

HUMAN RIGHTS DISCOURSE IN THE ASIA-PACIFIC REGION: IMPLICATIONS FOR THE PHILIPPINES

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Notwithstanding the polemical exchanges of the “Asian values” debate, there are actually many areas in which both “sides” are in agreement. For example, no one is claiming that people can be tortured at will or that their governments can murder their citizens. Of course, gross human rights violations happen all the time, and human rights activists work hard to expose the gap between public allegiance to rights and the sad reality of ongoing abuse. This is largely practical work, however. There is not much that intellectuals working in their air-conditioned offices can contribute to this task.

But well-intentioned people around the world can and do take different sides on many pressing human rights concerns that fall outside the sphere of agreement. This gray area of debate includes economic rights, criminal law, family law, women’s rights, The rights of indigenous peoples and the so-called Western-style democratic rights. Some of these issues are contested on cultural grounds, others are a matter of how rights are prioritized in developing nations, and sometimes the question is whether or not to employ the language of rights in the first place. Dialogue between interested parties is therefore needed to identify areas of commonality and difference. At the moment, however, there is a dearth of constructive dialogue and mutual learning, and both “sides” in the “Asian values” debate are to blame.

Obstacles to Dialogue¹

The first offenders are the proponents of Western-style liberal democracy who seem to assume without argument that their favored brand of government also meets the deeper aspirations of people in the rest of the world. Needless to say, we have moved

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beyond the brief moment of euphoria that followed the collapse of communism in the Soviet bloc. It is now widely recognized that brutal ethnic warfare, crippling poverty, environmental degradation and pervasive corruption, to name some of the more obvious troubles afflicting the “developing” world, pose serious obstacles to the successful establishment and consolidation of liberal democratic arrangements. But these are seen as unfortunate (hopefully temporary) afflictions that may delay the “end of history” when liberal democracy will finally have triumphed over all its rivals. They are not meant to pose a challenge to the idea of liberal democracy. It is widely assumed that liberal democracy is something that all rational individuals would want if they could “get it.”

More concretely, this blind faith in the universal potential of liberal democracy takes the form of a US government policy to promote human rights and democracy abroad, regardless of local needs, habits and traditions. Of course, critics on the left point out that there is a large gap between the rhetoric and reality—that commercial and security interests often override human rights concerns in the United States foreign policy—but few question the normative premise that the United States ought to promote its values abroad.

More surprisingly, perhaps, even critics of US-style human rights discourse—which identifies civil and political rights with human rights in general—often seem to rule out the possibility that there may be something to learn from the non-Western world. It is a widespread view within the international human rights community that the US government (and public, to a substantial extent) tends to regard freedom from the arbitrary powers of the state as most important, with a concomitant reluctance to accept economic, social and cultural rights as human rights. The leading human rights theorist Jack Donnelly, for example, is critical of US-style “civil and political rights centrism.” Instead, he upholds as a universal ideal the more comprehensive set of rights endorsed in West European social democratic states, and he argues that the task of the human rights activist is to implement this ideal in the developing world.² But he seems to rule out the possibility that “international” human rights principles can be modified in response to more input by non-Western peoples.

In short, these West-centric outlooks pose serious obstacles to constructive cross-cultural dialogue. On the one hand, they block the development of a truly international human rights regime that can fully accommodate the needs of non-Western peoples. On the other hand, they fail to allow for the possibility that there may be areas of justifiable difference between political values in the West and “the rest.”

Unfortunately, the most vocal critics of the “Western” approach—proponents of “Asian values”—have also contributed to this dialogic stalemate. The term “Asian values” was devised by several Asian officials and their supporters for the purpose of challenging Western-style civil and political freedoms. Asians, they claim, place special emphasis upon family and social harmony, with the implication that those in the “chaotic and crumbling”

societies of the West should think twice before intervening in Asia for the sake of promoting human rights and democracy. As Singapore's senior statesman Lee Kuan Yew puts it, Asians have "little doubt that a society with communitarian values where the intents of society take precedence over that of the individual suits them better than the individualism of America."³ Lee does recognize that the US model has inspired some political reform in Asia, but he still questions its desirability: "The one Asian country, namely the Philippines, that modeled itself on America has become a negative example."⁴

The main problem with the "Asian values" debate is that it has been led by Asian leaders who seem to be motivated primarily by political considerations, rather than by a sincere desire to make a constructive contribution to the cross-cultural dialogue on political values. Thus, it was easy to dismiss—rightly so, in most cases—the Asian challenge as nothing but a self-serving ploy by government leaders to justify their authoritarian rule in the face of increasing demands for democracy at home and abroad.

Non-Governmental East Asian Contributions to the Debate

Still, it would be a mistake to conclude that nothing of theoretical significance has emerged from East Asia. The debate on "Asian values" has prompted critical intellectuals and representatives of NGOs in the region to reflect and debate over how they can locate themselves in a debate on human rights and democracy in which they had not previously played a substantial part. Neither wholly rejecting nor wholly endorsing the values and practices ordinarily realized through a liberal democratic political regime, these intellectuals are drawing on their own cultural traditions and exploring areas of commonality and debate with the West. Though often less provocative than the views of their governments, these unofficial East Asian viewpoints may offer more lasting contributions to the debate.⁵ Let me describe two separate East Asian contributions to the cross-cultural dialogue on human rights.

First, East Asians have argued that their cultural traditions can provide the resources to justify and increase local commitment to practices that in the West are typically realized through a human rights regime. It is assumed that appeals to traditional cultural resources are more effective in combating injustices and improving human well-being.

Consider the example of Professor Norani Othman, a sociologist who is also a leading member of Sisters of Islam.⁶ This group is an autonomous NGO in Malaysia that effectively challenges the way Islam has been (mis)used by powerful forces to justify patriarchal practices, often contravening Islam's central ideas and animating principles. It advocates women's rights in terms that are locally persuasive, meaning that it draws upon Islamic principles for inspiration. The Sisters of Islam also engage in long-term human

rights work, such as distributing pamphlets on Quranic conceptions of rights and duties of men and women in the family that provide that basis for a more egalitarian view of gender relations than the regressive ideas typically offered in the name of Islam itself. Professor Othman argues that building human rights on traditional cultural resources—on the customs and values that people use to make sense of their lives—is more likely to lead to long-term commitment to human rights and practices.

It can be argued that predominantly Islamic societies present a special case, where people's outlooks and "habits of the heart" are profoundly informed by religious values. In this context, it seems obvious that defenders of human rights are more likely to be effective if they work within the dominant tradition. But cultural traditions may also be relevant for human rights and democratic reformers and activists elsewhere. A recent paper by Wang Juntao—a long-time democratic activist who spent nearly five years in jail after the 1989 massacre—argues that many of the key figures in Chinese democracy movements drew inspiration from Confucian values. From the late nineteenth century to the present, nearly all the important figures in the history of democracy movements in mainland China, Taiwan and Hong Kong—Kang Youwei, Zhang Jian, Sun Yatsen, Liang Qichao, Zhang Junmai, Wang Xizhe, Li Denghai and Chen Ziming—tried to revive Confucianism in order to support democratization. Wang Juntao supports this aspiration, partly on the grounds that democracy may be easier to implement in the Chinese context if it can be shown that it need not conflict with traditional political culture: "If Confucianism is consistent with democracy, the traditional culture may be used as a means of promoting democratization as well as a means of maintaining social order. At the very least, the political transition will be smoother and easier, with lower costs, since there will not be any cultural resistance."⁷

But culture is not merely useful as a strategic tool to promote "Western-style" liberal rights. As the second contribution, some East Asians also argue that local cultural traditions can provide a moral foundation for nonliberal political practices and institutions. Consider the case of Dr. Sulak Sivaraksa, a leading pro-democracy activist in Thailand and a nominee for the Nobel Peace Prize. In 1991, the Thai Prime Minister, General Suchinda, pressed charges against Dr. Sulak for *lese majeste* and for defaming him (the General) in a speech given at Thammasat University. Fearing for his life, Sulak fled the country, but returned in 1992 after the Suchinda government had fallen to face the charges. In court, Sulak did not deny that he had attacked the "dictator" Suchinda, but he did deny the charge of *lese majeste*, referring to the many services he had performed for the Royal Family. Sulak explains: "I did not... stake my ground on an absolute right to free speech. My defense against the charge of *lese majeste* was my innocence of the charge; my defense was my loyalty to the King and Royal Family and, even where I discussed the use of the charge of *lese majeste* in current Siamese political practice, it was to highlight abuse

and to point to the theoretical right to commit this action. I am not affirming, nor would I affirm, a right to commit *lese majeste*. This aspect of the case is particularly concerned with my belonging to the Siamese cultural tradition.”⁸

In other words, Dr. Sulak aimed to persuade fellow citizens that the dominant political system should be replaced with an alternative, relatively democratic political structure, but he made it explicit that he did not want to challenge a mechanism for change that places a constraint on direct criticism of the Thai king. There is no reason to doubt Dr. Sulak’s sincerity (perhaps he, like many Thais, would feel deeply offended, if not personally harmed, by an attack on the king). Is there anything wrong with a mechanism for changing a cultural tradition that has constraints like this one, endorsed by both defenders and critics of the prevailing views?

Liberal thinkers may worry about this line of argument.⁹ The claim that for strategic reasons, the social critic should sometimes appeal to local traditions to justify values and practices that in the Western world are normally realized through a rights regime may be palatable, but few liberals will go along with the suggestion that cultural traditions can provide a genuinely moral foundation for illiberal norms and political practices. This latter argument may be employed as an excuse to justify or “tolerate” the subjugation of members of cultural groups who have been denied the opportunity to reflect on and criticize the norms of deference and humility to powerful leaders.

Still, one can exaggerate this worry. For one thing, there may not be many other examples of constraints on challenges to prevailing cultural viewpoints endorsed by both political leaders and leading social critics (certainly one could not justify curtailing of rights against murder, torture, slavery and genocide on these grounds). Moreover, the argument for respecting the norms and practices endorsed by most adherents of particular cultural traditions (including leading social critics) can sometimes be used to *expand* rather than restrict the set of rights typically enjoyed by members of liberal Western societies. For example, East Asian societies influenced by Confucianism strongly emphasize the value of filial piety or the idea that children have a profound duty to care for elderly parents, a duty to be forsaken only in the most exceptional circumstances. In political practice, this means that parents have a right to be cared for by their children and that it is incumbent on East Asian governments to provide the social and economic conditions to facilitate the realization of this right. Political debate tends to center on the question of whether the right to filial piety is best realized by means of a law that makes it mandatory for children to provide financial support for elderly parents (as in Singapore or Japan), or whether the state should rely on more indirect methods such as tax breaks (as in Hong Kong) and housing benefits that simply make care for the elderly easier. But the argument that there is a pressing need to secure this right in East Asia is not a matter of political controversy.

Implications for the Philippines

It could be argued that this debate about the importance of culture for human rights coming from the “Islamic” and “Confucian” parts of East Asia will not resonate to the same extent in the Philippines. The fact that most Filipinos are Christians is an obvious point of difference. But the more general points about methodology could also apply in the Philippines. If, for example, appeals to human rights justified with reference to local culture are more likely to be effective, then human rights activists can and perhaps should use the language of Christianity to promote their aims.

It could also be argued that there may not be the same “Asian” aversion to “legalistic” approaches to questions of human rights in the Philippines. During the Marcos era, for example, the Universal Declaration of Human Rights (UDHR) was employed as an effective tool by human rights campaigners. As Maria Serena Diokno points out, however, this may be due to the particularities of the Marcos regime: this tactic was effective because Marcos depended to a great extent on US economic and military support and was extremely conscious of his image in the United States. This led him to employ legalistic justifications for his policies, which could then be challenged by his critics. But in the Philippines of today, “legalistic” approaches to human rights may not be as effective, and human rights campaigners can consider “cultural” approaches to human rights.

More controversially, perhaps, the substantive points about Confucianism (and Islam) emerging from the East Asian context may also be of interest in the Philippines. The first point to note about Confucianism is that it has (like Christianity and Islam) historically been presented as a universal ethical system, potentially “universalizable” to all of humanity. Thus, there were no theoretical obstacles to the transmission of Confucian values far beyond their original “Chinese” source to Vietnam, Korea and Japan. It is interesting to note that Confucianism came to develop its fullest and most “orthodox” expression in Choson Korea.¹⁰ Still, today, Korea is widely regarded as the most “Confucian” society in East Asia.¹¹

Another relevant feature of Confucianism is that it has not always presented itself as an “all-embracing” metaphysical and ethical system that forecloses attachments to other religions and philosophies. Throughout Chinese history, for example, it has coexisted with Buddhism and Taoism. More recently, some prominent Confucians, such as Harvard University professor Tu Wei-ming, profess attachment to both Confucianism and Christianity. One recent study found that 90 percent of Korean Christians (approximately one-quarter of the South Korean population) are also Confucians, according to their convictions and practices.¹²

What this means is that parts of Confucianism could also be adopted by societies with different cultural backgrounds. If this ethical system can help to meet some of the

pressing needs of “non-Confucian” societies, there is no reason why those societies should not be attracted by relevant parts of Confucianism.

Consider, for example, what Mencius says about the government’s obligation to provide for the people’s basic means of subsistence:¹³

[The people] will not have constant hearts if they are without constant means. Lacking constant hearts, they will go astray and fall into excesses, stopping at nothing. To punish them after they have fallen foul of the law is to set a trap for the people. How can a benevolent man in authority allow himself to set a trap for the people? Hence when determining what means of support the people should have, a clear-sighted ruler ensures that these are sufficient, on the one hand, for the care of parents, and, on the other hand, for the support of wife and children, so that the people will always have sufficient food in good years and escape starvation in bad; only then does he drive them towards goodness; in this way, the people find it easy to follow him.” (1A.7; see also 3A.3)¹⁴

There is no point in promoting moral behavior if people are worried about their next meals. Thus, the government’s first priority is to secure the basic means of subsistence of the people.

This does not necessarily translate into opposition to the free market. Absolute private property rights might still be justified on the instrumental grounds that they have the consequence of securing the basic means of subsistence of the people. Mencius, however, does not take this line. While he opposes high taxes and restrictions on commerce that lead to economic inefficiency, he explicitly argues that the state can and should control the distribution and use of land to secure the people’s means of subsistence. And how does the government realize this aim? Mencius proposed his now-famous “well-field system”:

Humane government must begin by defining the boundaries of the land. If the boundaries are not defined correctly, the division of the land into squares will not be equal, and the produce available for official salaries will not be fairly distributed. Therefore oppressive rulers and corrupt officials are sure to neglect the defining of the boundaries. If the boundaries are correctly defined, the division of land and the regulations of salaries can be settled while you sit. Although the territory of T’eng is narrow and small, there must be gentlemen (rulers and nobles) and there must be countrymen. Without gentlemen, there would be none to rule the countrymen, and without countrymen, there would be none to support the gentlemen. I would ask you to divide land in the remoter districts into nine squares

and to designate the central square (cultivated by eight families) as “aids” (tax), and in the central parts of the state, to let the people pay for themselves one-tenth of their produce.

From the chief ministers on down, [each family] should have fifty *mou* as sacrificial land, and an additional twenty-five *mou* for each additional male. When there are deaths or moving from one house to another there will be no quitting of the district. In the fields of the district, those who belong to the same nine squares will render friendly service to one another in their going out and coming in, aid one another in keeping watch, and sustain one another in sickness. In this way, the people will live in affection and harmony. Each ‘well-field’ unit is one *li* square and consists of nine-hundred *mou*. The center square is public field. The eight households each privately own a hundred *mou* and together they cultivate the public field. Only when the public work is done may they attend to their work. (3A.3)¹⁵

This might seem like a rather rigid set of guidelines for establishing boundaries of land within states, but Mencius notes that “these are the outlines of the system. As to modifying and adapting it, it is up to you and your ruler.”¹⁶ The important point is for the state to maintain a relatively equitable distribution of land at the local community level, to allow individual households to make productive use of land for their families, and to qualify farmers’ rights to the produce of the land in order to ensure that enough food is supplied to the nonfarming classes. These principles, Mencius suggests, will secure basic material welfare for all members of the state.

Mencius’ “well-field system” was influential throughout Chinese history, as rulers adapted its principles to their own circumstances. Of course, the Chinese Communist Party struck an end to “Confucian” principles of land distribution by abolishing all forms of local community autonomy and household responsibility for farming, and forcing farmers to work for state-owned communes. Far from enriching the people, however, this system led to massive inefficiencies. In 1978, Deng Xiaoping launched a rural land reform program that can be seen as a “reversion” to principles conforming to the “well-field system.”¹⁷ State-owned communes were replaced by the household responsibility system. In this system, “individual households in a village are now granted the right to use the farmland, whereas the village cooperative, as the village-based governing body, retains other rights associated with ownership.”¹⁸ Farmers have an obligation to supply a quota of produce (which typically occupies one-sixth of the household’s land) at a fixed low price to the state, but beyond that they are allowed to keep and sell the produce in the open market.

This system has been widely credited with underpinning China's rapid economic development (and the consequent improvement of the material welfare of the people) since that time.

It is also worth noting that the four "Confucian tigers" (Korea, Taiwan, Hong Kong and Singapore) have all significantly curtailed property rights in land, notwithstanding a commitment to free market principles. Taiwan and South Korea both engaged in massive land distribution programs after World War II (in part due to American pressure), which has underpinned the relatively egalitarian economic development since then. The Singapore government expropriated land shortly after independence and used it for industrial development and public housing¹⁹ (today 85% of Singaporeans live in quasi-public housing). The Hong Kong government technically owns all land in the territory, and much of it has been set aside for public housing projects (today, approximately half of Hong Kong residents live in public housing and the Hong Kong government is the world's largest landlord).

This is not to suggest that there is a direct causal link between the sayings of Mencius and contemporary patterns of land distribution in East Asian states—no doubt other factors, such as national defense, the requirements of power, pragmatic economic considerations and ad hoc improvisation also played a role. But Confucian values that justify constraints on land ownership were influential throughout East Asian history, and contemporary decision-makers concerned with securing the basic material welfare of the people were occasionally inspired by Confucian values to justify constraints on private property.

Turning once again to the Philippines, the concentration of land in the hands of a few wealthy landlords is often cited as one of the reasons for widespread poverty and lack of economic development.²⁰ There is no reason why the Philippines could not experiment with Mencius' ideas for securing the "right to food."²¹ To repeat, the "founding fathers" of Confucianism and most of the subsequent interpreters thought of Confucianism as a potentially universal philosophy. They did not view it as tied to a particular group, such as the Chinese. In terms of its actual history, Confucianism helped to inspire political reform in countries outside its place of origin. If Confucianism can help to address some of the contemporary problems in the Philippines, then it may also be of value in that country.

Notes

1. This section draws on the Introduction of my book, *East Meets West: Human Rights and Democracy in East Asia* (Princeton: Princeton University Press, 2000).
2. Jack Donnelly, "Post-Cold War Reflections of the Study of Human Rights," *Ethics and International Affairs*, 8 (1996), pp. 97, 112, 116.
3. Quoted in the *International Herald Tribune*, 9-10 November 1991.
4. Quoted in *Time*, 14 June 1993.
5. For more details, read my book *East Meets West*, chapter 1.
6. See Norani Othman, "Grounding Human Rights Arguments in Non-Western Culture: Shari'a and the Citizenship Rights of Women in a Modern Islamic State," *The East Asian Challenge for Human Rights*. Eds. Joanne Bauer and Daniel Bell (Cambridge University Press, 1999).
7. See Wang Juntao, "Confucianism and Democratization in China," *Confucianism for the Modern World*. Eds. Daniel Bell and Hahm Chaibong (forthcoming).
8. Sulak Sivaraksa, "Buddhism and Human Rights in Siam" (paper on file with the author).
9. This section draws on my article, "Minority Rights: On the Importance of Local Knowledge," *Dissent*, Summer 1996, pp.40-41.
10. Hahm Chaibong, "The Confucian Family vs. the Modern Individual: the Politics of Marriage Law in Korea," *Confucianism for the Modern World*. Eds. Daniel Bell and Hahm Chaibong (forthcoming).
11. Typical Confucian practices, such as filial piety and ancestor worship, are now carried out largely in the Korean language, suggesting that Confucian values need not be expressed in the Chinese language.
12. Koh Byong-ik, "Confucianism in Contemporary Korea," *Confucianism in East Asian Modernity*. Ed. Tu Wei-ming (Cambridge: Harvard University Press, 1996), p. 199.
13. This section draws from my article, "Confucian Constraints on Property Rights," *Confucianism for the Modern World*. Eds. Daniel Bell and Hahm Chaibong (forthcoming).

14. In *Mencius*. Vol. I, translated by D.C. Lau (Hong Kong: The Chinese University Press, 1984), p. 21.
15. In *A Source Book in Chinese Philosophy*. Translated and compiled by Wing-Tsit Chan (Princeton : Princeton University Press, 1963), pp. 68-69.
16. *Ibid.*
17. Needless to say, I do not mean to imply that Deng and his reformers were directly motivated by the desire to restore Mencius' "well-field system." It is worth noting, however, that Mencius' "well-field system" was explicitly praised in secondary schools in mainland China at the time of Deng's reforms (I thank Song Bing for this information), which suggests that the Communist Party leadership was aware of, and perhaps inspired by, Mencius' ideas at the time it was thinking about agricultural reforms.
18. Xiao-Yuan Dong, "Two-Tier Land Tenure System and Sustained Economic Growth in Post-1978 Rural China," *World Development*, Vol. 24, No. 5, p. 915.
19. Kevin Tan notes that "the constitutional right to own property and to receive fair compensation for state acquisition of such property, embodied in Article 13 (1) of the Malaysian Federal Constitution as it applied to Singapore, was deliberately left out of the post-independence Constitution" to allow the government to acquire land to secure the economic rights of the people (Tan, "Economic Development, Legal Reform, and Rights in Singapore and Taiwan," *The East Asian Challenge for Human Rights*. Eds. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999), p. 268.
20. See, e.g. Donald Kirk, *Looted: The Philippines After the Bases* (New York: St. Martin's Press, 1998).
21. The Qing penal code secured the "right to food" by punishing local officials who failed to provide aid to the needy (Chen Huan-Chang, *The Economic Principles of Confucius and His School*. Vol. II, p. 599). In this sense, the "right to food" really was a "right" in the modern sense, *i.e.* a legally-enforceable norm that protects the interest of all members of the state.