceding chapter, the content and outcomes of practicing human rights were not discussed. This was deliberately done so as to focus exclusively upon the nature of rights. Salient features emerged from our analysis. Rights are counter-majoritarian; they are designed to permit the individual citizen to stand-up against a larger number of citizens. Rights are adversarial; they essentially constitute claims made by an individual against another. And rights presume autonomy of the individual against even the state.

Given these features of the Western conception of rights, there emerges the paradox that Classical Confucianism does not possess such a conception of human rights, yet is committed to the production of social outcomes advocated by rights.

As a means to an end, rights are effective in Western democracies, but in the context of a culture deeply indebted to its roots in Classical Confucianism, the exercise of rights appears to be at odds with both the practice of Chinese virtues and the primacy of benevolence (*ren* 仁) as the means by which others are cared for. As Seung-Hwan Lee points out...

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).<sup>153</sup>

Virtuous behavior, as practiced by the *junzi* 君子, will often find itself at odds with the practice of claiming one's rights. Even in the matter of being recognized for what one deserves, the *junzi* 君子 forgoes what is due him (*Lun Yu I* 論語, Analects 1).

As argued earlier in this dissertation, the *Da Xue* 大學 vision of universal human development, empowered by the national ideology of *tianming* 天命 as moral authority becomes efficacious through the cultivation of 君子 *junzi* and 女 *nu* (female) *junzi* 君子 throughout all sectors of society. The *junzi* 君子, a role not limited to persons of any single social class, serves as the agency by which the performance of virtue-duties generates beneficent structures for personal, family, and civic life, thus fulfilling the *Da Xue* 大學 ideal.

The *Da Xue* 大學 -inspired mandate of promoting human development obligates the 'rulers' of society (i.e., in a monarchy, the king; in a democracy, the people; in a family, the parents, etc.) to guarantee the universal provision of basic human needs and opportunity for the development and flourishing of human potential for all in society. On the one hand, each society must conduct its own debate as to where to set the limits of higher order provision, whether at subsidized university education, career placement,

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<sup>153</sup> Seung-Hwan Lee, "Liberal Rights Or/And Confucian Virtues?"; Philosophy East & West 46, no. 3 (1996): 367.

home-mortgage entitlement (as in Singapore), or retirement income, etc. On the other hand, the universal provision of lower order needs for safety and subsistence, as in Maslow's hierarchy of human needs, is a necessary prerequisite of the *Da Xue* 大學 vision.

Fundamentally, the Confucian ideal is one in which benevolent parties are responsible for the care of others, whether within the family or the state. The exemplary treatment of persons on a wide scale is promoted through the reproduction and cultivation of benevolent individuals. In his study of Confucian leadership throughout China's history, Xuezhi Guo concludes:

From Confucius' point of view, the central pursuit for a nobleman is his moral duty to self-cultivation in order to manifest his virtues to society and serve his country.<sup>154</sup>

From a Confucian perspective, the notion that one would pit himself against a parent, spouse or leader to claim or demand a right both deprives the leader of the opportunity to be benevolent and casts the plaintiff in an "unvirtuous" role. In the Confucian system, virtue (*de* 德) is to govern the behavior and decorum of both providers and recipients of beneficence. The conscientiousness of rulers and the people to promulgate cultural values for benevolence (*ren* 仁) is the basis of humane treatment.

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<sup>154</sup> Xuezhi Guo, The Ideal Chinese Political Leader: A Historical and Cultural Perspective. (Westport, CT: Praeger, 2002) , 115.

At times of greatness, when benevolence (*ren* 仁) prevails in the land, it is because exemplary persons (*junzi* 君子), including rulers and citizens, live with an accountability to the moral imperatives and universal mandates of *tianming* 天命. Yet, while high ideals play a role in civic or common efforts to achieve the universal good, the propensity for human failure and shortcoming, intentional or otherwise, is documented in the annals of China's history by the *Shujing* 書經 and other ancient works. And this is precisely the point at which Classical Confucianism faces its most significant pragmatic difference from rights-based systems of ensuring basic human needs. It is the point of enforcement. Fundamentally, rights ensure that legitimate claim-holders, by appeal to a satisfactory legal system, are guaranteed the outcomes to which they are entitled. Both the guarantee and the sense of entitlement to a provision are alien concepts in Classical Confucianism.

Does this apparent deficiency in the capacity to legally ensure outcomes render Classical Confucianism irrelevant to good social policy? While the Classical Confucian vision is not merely a perfectionist theory in which the highest good is individual self-cultivation, it does make appeal to a culturally relative notion of “higher power” or “natural law,” the concept of *tianming* 天命. The usefulness of such a notion in any group presupposes a measure of philosophical or religious homogeneity. In communities where consensus on *tianming* 天命 or other comparable universal norm is absent, the practice of virtue ethics in itself could have little basis for guaranteeing rights.<sup>155</sup>

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<sup>155</sup> For a survey of contemporary virtue ethics, particularly following the critique of modern theories by Elizabeth Anscombe in her article “Modern Moral

## VISION AND REALIZATION

From the outset, I have spoken of the Classical Confucian approach to the treatment of persons as a vision. A vision inspires the search for solutions to bring about its realization, although it may be faced with seemingly insurmountable challenges. I have argued that such a vision exists within the philosophical and literary canon of ancient China and may resonate today with those who seek wisdom in the Confucian texts.

While it is clear that the Classical Confucian vision lacks the legal and enforcement features of the Western conception of rights, it does possess a values structure which rational individuals and societies may choose to adopt. Moreover, the absence of legal and enforcement structures *per se* allows the Classical Confucian vision a measure of transferability into a variety of legal, political or social frameworks. The lack of structures to the Classical Confucian vision actually may be the key to the communication of its spirit within systems of codified rights and laws. This brings us to the final question: “Can Classical Confucianism Generate Rights Outcomes?”

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Philosophy” (1958), see Roger Crisp and Michael Slote, *Virtue Ethics*. (Oxford: Oxford University Press, 1997). According to Crisp and Slote, Professor Anscombe’s attack upon deontological theories (e.g., Kantianism) and utilitarian theories was that both assumed the viability of notions such as “obligation,” grounded in a legalism requiring a law-giver. Given the modern lack of consensus on the existence of God or any other law-giver, Anscombe held that the only hope for ethics is the concept of virtue.

Although I have attempted to show that Classical Confucianism does not explicitly contain the Western notion of rights, I have also maintained that, in the end, it is how individuals are treated, that determines the quality of their lives. If rights refers to a basic set of provisions, then it is possible to ask whether and how Classical Confucianism generates these provisions, not through the process of adversarial claim, but through benevolence in society.

For practical purposes, the language of virtues and duties will benefit from alignment with the language of rights, wherever accurate and feasible. What follows is an attempt to do this so that Classical Confucianism might benefit through enhanced relevance to Western concerns, and that Classical Confucianism will be able to contribute as well to the human rights discourse.

#### BRIDGING THE CLASSICAL CONFUCIAN VISION AND HUMAN RIGHTS

The primary Confucian texts make no explicit mention of individual or group rights. Instead, the duties of rulers toward subjects are treated as the basis for legitimate expectations of the people. This suggests that, if any concepts corresponding to rights can be extracted from Confucian language, there may be an implicit basis for rights within Classical Confucianism. A more specific understanding of rights will help elucidate this. According to the renowned jurist and Yale professor Wesley N. Hohfeld, "...the term 'right' tends to be used indiscriminately to cover what in a given case may be

a privilege, a power, or an immunity, rather than a right in the strictest sense.”<sup>156</sup> Hohfeld pointed out, that, strictly speaking, to each right held by one party there is a reciprocal duty on another party:

... It is certain that even those who use the word and the conception “right” in the broadest possible way are accustomed to thinking of “duty” as the invariable correlative (Lake Shore & M.S.R. Co. v. Kurtz).<sup>157</sup>

In discussing rights, privileges, powers, and immunities, Hohfeld constructed a scheme of “opposites” and “correlatives,” illustrating that a right correlates to a duty.<sup>158</sup> Citing legal precedent, Hohfeld concluded that the relationship between duties and rights is correlative and tautological insofar as their violation is concerned:

A duty or a legal obligation is that which one ought or ought not to do. ‘Duty’ and ‘right’ are correlative terms. When a right is invaded, a duty is violated.<sup>159</sup>

While Hohfeld subsumed the notion of claim within the concept of right, he carefully distinguished rights from privileges, powers or immunities,<sup>160</sup> as these concepts do not entail duties (for example, a privilege correlates to possessing no right on the part of another). Using Hohfeld’s analysis, Classical Confucianism, which concerns itself largely with duties (and virtues), can be seen as a system of implicit claim-rights corresponding to explicit duties.

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<sup>156</sup> Wesley Newcomb Hohfeld. *Op. Cit.* p. 34.

<sup>157</sup> *Op. Cit.* p. 38.

<sup>158</sup> *Op. Cit.* p. 36.

<sup>159</sup> *Op. Cit.* p. 38.

<sup>160</sup> *Op. Cit.* pp. 40-41.

## CLAIM RIGHTS *IN PERSONAM* AND CLAIM RIGHTS *IN REM*

Jeremy Waldron, commenting upon Hohfeld's theory of reciprocal duties and rights, points out that modern jurisprudence has further specified claim-rights as being either *in personam* or *in rem*.<sup>161</sup> A claim-right *in personam* correlates to a duty assigned to a designated party, as in the duty to fulfill the terms of a contract. A contract clearly specifies the who and the what of a duty or obligation. Many claim rights *in personam* are not generated by explicit contracts but by the conventions of social roles and relationships, such as the relationship between married spouses.

A claim-right *in rem* correlates to the duty of all people, as in the duty of all people not to steal the property of others. Generally accepted obligations between members of a society reflect an implicit or explicit social contract. The norms and conventions a society affirms for the treatment of individuals are generated both by enumerated duties and notions of virtue.

Both conceptions of claim rights, *in personam* and *in rem*, can be generated from Classical Confucian duties and virtues. Chung-ying Cheng has proposed a five stage process by which, "...a theory of virtues could be turned into a theory of implicit rights if

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<sup>161</sup> Jeremy Waldron. Theories of Rights. Oxford: Oxford University Press, 1984.  
pp. 6-7

it could be seen as a theory of correlative duties among members of a community.”<sup>162</sup>

Most germane to the discussion of claim rights *in rem* is Cheng’s fourth stage in which,

“...the individual as a member of the community is also the indirect beneficiary of the virtuous action of any other individual, even though that may not be intended by the agent.”<sup>163</sup> It should be noted that Cheng speaks of ‘virtuous action’ in the context of relationships in a community, which, for the Chinese, traditionally entails roles.

Technically, virtues in isolation (as excellences) do not generate correlative rights. The practice of virtues in the discharging of duties that pertain to roles is what generates the expectation of rights.

The essence of Cheng’s theory is that the community-wide practice of *de* 德 (virtues) within roles produces a social and political environment that implicitly confers what, in effect, constitute rights. Within an implicit rights environment, however, it is necessary to make the kind of distinction Kant draws between broad and narrow rights and, specifically, between assignable and non-assignable rights. Therefore, an understanding of how both claim-rights *in personam* and *in rem* follow from duties and virtues (within roles) must be developed. Before proceeding to do this, however, two clarifications are necessary.

#### A CLARIFICATION ON VIRTUES AND DUTIES... OR VIRTUE-DUTIES

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<sup>162</sup> Chung-ying Cheng. “Transforming Confucian Virtues into Human Rights: A Study of Human Agency and Potency in Confucian Ethics.” In Wm. Theodore de Bary and Tu Weiming. Confucianism and Human Rights. Op. Cit., p. 146.

<sup>163</sup> Ibid. p. 149.

In the ideals espoused by Classical Confucianism, virtue and duty are treated simultaneously. The *Lun Yu* 論語 (*Analects*) portrays Confucius as accepting the need for laws to govern a society, but striving to cultivate motivations among the people that would make laws unnecessary. The role of the ruler is to be virtuous and to rule by virtue (cf. *Lun Yu* 論語 12.17, 13.6). In turn, such a ruler can expect the people to follow the example of virtue:

The Master said, 'If the people be led by laws, and uniformly sought to be given them by punishments, they will try to avoid the *punishment*, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good.' (*Lun Yu* 論語 2.3)

Classical Confucianism is not opposed to law, but aware of its limited capacity to regulate human behavior and its total incapacity to regulate human character. The development of virtue, alone, permits an individual to live out the highest ideals and to play an exemplary role in society. Thus, while law or custom may direct an individual to fulfill a duty, the noblest individual exercises a virtue-duty. This person acts, not primarily to avoid the material consequences of violating a law or duty, but to avoid the shame of perpetrating such a violation. In Confucian thought, to bring shame upon one's family (which occurs when shame is brought upon one's self) is anathema. The avoidance of shame, as a motivation to be "good," requires the practice of virtue that goes beyond the external fulfillment of duties:

Hsien asked what was shameful. The Master said, ‘When good government prevails in a State, *to be thinking only of salary*; and, when bad government prevails, *to be thinking, in the same way, only of salary*; - this is shameful.’ (*Lun Yu* 論語 14.1)

Classical Confucianism is more concerned with cultivating proper (i.e., virtue-based) motivation than with external conformity to ritual, custom or law. A theory of claim-rights translated from duties, therefore, must also incorporate virtues. When a duty entails a virtue (and it could be argued that this is always the case), we may speak of a virtue-duty.

#### A CLARIFICATION OF SOCIAL STRUCTURE – PAST AND PRESENT

The *Li Ji* 禮記 (Book of Rites) identifies the virtue-duties required of each party in the primary relationships upon which society is founded. One set of virtue-duties is ascribed to the relationship between husband and wife: “Righteous behavior in the husband, obedience in the wife.”<sup>164</sup> Persons are conceived of as belonging to normative social relationships and obligated to fulfill role-based expectations. Most categories for personal relationship mentioned in the *Li Ji* 禮記 (Book of Rites) hail from a feudal culture in which societal roles were defined according to strict expectations. To say the least, these role expectations would not gain ready acceptance in Western liberal democracies. More to the point, neither would the majority of today’s Chinese embrace all of them.

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<sup>164</sup> English translation cited from David S. Noss and John B. Noss. *A History Of The World’s Religions*. New York: Maxwell Macmillan International:1994. p. 323

The perpetuation of ancient social roles, however, is not the goal of a contemporary theory of human rights for China, although such a theory would clearly benefit from the recognition of roles as the context for rights. Some Classical Confucian role expectations, such as filial piety, remain deeply ingrained within the Chinese social structure in one form or another. Other role expectations, such as the subjugation of wives to husbands, have met with serious challenge by the egalitarian ideals of Communism and growing exposure to democracy, despite widespread inequities in actual practice. Similarly, the relationship of ruler and subject has evolved into one of State and citizen. While the Confucian paradigm of benign monarchs and dependent subjects has given way to a modern form of government, a role relationship between State and citizen in which the expectations of *tianming* 天命 can be applied continues to exist.

#### CLAIM-RIGHT EXPECTATION AS INDEPENDENT OF SOCIAL STRUCTURE

In light of the inapplicability of feudal social structures to contemporary Chinese society, a human rights theory drawn from Classical Confucianism must be capable of extracting a relevant value independent of social structure. The initial value I propose, resident in Classical Confucianism, is the implicit value of claim-right expectation. This value is implicit precisely because it is not stated. Yet, it is inherent and pervasive, because it is very fabric of the social structure. Regardless of specific expectations between parties in a role relationship, Classical Confucian society functions on the basis that each party has a legitimate claim to the other's fulfillment of incumbent expectations. The following analysis will attempt to demonstrate that the language of rights flows

naturally out of the reciprocal virtue-duties in the normative social relationships addressed by Classical Confucianism. In these relationships, individuals practice claim-right expectations, although they speak of them in the language of duties and virtues.

## RIGHTS IN RELATIONSHIP

The virtue-duties that generate claim-rights *in personam* are at the heart of the Classical Confucian vision of ideal society. The *Li Ji* 禮記 (Book of Rites) itemizes the expected virtue-duties in five sets of relationships that, up through the modern era, have characterized Asian social structure.

Kindness in the father, filial piety in the son  
Gentility in the eldest brother, humility and respect in the younger  
Righteous behavior in the husband, obedience in the wife  
Humane consideration in elders, deference in juniors  
Benevolence in rulers, loyalty in ministers and subjects<sup>165</sup>

A Hohfeldian analysis<sup>166</sup> of the above passage yields the following set of claim-rights *in personam* as corresponding to duties between two individuals linked by personal relationship. They are rights *in personam* because the individuals in the specified

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<sup>165</sup> Ibid.

<sup>166</sup> In stipulating a *Hohfeldian analysis*, I am referring only to *claim*-rights and not to Hohfeld's categories of *liberty*-, *power*- and *immunity*- rights. Rex Martin and James W. Nickel ("Recent Work On The Concept Of Rights." American Philosophical Quarterly. Vol. 17, No. 3, July 1980. p. 166) point out that a *liberty*-right, such as the right to paint the side of one's house owing to no restriction against doing such, would not entail a correlative duty. They dismiss "a strong version of the rights-entail-duties thesis which asserts that every right has a specifically correlated duty." The goal of this thesis is not to suggest that all Confucian virtue-duties are translatable into *claim*-rights, but that a foundational core of Confucian virtues reveals a Chinese valuation of human rights parallel to that in the Western liberal democratic tradition.

relationships will presumably be known to each other and will make unique claims upon each other that would not be made upon individuals outside of the relationship. For example, a father knows his son and makes claims upon him that he could not legitimately expect of others. In enumerating the claim-rights that correspond to specified duties of relationship, the logic of implicit Confucian rights will become evident. It is a logic based upon the conception of the individual as a familial and societal role-player. The pervasiveness of a rights concept in social roles will also become evident.

Virtue-Duties:

“Kindness in the father, filial piety in the son”

Rights:

For the father - the claim-right to filial piety from the son

For the son - the claim-right to kindness from the father

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Virtue-Duties:

“Gentility in the eldest brother, humility and respect in the younger”

Rights:

For the eldest brother - the claim-right to humility and respect from the younger brother

For the younger brother - the claim-right to gentility from the elder brother

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Virtue-Duties:

“Righteous behavior in the husband, obedience in the wife”

Rights:

For the husband - the claim-right to obedience from the wife

For the wife - the claim-right to righteous behavior by the husband

Virtue-Duties:

“Humane consideration in elders, deference in juniors”

Rights:

For elders - the claim-right to deference in juniors

For juniors - the claim-right to humane consideration in elders

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Virtue-Duties:

“Benevolence in rulers, loyalty in ministers and subjects”

Rights:

For rulers - the claim-right to loyalty in ministers and subjects

For ministers and subjects - the claim-right to benevolence in rulers

Strictly speaking, the above groups of role-generated claim-rights are categories in need of specification and application within social-temporal settings. That which constitutes “righteous behavior in the husband” will change from one cultural setting to the next as will “benevolence in rulers.” Generally, the parties within role relationships will be the ones who know best when their expected claim-rights have been violated. It is the project of an applied theory of human rights to take the categories of claim-right expectation and to enumerate culturally relevant applications.

## THE FUNCTIONAL CONFUCIAN SOCIETY

The translation of virtue-duties into rights conjures visions of an ideal society in which balance exists between duties and their fulfillment, claim-rights and their guarantee. In this ideal society, virtue-duties and rights interact dynamically and reciprocally. For example, a ruler's virtue-duty to treat his ministers with benevolence generates specific obligations. These obligations become specific expectations and claim-rights of the ministers. In turn, the ministers respond reciprocally with the virtue-duty of loyalty, generating specific obligations to the ruler which become the claim-rights of the ruler.

The burden to be the first party to demonstrate virtue-duty is clearly upon the ruler, and it is also upon the father, elder brother, husband, and elder in their respective social positions. Throughout the *Lun Yu* 論語, Confucius is seen to insist that the initiative for virtue and duty rests with the more powerful party in a relationship as the following question and reply indicate:

The duke of Ting asked how a prince should employ his ministers, and how ministers should serve their prince. Confucius replied, 'A prince should employ his ministers according to the rules of propriety [*li* 禮]; ministers should serve their prince with faithfulness. (*Lun Yu* 論語 3.19)

More generally, a ruler's expectation of (or claim-right to) obedience from the people is predicated upon the ruler's fulfillment of virtue-duties:

The Master said, ‘When a prince’s personal conduct [*zheng* 正] is correct, his government is effective without the issuing of orders. If his personal conduct is not correct, he may issue orders, but they will not be followed. (*Lun Yu* 論語 13.6)

In the well-functioning Confucian society, relationships at every level ensure the equivalent of rights as those in power behave with integrity and benevolence toward those who are less powerful. This is essentially the way *tianming* 天命 is translated into political, social and family life.

#### THE DYSFUNCTIONAL CONFUCIAN SOCIETY AND LACK OF ENFORCEMENT

The reality is that Chinese society has never fully functioned according to the Confucian ideal. Parties on the left side of the *Li Ji* 禮記 equations (i.e., fathers, older brothers, husbands, elders, and rulers) have enjoyed a privileged status throughout Chinese (and Western) history, empowering their personal claim-rights and demands.

In a perfect Classical Confucian world, the cultivation of virtue would provide sufficient restraint to prevent the abuse of power. The *Lun Yu* 論語 (*Analects*), however, is replete with illustrations recognizing the innate potential within individuals, especially power holders, to fall short of virtuous conduct and intent. The result of such virtue failure is dysfunction within the relationships upon which society is structured. Families and governments simply do not always function in a manner that ensures that superior

power holders in relationships always fulfill their duties toward their non-empowered counterparts.

For the value of claim-right expectation to be meaningful, a mechanism for enforcing legitimate claims, irrespective of the relative power of the claim-holders, is essential. To employ Classical Confucian value theory directly as a structure or model for human rights is impracticable for its absence of such an enforcement mechanism. For this reason, a theory of human rights that draws upon Classical Confucianism must confine itself to the articulation of a philosophical justification for rights. This contribution to the rights discourse, however limited, is a necessary one. The value of claim-right expectation, when extracted from Classical Confucian texts, can then serve as the foundation for a human rights language for China. Specific values, such as those of the *Li Ji* 禮記, will find expression in modern claim-rights applications as the relationship between present-day and ancient social values is negotiated. A philosophical justification for rights is the first step in the task of developing a workable Chinese theory of human rights. The next step (beyond the scope of this thesis) is to enumerate specific claim-rights and construct legal mechanisms for their enforcement.

#### WHY CLASSICAL CONFUCIANISM DOES NOT SPEAK OF RIGHTS

Several explanations may be suggested for the absence of a rights language in Confucian society, including a Confucian proclivity toward non-assertiveness. One possible explanation emerges from the context in which virtues and duties are developed

in the Classical Confucian literature. With the exception of the more sublime virtues espoused for the *junzi* 君子 (i.e., superior or exemplary person), virtues and duties are always spoken of in the context of relationships as in the *Li Ji* 禮記. Fundamentally, the Classical Confucian self is understood as a member of a social structure, most notably the family. One is not primarily an independent person, but a son or daughter, brother or sister, wife or mother, husband or father, elder or junior first. Professor Hsieh Yu-Wei states that, next to benevolence (*ren* 仁), filial piety (*xiao* 孝) “has held for four thousand years the most important place in Chinese ethics.”<sup>167</sup> The family has been the frame of reference for self-identity.

In contrast, the development of rights in the West has closely followed the rise of individual identity. A “respect for the individual and individual conscience”<sup>168</sup> is associated with the Seventeenth and Eighteenth Century social movements and revolutions that gave birth to expressions of rights such as the *Declaration of Independence* and the corresponding French statement on the rights of man.. The absence of a strong doctrine of individualism in China has limited the development of rights language that would pit the individual against family or society.

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<sup>167</sup> Hsieh Yu-Wei. “Filial Piety and Chinese Society.” In Charles A. Moore, ed. The Chinese Mind. Honolulu: University of Hawaii Press, 1968. p. 166.

<sup>168</sup> Brenda Almond. “Rights.” In Peter Singer, editor. A Companion To Ethics. Oxford: Blackwell Publishers. 1993. p. 260.

## RIGHTS IN SOCIETY

The extraction of claim-rights *in personam* from the *Li Ji* 禮記 is closely tied to the Classical Confucian understanding of claim-rights *in rem* (i.e., those rights that are the duty of all people). The virtue-duties pertaining to family and social roles listed in the *Li Ji* 禮記 are specific applications of the Classical Confucianism doctrine of *shu* 恕 (reciprocity), articulated in the following passage earlier quoted:

Tsze-kung asked, saying, ‘Is there one word which may serve as a rule of practice for all one’s life?’ The Master said, ‘Is not RECIPROCITY such a word? What you do not want done to yourself, do not do to others.’ (*Lun Yu* 論語 15.23)

The generality of *shu* 恕 creates a general claim-right *in rem* – namely, that as other people practice their virtue-duty of *shu* 恕, they will not do to me what I would not do to them. Correspondingly, others can expect that I will practice the virtue-duty of *shu* 恕 in my dealings with them. The Classical Confucian vision is that of a society ultimately regulated by civility rather than by the force of law. Thus, *ren* 仁 (humane benevolence) becomes the simultaneous virtue-duty and claim-right of all citizens, with particular bearing upon the conduct of rulers.

*Ren* 仁 required of the ruler prodigious attention to meeting the needs of subjects for the necessities of life and protection from the abuses of petty magistrates. The good Confucian ruler embodies the liberal value that society must benefit those least able to

benefit themselves: "...his desires are set on benevolent *government*, and he secures it..." (*Lun Yu* 論語 20.2.2). *Ren* 仁, however, is only the first of the five primary Confucian virtues, the remainder being *yi* 義 (righteousness), *li* 禮 (ritual propriety), *zhi* 智 (wisdom), and *xin* 心 (faithfulness). Governance by the virtues resulted in the articulation of *wuchang* 五常 (the Five Constant Regulations), which, in essence, is the five primary virtues applied to rulers.<sup>169</sup> The following scheme of corresponding claim-rights for each virtue-duty in the *wuchang* 五常 provides a conceptual framework for the construction of general or broad claim-rights.

Virtue-Duty of the State:

Ren 仁 (humane benevolence)

Rights of the People:

Citizens have the right to the state's provision of basic needs, protection, education, and opportunity to pursue one's goals in life.

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Virtue-Duty of the State:

Yi 義 (righteous behavior)

Rights of the People:

Citizens have the right to expect righteous behavior from the ruler and other citizens.

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<sup>169</sup> Xinzhong Yao. Op. Cit. p.34.

Virtue-Duty of the State:

Li 禮 (ritual/propriety)

Rights of the People:

Citizens have the right to expect appropriate ritual and propriety from the state and other citizens.

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Virtue-Duty of the State:

Zhi 智(知) (wisdom)

Rights of the People:

Citizens have the right to expect that wisdom shall be the basis for judgments and law.

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Virtue-Duty of the State:

Xin 心 (faithfulness)

Rights of the People:

Citizens have the right to expect virtue-faithfulness of the state and other citizens.

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This list of corresponding claim-rights that emerges from the *wuchang* 五常 (the Five Constant Regulations) is necessarily broad. Like the fact of claim-right expectation, it identifies a kernel of values within Classical Confucianism that is not bound to social structures. Throughout the primary Confucian texts, particularly in the *Lun Yu* 論語 (*Analects*) and the *Mengzi* 孟子 (the *Mencius*), the values concisely stated in the *wuchang*

五常 are unpacked in the form of specific instructions and admonitions to rulers.<sup>170</sup>

Nonetheless, in Classical Confucian government, the locus from which the values emanate is the virtue of the ruler. Values such as *Ren* 仁, *yi* 義 (righteousness), *li* 禮 (ritual propriety), *zhi* 智(知) (wisdom), and *xin* 心 (faithfulness) are, therefore, open-ended, finding varied expression in changing situations. On the one hand, this reflects the perspectives of openness and constant change prevalent throughout the *Yijing* 易經 and Chinese philosophy. On the other hand, it stands in marked contrast to the highly specific articulation of claim-rights in modern Western legal systems.

#### POSITIVE AND NEGATIVE CLAIM RIGHTS

Each of the above categories of claim-rights carries with it the further distinction of positive and negative rights. *Ren* 仁, for example, entails the positive claim-rights of subjects to the means and opportunity for subsistence as the benevolent duty of the ruler. At the same time, *ren* 仁 establishes negative claim-rights to protection from unwarranted intrusion or abuse by government.

On occasion, implicit positive and negative claim-rights are presented simultaneously as in a characteristically Confucian list of “the four bad things” (Legge translation). The first “bad thing” is, “...to execute a person who has not first been

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<sup>170</sup> See, for example, *Lun Yu* 2.3, 3.19, 6.28, 12.7, 12.17, 12.19, 13.3, 13.9, 13.6, 13.16, 13.29-30. It will be noted that the specific values of the *wuchang* 五常 are not necessarily stated explicitly in the text; however, they are described implicitly and included in corresponding values such as *zheng* 正 (Rectification of Names).

educated” (*Lun Yu* 論語 20.2.3, Ames and Rosemont translation).<sup>171</sup> The passage immediately continues, “...this is called cruelty” (*Lun Yu* 論語 20.2.3). In Classical Confucian thought, the highest ideal for the individual is education, for education trains one to be virtuous. Once the means of subsistence is provided to the people and their prosperity assured, Confucian rulers are instructed to provide universal schooling (*Lun Yu* 論語 13.9). Uneducated law-breakers are not, therefore, to be held responsible for crimes done in ignorance if the government has failed in its educational duty toward them. The positive claim-right of the individual, corresponding to the government’s duty to educate, is to receive an education. The negative claim-right of the individual, corresponding to the government’s duty to be just, is to be protected from prosecution for crimes committed without proper training. The value that the government is responsible to provide sufficient education (i.e., training) goes beyond the context of obedience to laws. Confucius is reputed to have said, “To go into battle with people who have not been properly trained is to forsake them” (*Lun Yu* 論語 13.3).

#### CLASSICAL CONFUCIANISM AND RAWLS: COMPARABLE CONCEPTS

I have attempted to demonstrate that, while Classical Confucianism contains no explicit doctrine of rights, rights-outcomes are implicit in Classical Confucian virtue-duties, and that rights of citizens can be distilled from specific virtue-duties enjoined upon the government. In this section, I propose a preliminary list of implicit Confucian rights that are comparable to the human rights values of liberal democracies. It should be kept in mind that comparability, for the present purposes, only refers to the level of

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<sup>171</sup> Ames and Rosemont. Op. Cit. p. 229.

outcomes. As to the context or rationale for the humane treatment of persons, I am not suggesting that Classical Confucianism and Western rights doctrines are commensurable. While, certainly, not all values that emerge from Confucianism will have Western counterparts, a sufficient critical core exists such that an authentically Chinese approach to proper human treatment will satisfy the minimum human rights expectations of China's liberal democratic partners.

John Rawls is a representative voice for the rational construction of society upon principles of Western liberal democracy and the social contract. While not the only scholar of note in the field of justice, Rawls' theories are derived from values which have shaped Western Civilization's development of rights doctrines.<sup>172</sup> In *A Theory of Justice* (1971, revised 1999) and the later *Political Liberalism* (1993),<sup>173</sup> Rawls harnesses the self-interest of individuals as the driving force upon which to build a theory of rights. In contrast, Classical Confucianism appeals to virtue and duty. Rawls approaches human rights from the perspective of balancing the self-interests of competing parties in an environment of scarcity. Confucianism approaches human rights from the perspective of cultivating virtue and discharging duties in the context of social roles and relationships. Rawls assumes that structures must exist to protect citizens from abusive government. Classical Confucianism hopes that rulers will be protective and benevolent toward their people.

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<sup>172</sup> For alternative justice proposals, see also Michael Sandel, *Democracy's Discontent: America in Search of a Public Philosophy*. Cambridge: Belknap Press of Harvard University Press, 1998; Amartya Sen. *The Idea of Justice*. Cambridge: Belknap Press of Harvard University Press, 1998; and Martha C. Nussbaum. *Women and Human Development*. Cambridge (U.K.): Cambridge University Press, 2001.

<sup>173</sup> John Rawls, *Political Liberalism*. New York: Columbia University Press, 1993.

As stark as the differences are between the Classical Confucian and Rawlsian visions of political society, they nonetheless share a common core of values with respect to the humane treatment of individuals. The widespread awareness of Rawls' work in contemporary liberal theory makes it an useful touchstone for any system's claim to ensure liberal values. The salient aspect of liberal society most in common to Classical Confucian and Rawlsian perspectives is the idea that society should protect or otherwise bring benefit to those members who are least advantaged. In discussing the implicit presence of claim-rights in Confucianism, we have seen that virtue-duties incumbent upon government, especially *ren* 仁 (benevolence), reflect the expectation that society should care for its least advantaged members.

#### COMPARABLE CONCEPT 1:

#### VALUES AND SOCIAL STRUCTURE PRECEDE RIGHTS

Generally speaking, claim-rights are an implicit assumption of Rawls *A Theory of Justice*, as his work is not properly a *Theory of 'Rights.'* Rawls focuses upon 'what is right' (cf., "rightness as fairness")<sup>174</sup> rather upon the notion of rights itself. A society, properly structured to ensure justice, will develop the by-product of enumerated claim-rights. A rights vocabulary, then, is a consequence of the values and structure of society. Similarly, Classical Confucian society is also first concerned about the structures and

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<sup>174</sup> Rawls (1999). Op. Cit. p. 95.

values that will bring about the fulfillment of virtue-duties, which is the incipient basis for the guarantee of claim-rights.

It is Rawls' starting assumption that, in a just society, "free and rational persons concerned to further their own interests"<sup>175</sup> will, given a 'blindfolded' process (cf., "the veil of ignorance"),<sup>176</sup> choose to design society in such a way that liberal rights are ensured for all. Yet, Rawls' articulation of rights is a background assumption of the more explicit notion of "justice as fairness," according to which, "in a just society the basic liberties are taken for granted and the rights secured by justice are not subject to political bargaining or to the calculus of social interests."<sup>177</sup> Both Rawls and Classical Confucianism are averse to the idea that rights should depend upon the negotiation skills or bargaining power of interest groups. It is not that such groups lack just cause in their advocacy, but that, the values and structures of a just society should ensure rights for all without the need of lobbying.

This conception of rights as dependent upon a philosophical values foundation and upon the proper structuring of society is a comparable value shared by Classical Confucianism and Rawlsian democracy. It is comparable because there is a basis for comparing what is valued. Classical Confucianism, like Rawls, assumes that rational individuals desire to maximize their own interests, but they realize that their rights entail responsibilities and limitations given the roles they play. The virtue-duties are designed

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<sup>175</sup> Ibid. p. 10.

<sup>176</sup> Ibid. p. 118.

<sup>177</sup> Ibid. p. 25.

in such a way that their practice by all results in a minimal provision of claim-rights *in rem* and *in personam* for all.

A further exploration of this comparable concept would compare outcomes in ideal Confucian society to Rawls' first principle of justice: "Each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others."<sup>178</sup> Here, in Rawls' most explicit reference to a right, the right does not exist in a vacuum, nor is its guarantee the starting point for justice. For Rawls, rights are an assured outcome of a society designed *a priori* according to rational principles: "These principles primarily apply... to the basic structure of society and govern the assignment of rights and duties..."<sup>179</sup> In similar vein, Confucianism has no express theory of individual rights as guaranteed entitlements, but posits a society which, when functioning according to duty and virtue, ensures the content (i.e., outcomes) of claim-rights to its members.

#### COMPARABLE CONCEPT 2:

#### AS THE RICH GET RICHER SO DO THE POOR

A second comparable concept can be found in the Confucian restriction, according to the practice of *ren* 仁, that the wealth of a ruler can grow only insofar as the wealth of the people grows. Here, Classical Confucianism presents an incipient form of Rawls' difference principle, "...unless there is a distribution that makes both persons

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<sup>178</sup> Ibid. p. 53.

<sup>179</sup> Ibid.

better off (limiting ourselves to the two-person case for simplicity), an equal distribution is to be preferred” (p. 76). Classical Confucianism portrays the ideal ruler as one who is dedicated to, “...extensively conferring benefits upon the people, and able to assist all” (*Lun Yu* 論語 6.28.1). This ruler may increase in wealth, but only as a consequence of increasing the wealth of his subjects:

Now the man of perfect virtue, wishing to be established himself, seeks to establish others; wishing to be enlarged himself, he seeks to enlarge others. (*Lun Yu* 論語 6.28.2)

Rawls, like Classical Confucianism, recognizes social and economic inequalities, but insists in his second principle of justice that these inequalities must be “reasonably expected to be to everyone’s advantage.”<sup>180</sup> This is the essence of *ren* 仁, which obligates the ruler to seek first the good of the people before seeking his own benefit. Whereas the European notion of *noblesse oblige* calls upon the wealthy to be charitable, *ren* 仁 makes the prosperity of the ruler a function of his benevolence toward the people.

### COMPARABLE CONCEPT 3:

#### PEOPLE ARE NOT MEANS TO AN END

A third comparable concept is located in the Classical Confucian value of *shu* 恕 (reciprocity), especially as it relates to Rawls’ restatement of the ethical imperative of

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<sup>180</sup> Ibid. p. 53.

Kant, "...treat one another not as means only but as ends in themselves."<sup>181</sup> Antedating Kant and Rawls, the Confucian virtue-duty of reciprocity precludes the treatment of others as mere ends. The practice of *shu* 恕 (reciprocity) requires that, "What you do not want done to yourself, do not do to others" (*Lun Yu* 論語 15.23). A specific application of *shu* 恕 (reciprocity) for rulers is the prohibition against sending people into battle without regard for their capacity to survive (*Lun Yu* 論語 13.3).

In Classical Confucianism, the application of *shu* 恕 (reciprocity) is not dependent upon itemized duties, but upon the practice of virtue. For Rawls, the Kantian-style ethic is also not something that can be fully enforced by laws, but must exist as a value prior to the structuring of law, for it is a rational imperative:

To regard persons as ends in themselves in the basic design of society is to agree to forgo those gains which do not contribute to everyone's expectations. By contrast, to regard persons as means is to be prepared to impose on those already less favored still lower prospects of life for the sake of higher expectations of others.<sup>182</sup>

As at many other junctures, Rawls' assumption about rationality here is surprisingly close to the Confucian ideal of virtue-based character. Classical Confucianism shares with liberal democracy a fundamental respect for persons as the starting point for political and social structures.

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<sup>181</sup> Ibid. p. 156.

<sup>182</sup> Ibid. p. 157.

COMPARABLE CONCEPT 4:  
THE PEOPLE HAVE A VOICE IN GOVERNMENT  
AND THE RIGHT TO JUST REBELLION

Both Classical Confucianism and liberal democracy espouse humane values, and both confront a world in which humane values are frequently violated by governments in their treatment of individuals and groups. This leads to a fourth comparable concept, namely, that citizens have a voice in government and the right to just rebellion. Both systems address the necessity of recourse by the people when government has exceeded its moral boundaries and become destructive of the welfare of its citizens. To a lesser extent, Classical Confucianism and liberal democracy share in the more general value that government should reflect the will of the people. For Confucianism, this represents the conceptual seeds of democracy.

Despite its reticence to speak of rights explicitly, Classical Confucianism does make provision for redressing intolerable abuse of implicit rights by a ruler. In Confucian terms, the harmful dereliction of duty by a ruler is concomitant with his loss of the moral authority to rule (i.e., *tianming* 天命). As illustrated in the *Shujing* 書經 (Book of History), Classical Confucianism draws upon a tradition that justifies the deposing of such a ruler (cf. “Oath of Tang”).<sup>183</sup> Similarly, Rawls recognizes that there are situations that justify rebellion, although his emphasis in *A Theory of Justice* is upon civil disobedience as all that should be necessary under a liberal democratic government:

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<sup>183</sup> Wang Shishun and Du Ruiqing, translators. *Op. Cit.* p.103.

Since I assume that a state of near justice requires a democratic regime, the theory [of civil disobedience] concerns the role and appropriateness of civil disobedience to legitimately established democratic authority. It does not apply to the other forms of government nor, except incidentally, to other kinds of dissent or resistance. I shall not discuss this mode of protest, along with militant action or resistance, as a tactic for transforming or even overturning an unjust and corrupt system. There is no difficulty about such action in this case. If any means to this end are justified, then surely nonviolent opposition is justified.<sup>184</sup>

Mencius (372 – 289 BCE), who is known as the most influential compiler and interpreter of Confucius’ teachings, understood that feudal lords who had forfeited the mandate to rule left little recourse to their subjects for modest civil disobedience. The banishing of such rulers is permitted, although their assassination (i.e., “regicide”) is prohibited (*Mengzi* 孟子, Book I, B8).<sup>185</sup>

Mencius also developed a nascent conception of democracy in which rulers, on the basis of virtue, were to incorporate the will of the people into governmental affairs. As noted earlier, such a view of Chinese government lacked any enforcement mechanism and depended solely upon the character of the ruler for expression. Nonetheless, the value is a Classical Confucian ideal that resides in China’s philosophical reservoir. The following is Mencius’ illustration of how the ruler is to seek out the voice of the people when appointing members to his own cabinet.

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<sup>184</sup> Rawls (1999). Op. Cit. p. 319.

<sup>185</sup> D. C. Lau. Op. Cit. p. 68

...Such a decision [the appointment of a high official] should not be taken lightly. When your close attendants all say of a man that he is good and wise, that is not enough; when the Counsellors [translator's spelling] all say the same, that is not enough; when everyone [all the people] says so, then have the case investigated. If the man turns out to be good and wise, then and only then should he be given office. (*Mengzi* 孟子, Book I, B7; D.C. Lau translation)<sup>186</sup>

Mencius further established that a virtuous ruler does not exercise absolute power over life and death, even in the case of capital offense. Notice, in the following passage, the attention the ruler is to pay to the will of the people as well as the need to legitimize his actions with democratic sentiment.

When your close attendants all say of a man that he deserves death, do not listen to them; when the Counsellors [translator's spelling] all say the same, do not listen to them; when everyone [all the people] says so, then have the case investigated. If the man turns out to deserve death, then and only then should he be put to death. In this way, it will be said, "He was put to death by the whole country." (*Mengzi*, Book I, B7; D.C. Lau translation)<sup>187</sup>

Implicit in the virtue-duty expressed in the above passage is the corresponding claim-right of due process for an alleged criminal. The *Mencius*' instruction to rulers would certainly not support despotism, but would foster an early form of democratic process.

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<sup>186</sup> Ibid. p. 67.

<sup>187</sup> Ibid.

When a ruler becomes intolerably and cruelly despotic, Mencius sanctions the replacement of that ruler by the people. While Rawls, in addressing the context of on-going liberal democracies, recommends measures short of rebellion, both Mencius and Rawls find a place, when necessary, for civil disobedience to an unjust rulership. Rawls defines civil disobedience as “a public, nonviolent, conscientious yet political act contrary to law usually done with the aim of bringing about a change in the law or policies of the government.”<sup>188</sup> Similarly, non-violence is also the *sine qua non* of Classical Confucian teaching on power and authority and is prescribed both for the ruler and for the people.

The first and primary of the three conditions which justify civil disobedience for Rawls<sup>189</sup> is that a government has perpetrated a clear and substantial injustice, especially one that may allow other injustices to transpire. Rawls includes in this criterion the denial of basic liberties. The Mencius example of execution only after a certain due process for the offender can be construed as a type of basic liberty, especially as an implicit claim-right corresponding to a clearly stated virtue-duty of government. The right not to be denied the opportunity to vote, a basic liberty according to Rawls, is also implicitly present as a claim-right that corresponds to the ruler’s virtue-duty to incorporate the voices of the “whole country” into significant decisions, especially involving life and death.

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<sup>188</sup> Rawls (1999). Op. Cit. p. 320.

<sup>189</sup> Ibid. pp. 326-331.

Rawls' second and third conditions for civil disobedience, that it must be a last resort and must have the capacity to unite a critical mass of citizens,<sup>190</sup> place qualifications upon those who would be compelled to pursue civil disobedience. The Classical Confucian virtues of ritual propriety, humility, civil order, and deference to authority would entail Rawls' precautions.

### RECAPITULATION

The idea that the people should have the final voice in government as well as the ultimate right to challenge and replace a government that is unjust is at the heart of liberal democracy. Comparability of Classical Confucian and Rawlsian notions, however, occurs best at the general level of values, especially wherever Confucian virtue-duties are analogous to Rawls' stated rational principles. At the level of application, achieving comparability will require much work, given the vastly different histories and social contexts of China and liberal democratic nations.

While Chinese governments have never been structured along the lines of "of the people, by the people and for the people," the seeds of democracy are not contradictory to deeply rooted Classical Confucian values. The exercise of translating virtue-duties into claim-rights and identifying comparable values demonstrates the utility of Classical Confucianism as a bridge to liberal democracy. By drawing upon its Classical Confucian

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<sup>190</sup> Ibid.

roots and heeding the values that emerge from this tradition, China can be understood as capable of satisfying the human rights expectations of other nations, both East and West.

## CONCLUSION

To those for whom it is a forgone conclusion that human rights is the exclusive standard by which humane treatment of persons can be measured, the second prong of this dissertation has been addressed. While this dissertation does not make such an assumption, I have endeavored to show that the language of human rights and the expression of Classical Confucian values intersect at the meeting place of comparable values in the treatment of persons. Four such values have been outlined, not as an ultimate solution, but as a temporal demonstration that, if necessary, Classical Confucianism can be expressed in the language of human rights.

The presence of comparable concepts in Classical Confucianism and liberal democracy generates a basic framework upon which a mutual understanding of human rights can be developed between China and liberal democratic nations. To the extent that modern China can appropriate Classical Confucianism's kinship with the principles of liberal democracy, it can satisfy external expectations for rights outcomes by democratic regimes without compromising fidelity to its own Chinese essence.

The concepts we have discussed here as comparable will require the development of some form of the social contract in China for their full implementation. In Rawls' theory, a modified social contract serves as the basis for rights:

My aim is to present a conception of justice which generalizes and carries to a higher level of abstraction the familiar theory of the social contract as found, say, in Locke, Rousseau, and Kant. In order to do this we are not to think of the original contract as one to enter a particular society or to set up a particular form of government. Rather, the guiding idea is that the principles of justice for the basic structure of society are the object of original agreement.<sup>191</sup>

According to Rawls, the social contract in modern liberal democracies arises from a deliberation based upon rational principles: “They are the principles that free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association.”<sup>192</sup> While a core of such rational principles is evident in the comparable concepts I have discussed, they obtain from a different source in Classical Confucianism.

That source, for China, is not Western rationality but the continuity of four millennia of history, culture and philosophy. Thus, a social contract that supports liberal democratic principles is not likely to arise in contemporary China as a result of rational deliberation. Western rationality and a distinctively Chinese approach to values may produce comparable end-product values, but their processes will reflect vastly differing worldviews and orientations toward social structure.

As developed in the first prong of this dissertation, the notion of *tianming* 天命 is at the heart of an authentically Chinese understanding of government and the people. In

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<sup>191</sup> Ibid. p.10.

<sup>192</sup> Ibid.

contrast to the secularized Western understanding of social contract, *tianming* 天命 appeals to a principle that supercedes the relationship of individuals with each other and with government. It provides a normative ideal worthy to be the object of national striving. Returning to the *Shujing* 書經, one of the background sources that informs Classical Confucianism, we read:

It is always necessary to remember the beginnings in order to secure a happy end. By the protecting of law-abiding people and overthrowing the lawless oppressor, but carefully observing the dictates of Natural Law, the mandate of Heaven [*tianming* 天命] will perpetually be kept intact. (Oath of Tang/ Book of History)<sup>193</sup>

The starting points for Classical Confucianism and liberal democracy differ significantly. In Rawls' view, liberal democracy is motivated by a rationality based upon the self-interests of parties in the social contract. In Classical Confucianism, the imperative of *tianming* 天命 carries with it a moral and spiritual force which calls governments and individuals to be accountable. All are to be stewards of the mandate to treat individuals in an exemplary and humane manner. Good is to proceed from this virtue and duty, not from coercion by guarantee of claim-right. Relationships are to be harmonious and benevolent, not adversarial.

It is precisely for this reason that the Western conception of claim-rights is alien to the Chinese mind. The self-interest required by the mechanism of rights is at odds

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<sup>193</sup> Cited in Victor Agmata, J.D. The Evolution of Law, Ethics and Political Authority in China. 2000. Unpublished manuscript.

with the Chinese mandate to avoid self-interest. That is why this dissertation has stressed the need to differentiate between the mechanism and the content of human rights. Thus, the absence of a rights-mindset in Chinese thought is not a moral deficit. The humane treatment of individuals, that is, the content of human rights, is achieved through a mechanism other than human rights. It is achieved through a grand social vision.

Within the social vision of Classical Confucianism, the government and heads of households are held to account through a national ideology. In some ways, *tianming* 天命 is a democracy-sensitive alternative to the later European concept of Divine Right of Kings, the abuse of which eventually provoked the overthrow of England's Charles I (1649) and France's Louis XVI (1789). Unlike its European counterpart, however, *tianming* 天命 emphasizes the obligations of the ruler as opposed to his perquisites. It is not a privilege that *tianming* 天命 confers, but a duty. Thus, in Classical Confucianism, *tianming* 天命 serves both as the mandate for a ruler's authority and the criterion by which he may be judged by the people.

The possibility for a China which draws upon its trove of philosophical resources in constructing a vision for the exemplary treatment of persons goes beyond remediation in the eyes of other nations. For China does not need to live up to any standard other than its own when that standard, in the form of a Classical Confucian ideology, has much to offer the world. Thus, my attempt to bridge Classical Confucian thought with modern rights theories via Rawls is only one avenue open to China for addressing the concerns of human treatment. On a deeper level, there is a vision which stands on its own, Its

heritage runs deep within the cultural and intellectual history of China, and it will always be present. This vision is at once a resource upon which China can model domestic policy and an opportunity to contribute as a significant partner in East-West human rights discourse.

GLOSSARY OF CHINESE TERMS

<i>Pinyin</i>	<i>Character</i>	<i>English Equivalent or brief Explanation</i>
<i>ai ren</i>	愛仁	humane benevolence
<i>chaoyue</i>	超越	conventionally, 'transcendence'
<i>Chun Qiu</i>	春秋	<i>Spring and Autumn Annals</i>
<i>Da Xue</i>	大學	<i>Great Learning</i>
<i>dao</i>	道	way, path
<i>de</i>	德	virtue
<i>di</i>	帝	universal source, order, power
<i>gua</i>	卦	trigrams
<i>junzi</i>	君子	exemplary leader, conventionally, 'superior person'
<i>Kongzi</i>	孔子	Master Kong; Confucius
<i>kun</i>	坤	second hexagram in the <i>Yijing</i>
<i>li</i>	禮	ritual propriety or rites
<i>Li Ji</i>	禮記	<i>Book of Songs or Record of Ritual</i>
<i>Lun Yu</i>	論語	<i>Analects of Confucius</i>
<i>Mengzi</i>	孟子	Mencius, <i>Teachings of Mencius</i>
<i>qian</i>	乾	first hexagram in the <i>Yijing</i>
<i>ren</i>	仁	benevolence
<i>rujia</i>	儒家	School of the Learned
<i>ruxue</i>	儒學	Study of the Learned
<i>shangdi</i>	上帝	conventionally, 'Lord on High' or 'God'
<i>Shujing</i>	書經	<i>Book of History</i>
<i>Shijing</i>	詩經	<i>Book of Songs</i>
<i>shu</i>	恕	reciprocity
<i>Tiananmen</i>	天安門	Heaven's Gate
<i>tian</i>	天	conventionally, 'heaven'
<i>tianming</i>	天命	conventionally, 'Mandate of Heaven'
<i>wanwu</i>	萬物	<i>Ten Thousand Things or Happenings</i>
<i>wanyou</i>	萬有	<i>Ten Thousand Things</i>
<i>wuchang</i>	五常	<i>Five Constant Regulations</i>
<i>wumei</i>	五美	<i>Five Excellent Practices</i>
<i>xiao</i>	孝	filial piety
<i>xin</i>	心	heart-mind
<i>xin</i>	信	faithfulness
<i>xing</i>	性	human nature

<i>Xunzi</i>	荀子.	Master Xun
<i>yi</i>	義	righteousness
<i>Yizhuan</i>	易傳	<i>Ten Wings</i> commentary on the <i>Yijing</i>
<i>Yijing</i>	易經	<i>Book of Changes</i>
<i>yang</i>	陽	creative, initiating principle
<i>yin</i>	陰	responsive principle
<i>Zhànguó</i>		
<i>Shídài</i>	戰國時代	Era of the Warring States
<i>zhi</i>	智(知)	wisdom
<i>zhong</i>	中	center; China
<i>Zhong Yong</i>	中庸	conventionally, ‘ <i>Doctrine of the Mean</i> ’

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