A Confucian Deliberation on Rawls’s Liberal Conception of International Justice*

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Abstract: This paper is an attempt to look for a possible Confucian response to Rawls’s liberal conception of international justice in *the Law of Peoples*. In his effort to extend his liberal conception of international justice to non-liberal societies, Rawls contends that liberal peoples would tolerate decent peoples as good members of the society, and further believes that just principles agreed by liberal peoples can be extended to non-liberal but decent peoples. However, this contention poses a theoretical question whether decent peoples can accept the liberal principles of justice. Confucianism and Rawls’s political liberalism differ in their conceptions of person and society, and methods in seeking justice. Confucianism basically agrees to the principle of toleration and the guarantee of human rights. However, concerning some specifications of human rights addressed by Rawls, Confucianism would hold some reservation. However, Confucianism is also ambiguous like Rawls on the circumscription and the degree of intervention in sovereignty.

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I. Introduction

In *The Law of Peoples*, Rawls presents a liberal conception of international justice. Employing the basic ideas of political liberalism to international society, Rawls believes that his international justice can be extended to the non-liberal but decent peoples. But whether decent peoples would accept the principles suggested by the liberal peoples needs a critical review.

Confucianism has been a dominant conception of politics, with a distinct tradition and culture in East-Asian societies. It still remains a big force in a cultural form and influences the attitudes and behaviors in the political process. Political leaders often resort to Confucian ideas or textual passages when they are justifying their political decisions and behaviors. Even though the East-Asian societies are following different political systems, their political processes seem to be affected, though to varying degrees by Confucian ethics and values. Hence, to analyze Rawls’s liberal conception of justice from a Confucian perspective involves two implications. One is to examine how far Rawls’s international justice could able to provide its reasonability to non-liberal conception of justice against the background of different culture and tradition. And secondly, what conception of international justice non-liberal people can address for the international society.

Rawls employs the ideas of political liberalism to advance a liberal conception of justice for international society. In the second part of ideal theory, he contends that the just principles agreed by liberals in the original position could be extended to non-liberal but decent peoples.¹ In the extension of liberal conception of international justice to non-liberal societies, Rawls asserts that liberal people can
tolerate non-liberal but decent peoples. But this poses a question, conversely, whether non-liberal but decent peoples can tolerate liberals and accept the principles suggested by liberal peoples for international society.

Thus, in order to advance an argument in this paper, I begin with a question of whether Confucianism can be classified as a non-liberal but decent conception of justice. If Confucianism is a decent conception of politics, we need to circumscribe a contour of overlapping consensus between political liberalism and Confucianism. And finally, even if liberal peoples are ready to tolerate decent peoples, can peoples imbued with Confucianism accept the liberal conception of international justice? With these questions in mind, from a Confucian perspective this paper attempts to analyze specifically Rawls’s conception of human rights, the just war doctrine in dealing with out-law states, and the duty of assistance to societies burdened by unfavorable conditions.

II. Toleration and Overlapping Consensus between Political Liberalism and Confucianism

In characterizing Confucianism, there are many perspectives and interpretations. A variety of ramifications of compatibility as well as incompatibility between Confucianism and liberalism depend upon the way of characterizing Confucianism. Confucianism is often interpreted as communitarianism, perfectionism, or even as a political theory justifying authoritarianism. Despite various characterizations, I think that Confucianism is considered a non-liberal but decent political theory. Above all, it seems apparent that Confucianism is non-liberal. For in Confucian political theory, it is hard to find the grounds for justifying political freedom with equal

distribution of power for political decisions among people. In other words, people are not expected to exercise political freedom in decisions affecting their lives. In this sense, we can say that Confucianism is non-liberal. Despite this non-liberal aspect, Confucianism emphasizes that leaders who have political power to make decisions should lead the politics in a way to enhance the interests of the people excluded in the process of political decision. This means that Confucian conception of politics is hierarchical but seeking a politics on the basis of a common good idea of justice. On this basis, I may conclude that Confucianism is a decent political conception.

1. Toleration of Confucianism for Liberalism

Toleration takes an important place in Rawls’s theory of international justice. The 8 principles of the laws for people are simply taken for granted among Western liberal peoples. Whether these principles can be extended to other non-liberal societies depends on the degree of with toleration. Without toleration, societies having different conceptions of justice would not help to reach an agreement on one principle of justice for international society. The idea of toleration in Rawls’s theory poses two symmetrical questions. One refers to whether liberal people can accept non-liberal people as good members of international society. The other corresponding question is whether non-liberal people also could accept liberal people as good members of international society.

In the second part of ideal theory, the extension of the law of peoples to non-liberal peoples depends on how far liberal peoples are to tolerate non-liberal peoples. Rawls specifies toleration as follows:

“Here, to tolerate means not only to refrain from exercising political sanctions - military, economic, or diplomatic - to make a people change its ways. To tolerate also means to recognize these non-liberal societies as equal participating members in good
standing of the Society of Peoples, with certain rights and obligations, including the duty of civility requiring that they offer other peoples public reasons appropriate to the Society for their actions.”

Rawls’s specification of toleration of liberal peoples for non-liberal ones implicitly indicates the following two articles, the first and the third, of the 8 principles of international justice: “Peoples are free and independent, and their freedom and independence are to be respected by other peoples”; “Peoples are equal and are parties to the agreements that bind them.” The principle of toleration between liberal peoples and decent peoples involves 1) freedom and independence of each people, and 2) equality of peoples as parties of agreement.

Political liberalism understands political society as composed of reasonable though incompatible religious, philosophical, and moral doctrines. Herein lies an assumption of toleration for different but reasonable doctrines. If we accept Confucianism as a decent comprehensive doctrine, in terms of Rawls’s conception of international justice it matters less whether it is tolerated as a reasonable comprehensive doctrine within the scheme of political liberalism or not. However, it is a matter of discussion whether Confucianism could accommodate political liberalism as a solution for international justice. We need to explore theoretical foundation and methodology of Confucianism and political liberalism in order to examine whether Confucianism can agree to Rawls’s liberal solution for international justice.

Political liberalism and Confucianism provide respectively its own conception of justice based on its own foundation and methodology. Rawls’s political liberalism advances two principles of justice on the basis of political constructivism. The essence of political liberalism lies in the idea of construction of just principles relying upon reasonability and public reason. Rawls induces just principles gov-

erning the basic structure of society through the use of original position as a device of representation in which practical reason plays a decisive role. Original position enables the parties to use public reason to seek an overlapping consensus relying upon reasonability. This methodology of political liberalism is adopted in constructing the principles of justice for international society. In *The Law of Peoples*, the original position is adopted three times. First, on the domestic level, it is employed in the construction of just principles for each liberal society. Second, on the international level, it is employed in the process of agreement on the just principles among the liberal peoples. Third, Rawls suggests that original position can be applied between liberal peoples and decent peoples. However, there is no original position in the process of establishing the basic principles governing decent societies.

In contrast, Confucianism relies upon a different theoretical foundation and methodology. Confucian political philosophy is predicated upon a reflective intuitionism that we can obtain through the reflection of the mind and reason objective moral criteria or first principles. The reflective process in Confucianism assumes that there is a good or an ideal life, that we, human beings, are able to perceive it, and that we can achieve it through a moral completion. Confucianism mostly assumes that there is an independent moral order, a hierarchical order of the right, or the good, or the combination of the right and the good. In this respect we find differences in contrast to Rawls’s rational intuitionism. Confucian intuitionism emphasizes the role of not only reason but also the mind. Confucian intuitionism shows some distinctions from Rawls’s rational intuitionism.

The most important distinction of Confucian intuitionism is identified by its ways of seeking the first principles of morals. First of all, Confucianism tries to seek moral and political principles from the good examples of historical experience. From the successful examples of politics and moral practices by sage-kings or wise men are objective moral and political principles drawn. In this sense,
Confucianism takes a form of immanence that morals can be found through human experiences. In this approach, Confucian intuitionism does not simply rely upon transcendental capacity of reason but upon human capacity to seek moral principles from human experience. Another way of seeking moral first principles is found in the neo-Confucian methodology suggested by Zhu Xi (Chu Hsi) that aims to objective validity by investigating external things. This methodology seems to rely upon the role of theoretical reason. In the understanding of the three items (manifesting the character of man, loving the people, abiding in the highest good) and the eight steps (the investigation of things, extension of knowledge, sincerity of the will, rectification of the mind, cultivation of the personal life, regulation of the family, national order, world peace) of the Great Learning, Zhu Xi puts an emphasis on the importance of ‘investigating things’ (ge-wu). He believed that principle (li), the reason of being, is inherent in things, and furthermore that only with a clear knowledge of things can one’s will become sincere.\(^4\) In contrast, there is another line of tradition in Confucianism that puts a priority of the mind in exploring the principle. This tradition is represented by Lu Xiang-Shan (Lu Hsiang-Shan) and Wang Yang-Ming. To get a principle through cultivation of the mind is distinguished from arriving at the objective validity by investigating things. However, despite these different emphases, Confucian intuitionism converges on the premise that there exists an independent order of morality and that human beings are capable of obtaining the knowledge of morality. We may conclude that Confucian intuitionism attaches a great importance to self-reflection in the process of exploring moral principles through the use of reason and mind.

As to this Confucian intuitionism that stresses the importance of reflection, there may be two responses. One is the conclusion-sensitive interpretation that pays attention to the moral principles, i.e. the

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product of reflection, prior to the reflective process. The other is the reflection-sensitive interpretation that makes much of the reflective process over the moral principles. The former interpretation tends to disregard the importance of reflective process and method, while the latter enlarges the flexibility of Confucian intuitionism. Even if we cannot deny that Confucian intuitionism starts from conviction, there exists an independent moral order, the emphasis on the importance of reflective process plays a role in making Confucianism a more flexible comprehensive doctrine. We can find some evidence in Confucian texts to support the reflection-sensitive interpretation of Confucian intuitionism. For example, a neo-Confucian; Zhou Dun-Yi (Chou Tun-i) in his explanation of the diagram of the great ultimate explains the great ultimate in relation to the ultimate of non-being. He explains further that the great ultimate is originally the non-ultimate. The idea of the great ultimate implies that there exists an ultimate principle while the non-ultimate, the indeterminacy of the great ultimate. A notice on the indeterminacy of the great ultimate stresses the importance of reflection in Confucian intuitionism. In addition, we can find flexibility in Confucianism in the idea of Doctrine of the Mean (Zhong-Yong). Zhu Xi interprets Zhong as keeping impartiality by not siding or sticking to a position. Alongside, in the Doctrine of the Mean, sincerity, the internal reflection, is emphasized in getting Dao: “Only those who are absolutely sincere fully develop their nature. If they can fully develop their nature, they can then fully develop the nature of others. If they can fully develop the nature of others, they can then fully develop the nature of things. If they can fully develop the nature of things, they can then assist in the transforming and nourishing process of Heaven and Earth. If they can assist in the transforming and nourishing process of Heaven and Earth, they can thus form a trinity with Heaven and Earth.”

Confucian emphasis on self-reflection opens the way for accepting new ideas and principles. This flexibility enhances the possibility of not only communicating with but also tolerating different principles or doctrines. Confucian flexibility on the basis of reflection-sensitive interpretation extends its compatibility with the ideas of political liberalism or other reasonable comprehensive doctrines.

2. The Possibility of Overlapping Consensus between Confucianism and Political Liberalism

Even if we accept that in theory Confucianism have the potential to tolerate the ideas of political liberalism, another question arises that how far the two theories can share the overlapping ideas for international justice. As mentioned above, Confucianism can be interpreted as a decent conception of political ideal. Confucianism and political liberalism differ in their conceptions of person and society, and theoretical foundation and methodology for exploring justice. Despite the differences, the two theoretical traditions accept the respect for human beings.

The respect for human beings in political liberalism is related to human rights. Rawls’s liberal conception of justice starts from the idea of self-respect that is the most important primary good. This self-respect is enshrined in the concept of human rights. The human rights safeguarding individual self-respect is guaranteed politically by stipulating basic rights in the first principle of justice both in Rawls’s *Theory of Justice* and *Political Liberalism*. Rawls self-respect has two aspects. One refers to a person’s sense of his own value meaning his secure conviction that his conception of the good and his life plan is worth carrying out. The other implies a confidence in one’s ability to fulfill one’s intentions. Rawls’s conception of self-respect reflects simply respect for oneself as a human being.

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In contrast, Confucian respect for human beings is related to Confucian conception of humanity (ren, benevolence) which is predicated upon an instinctive sense or mind of loving others innate in human nature. Confucian respect for human beings originates from an assumption that we, human beings, have an instinctive sense of others-caring mind. Without this moral sense, humans cannot be considered as human beings. These different conceptions of persons lead the two traditions to take different conceptions of justice. Rawls’s conception of self-respect is self-centered while Confucian humanity assumes otherness in our selves by nature. In Confucian conception of person, it is hard to formulize the concept of individual that is separated from other individuals. In liberalism, as self-respect is essential in oneself, the self-respect in other is essential to oneself. Therefore, according to the principle of reciprocity, individuals should respect the self-respect of each other. In contrast, Confucian respect for human beings relies upon different understanding of person. Human self-respect accrues from cultivation and exercise of others-caring mind natured in our selves. Hence, the moral sprout of others-caring mind comprises the essential part of human self-respect. In other words, we can say that from the different premises on human beings is the same conclusion can be drawn. Yet, Confucianism and political liberalism show difference in the degree of respect for human beings in political practice. Nonetheless this difference is not expected to obstruct the two traditions to accept the respect for human beings as a ground for international justice. This respect for human beings, when applied to political practice, can be specified into a certain conception of human rights or a certain principle for Confucian humanity or benevolence.

As for the principles of justice for substantiating respect for human beings, Confucianism and political liberalism suggest different political solutions. However, in my opinion, Confucianism fundamentally would agree with political liberalism on the idea of establishing ‘the political,’ which governs the public, for the public cause. Rawls’s conception of justice in political liberalism distinctively
attempts to depart from moral domain to circumscribe ‘the domain of the political.’ Political liberalism avoids deriving justice from morality. It does not attempt to derive justice from religious, philosophical, and moral doctrines but to seek an overlapping consensus between them to produce principles of justice.

In contrast, Confucianism addresses an alternative that cultivation of morality inherent in human mind is the solution to resolve human conflicts. Confucians believe that a comprehensive moral doctrine on the basis of cultivation and exercise of humanity or benevolence places a role of political practice. The essence of Confucian political theory lies in the political practice of moral principles. This is in contradistinction with the idea of political liberalism. Political liberalism tries to separate politics from morality while Confucianism regards politics as a practice of morality. In Confucianism, morals and politics comprise a coherent comprehensive doctrine.

However, we need to pay attention to the Confucian emphasis on the public role of morally cultivated person in private as well as public realm. Confucian morality does not simply remain as individual moral criteria but demands the social and public role of elevated persons. Taking an ideal stand as expressed in the Book of Rites, the Confucian ideal world of the ‘great unity’ is described as one in which everyone respects and cares for all parents and children under the heaven with the same degree of love and benevolence. This Confucian ideal of Great Unity, there is no distinction between the moral and the political, or between the private and the public. In the Reflections on Things at Hand (Jin-si lu, Chin-ssu lu), Confucian humanity ren (jen) is regarded as the primary moral virtue governing human life. The practice of ren means to regard all the things under the heaven as oneself, to love others without any partiality,

and to exercise the innate good mind towards others. Confucian emphasis on the public is well manifested in Huang Zong-Xi(Huang Tsung-his)'s Ming-Yi-Dai-Fang Lu(Ming-I-Tai-Fang Lu, Waiting for the Dawn: A Plan for the Prince): “In the beginning human being lived for himself and looked after his own interests. There was such a thing as the common benefit, yet no one seems to have promoted it; and there was common harm, yet no one seems to have eliminated it. Then someone came forth who did not think of benefit in terms of his own benefit but sought to benefit all-under-Heaven, and who did not think of harm in terms of harm to himself, but sought to spare all-under-Heaven from harm.” Herein it is worthwhile to note the distinction between the private interests and the public ones. Confucian idea of the public is overlapping with the idea of public in political liberalism to the extent that it comprehends and applies to all concerned. Yet political liberalism understands the public welfare as production of construction through agreement whereas Confucianism regards the public good as comprehended by the morally cultivated person such as sage-king or junzi. In political liberalism, seeking the just principles governing the basic structure of society itself is regarded the public matter. The just principles are products of reasonable agreement through the use of public reason between those concerned.

When the idea of public is emphasized, Confucianism is not simply an ethical theory but a political one. Confucian political theory is a form of political perfectionism in the sense that it justifies the role of politics to guide people to lead a good life. According to Confucian conception of good life, human beings can become perfect not through the maximization of personal interests but through social practice of morals. This means that a good life consists in the practice of the public good. The commitment to the public good is

demanded more from the morally elevated persons than the common people. Confucianism and political liberalism share the idea of the public in spite of the different conceptions. Rawls’s conceptions of the reasonable and the public reason in political liberalism are compatible with Confucian idea of the public to the extent that both positions try to detach the public from the personal conceptions of the good. Admitting this thin-compatibility, however, there is a divergence. Confucianism demands the priority of the public in the private realm as well as in the political one. In political liberalism, the public is related to the realm of the political so that people can enjoy their individual freedom based upon their own conception of the good in the private realm. In sum, I conclude that there is a room for overlapping consensus, though not thick, between Confucianism and political liberalism on the bases of respect for human beings and the conception of the public.

III. The Basis of International Justice:
The Scope of Overlapping Consensus between Human Rights and Confucian Humanity Ren

In the Law of Peoples, Rawls emphasizes on human rights as the basis of international justice. It needs a close observation to see whether Confucianism have some elements of Rawls’s specification of human rights.

In the law of peoples, according to the 6th principle of justice of the principle of human rights: “peoples are to honor human rights.” This principle may be in conflict with the 4th principle of “peoples are to observe a duty of non-intervention.” Rawls’s conception of human rights for international justice is understood as universal rights: “Human rights in the Law of Peoples, by contrast, express a special class of urgent rights, such as freedom from slavery and servitude, liberty (but not equal liberty) of conscience, and security of ethnic groups from mass murder and genocide. The violation of this
class of rights is equally condemned by both reasonable liberal peoples and decent hierarchical peoples.” Rawls specifies human rights in detail as follows: “the right to life (to the means of subsistence and security); to liberty (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought); to property (personal property); and to formal equality as expressed by the rules of natural justice (that is, that similar cases be treated similarly).” This conception of human rights limits the traditional concept of sovereignty. Rawls contends that human rights not only restrict the justifying reasons for war and its conduct but also specify limits to a regime’s internal autonomy. Rawls understands human rights as universal rights, which both liberal and decent peoples should honor. Human rights have a political or moral effect whether or not supported locally. Furthermore, their political or moral force extends to all societies, binding all peoples and societies. According to Rawls’s conception of human rights, is understood as universal that are to play a role of limiting sovereignty.

Even if admit the universality of certain of human rights, it raises the problem when we adopt human rights for the basis of international justice. Human rights are not neutral but have a close relationship with culture as well as the level of political and economic development. Here, it is worthwhile to note that the specification of human rights tends to gradually expand its scope embracing even social and cultural rights. This tendency justifies a view that human rights are not fixed but constructed in a particular time and space. This implies that when adopting human rights as the basis for principles of justice it confronts with the problem of a uniform interpretation. If we take human rights as a constructive concept, then we face a choice between a minimal conception and a maximal one.

Rawls’s conception in the law of peoples takes a minimal interpretation. Rawls’s minimal conception of human rights omits important rights such as rights to freedom of expression and association and the rights of democratic political participation.\textsuperscript{17} Rawls’s minimal conception of human rights enhances the possibility of agreement as the foundation for international justice.

Nonetheless, it is another matter whether Rawls’ conception is accepted in general by non-liberal but decent conception of justice. Even if decent conception of justice basically agrees to human rights as a ground for international justice, it may differ in specification of the contents of human rights. Human rights in the law of peoples, Rawl judges whether a society is decent or not. Rawls describes: “decent people must honor the laws of peace; its system of law must be such as to respect human rights and to impose duties and obligations on all persons in its territory. Its system of law must follow a common good idea of justice that takes into account what it sees as the fundamental interests of everyone in society.”\textsuperscript{18} In view of these criteria of decency, Confucianism can be classified as a decent political theory. Confucianism is considered not only to respect the laws of peace and the basic human rights but also to follow a common good idea of justice, emphasizing on politics of humanity and righteousness, and the public role of morally elevated persons. But there is a theoretical question whether Confucianism can accept Rawls’s conception of human rights for international justice. It seems apparent that in view of its emphasis on the politics of humanity Confucianism can basically agree to the idea of protecting basic human rights suggested by political liberalism. Yet the interpretation differs in Confucian humanity of ren.

If we assume that a liberal society and a society considerably


\textsuperscript{18} Rawls, \textit{The Law of Peoples}, p. 67.
influenced by Confucian heritage have respectively its own political sovereignty, there would rise a problem over to what extent of human rights both societies could agree. If we understand Confucian humanity ren not simply as an individual moral virtue but as a guiding social or political principle applying to all concerned, the scope of its specification becomes an issue. When we accept ren as a just principle, we face two interpretations in its specification: one is the minimal interpretation and the other is the maximal one. Similarly in Rawls's approach, the minimal interpretation of ren as a public principle gets more attraction than the maximal one. If we employ the maximal interpretation for public principle, it is likely to impose heavy political responsibilities on the people. In Confucianism, the principle of ren means the moral self-rule of a cultivated person. The cultivation of ren rests on self-cultivation and reflection, and its practice starts from the self towards others. Confucius simply says: “What you do not want done to yourself, do not do to others.”\footnote{James Legge, \textit{The Chinese Classics: Confucian Analects, The Great Learning, The Doctrine of the Mean}, Vol. I, Hong Kong: Hon Kong University Press, 1960, p. 301.} In this regard, Confucianism focuses on autonomy of the person. If we take the maximal interpretation of ren for political principle, it incurs the autonomy of person as a moral actor. And it would demand more than Rawls's minimal conception of human rights for international justice.

Even if we adopt the minimal interpretation of ren as a public principle, we need to analyze how far Confucianism would accept Rawls's specification of human rights. First of all, there is no reason that Confucianism would reject the right to life (to the means of subsistence and security) and to liberty (to freedom from slavery, serfdom, and forced occupation). This is supported by Confucian emphasis on the politics for the people. But Confucian response to liberty of conscience to ensure freedom of religion and thought would be equivocal. In light of Confucian humanity and Confucian
emphasis on internal mind and reflection in getting moral principles, we may conjecture that Confucianism in theory would tolerate limitedly liberty of conscience to ensure freedom of religion and thought in so far as it remains a personal doctrine that does not challenge a guiding political principle. Further, Confucianism could also accept the rules of natural justice such as “similar cases are treated similarly.” According to Confucianism, morally elevated person should be given more weight in political decision or moral judgment. But this does not mean that one should be given special privileges or rights contrary to the principles of natural justice. For example, Mencius asserts that a king who violates Confucian humanity and righteousness should be treated as one of common people.20

As for the right to personal property, Confucianism holds some reservation. Even Confucianism basically respects personal property, but right to property should not be taken in absolute terms. In view of Confucian humanity, the right to personal property might be reserved with some qualification for the enhancement of the common good or an egalitarian consideration of the disadvantaged.

If we employ the maximal interpretation of ren for international justice, it seems to demand much more beyond Rawls’s conception of human rights. This is likely to seek a cosmopolitan conception of justice for global society. This maximal idealization can be found in the idea of Great Unity in the Book of Rites, which was later revitalized by Kang Yu-Wei.21 In this Confucian ideal world, individual society should be denied its sovereignty. The more maximal interpretation of human rights we demand for international justice, the more of our sovereignty we should be ready to concede.

IV. Confucian Response to Outlaw States

The non-ideal theory in the law of peoples concerns how to deal with non-well-ordered peoples. Herein Rawls suggests two kinds of theory. One refers to outlaw states and the other, to burdened societies. Outlaw states are regimes that refuse to comply with a reasonable law of peoples. These regimes have the tendency to take resort in war for the sake of rational interests. The fifth of Rawls’s law of peoples stipulates: “Peoples have the right of self-defense but no right to instigate war for reasons other than self-defense.”

Well-ordered people have a right to war “when they sincerely and reasonably believe that their safety and security are seriously endangered by the expansionist policies of outlaw states.” Rawls’s theory of noncompliance dealing with outlaw states leads us to illuminate how to deal with political societies that override benevolence and righteousness in Confucianism.

A right to war in the law of peoples is limited only to self-defense. No states have a right to war for its rational interests. Rawls thinks that any society that respects and honors human rights has a right to war in self-defense. Outlaw states that violate human rights may be subjected to forceful sanctions and even to intervention. Rawls suggests some measures for pressuring outlaw regimes to change their ways, including economic sanction and some intervention. Rawls’s noncompliance theory towards outlaw states remains unclear about its scope and limit of tolerance. Rawls’s justification for intervention may instigate a dispute over practical matters such as the kinds and scope of human rights violation, the level of intervention, and making judgment about the situation. How would Confucianism respond to outlaw states that do not respect basic human rights?

The essence of Confucian politics lies in the politics of ren where political leaders manage society in the light of people. Mecius says: “Chieh and Chau’s losing the throne arose from their losing the people, and to lose the people means to lose their hearts. There is a way to get the kingdom: - get their hearts, and the people are got. There is a way to get their hearts: - it is simply to collect for them what they like, and not to lay on them what they dislike.” In Confucianism, the legitimacy of politics fundamentally originates from people the governed. Hence politics that runs counter to the will and mind of people is doomed to lose its moral legitimacy. Furthermore, Mencius believes that the politics of ren extends to other political society with some qualification. The following passages justifies intervention in other political society in terms of ren:

1. “If the people of Yen will be pleased with your taking possession of it, then do so. - Among the ancient Kings there was one who acted on this principle, namely King Wu. If the people of Yen will not be pleased with your taking possession of it, then do not do so. - Among the ancient Kings there was one who acted on this principle, namely King Wan.”

2. “Now the ruler of Yen was tyrannizing over his people, and your Majesty went and punished him. The people supposed that you were going to deliver them out of the water and fire, and brought baskets of rice and vessels of congee, to meet your Majesty’s host. But you have slain their fathers and elder brothers, and put their sons and younger brothers in confinement. You have pulled down the ancestral temple of the State, and are removing to Chi its precious vessels. How can such a course of action be deemed proper? The rest of the kingdom is indeed jealously afraid of the strength of Chi; and now, which with a doubled territory you do not put in practice a benevolent government; - it is this which sets the arms of the kingdom in motion.”

3. “If your Majesty will make haste to issue an ordinance, restoring your captives, old and young, stopping the removal of the precious vessels, and saying that, after consulting with the people of Yen, you will appoint them a ruler, and withdraw from the country; - in this way you may still be able to stop the threatened attack.”

In the above passages, the intervention into other society that does not practice the politics of ren is justified with the qualification of the consent of the people concerned. The limit also is circumscribed by the Confucian humanity ren. It is worth noting here that Confucianism also assumes independence and autonomy of society. When we apply the Confucian justification for intervention, mentioned above, to international society, it gets closer to Rawls’s treatment of outlaw states. Confucian intervention aims to restore politics of ren and righteousness with qualification of guaranteeing the autonomy of people concerned. However, like Rawls’ theory of intervention, Confucianism also leaves ample room for specific interpretation.

V. Confucian Response to the Duty of Assistance

Rawls justifies a duty of assistance to burdened societies. According to Rawls, burdened societies are not expansive or aggressive, and lack the political and cultural traditions. Well-ordered peoples have a duty to assist burdened societies to bring them into the society of well organized people. This duty of assistance is distinguished from a principle of distributive justice to regulate economic and social inequalities. In other words, the duty of assistance has a cut-off point to the effect that it stops once its target or aim is fulfilled. In this respect it differs from a more egalitarian distributive

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principle such as the difference principle that has no cut-off point. Rawls justifies a duty of assistance to burdened society on the ground that the wealth of a person is crucially determined by its political culture. This justification is sure to invoke many objections from a variety of empirical evidence. But Confucian objection derives on different grounds.

In the specification of human rights, Rawls refers to the right to life in terms of ‘the means of subsistence and security.’ In considering Rawls’s conception of human rights as universal, it does not seem convincing that Rawls advances a duty of assistance instead of an egalitarian principle of distributive justice among peoples. I believe that Confucianism agrees to the right to the means of subsistence and security. Yet, in view of ren, it would demand a more egalitarian principle of global distributive justice for the improvement of human life. Even if we prefer a minimal interpretation of ren for international justice and Confucian recognition of political autonomy of individual society, the ren in Confucianism is basically a universal idea.

VI. Conclusion

Despite their different conceptions of politics, Confucianism and political liberalism basically agrees on the idea of providing the reasonable conditions for fair cooperation among peoples of different cultures by use of public reason and the idea of reasonability. Specifically, Confucianism would respond to the minimal conception of international justice suggested by Rawls in the law of peoples in a form of selective agreement or partial agreement. Also it may demand a stronger alternative concerning a certain principle.

First of all, Confucianism agrees to the principle of toleration and guarantee human rights. But on some specifications of human

rights suggested by Rawls, Confucianism holds some reservation. For example, as to the right to personal property, it seems apparent that Confucianism respects personal property ownership for subsistence. Yet Confucianism can be justified with qualification to put some limitation on exercising full property ownership for the common good of society as a whole. Second, Confucianism would also agree on some constraints on the sovereignty of a society where minimal human rights are not properly observed, on the condition of respecting the will or autonomy of people concerned. However, Confucianism is also ambiguous like Rawls on the circumscription and the degree of intervention in sovereignty. Third, Confucianism holds view of a global principle of distributive justice instead of the duty of assistance with a cut-off point to the society burdened by unfavorable conditions. In view of Confucian humanity ren as a universal moral virtue, Confucianism demands a more egalitarian distributive principle applying to all peoples. In Confucianism, the capable is assumed to exert a leading role for the common good for all. However, it is likely to accept the realistic consideration that this egalitarian principle should remain minimal in the constraints of realism such as sovereignty still working powerfully and difference between societies in culture, development, and power.

Confucianism is based on an intuitionism that there exist moral first principles and that we can arrive at them by exercising our human capability, mostly through reasoning and logic. In seeking moral first principles, it attaches importance to reflection by reason and mind. Thus, Confucianism can be characterized by reflective intuitionism. The Confucian emphasis on the reflective process in seeking morality seems to enlarge its flexibility to open the way for tolerating other conceptions of morality and justice. Confucianism considers that to implement morality it in politics. Hence Confucianism is a theory of justifying political perfectionism. This may be incompatible with the ideas of political liberalism that tries to detach the political from the moral.

Confucian cultivation of morality through reflection aims to
form the public mind. Confucian moral person is to exert a leading role for the public good in society as well as in political realm. The ideas of public reason and the reasonable in political liberalism have an inseparable relationship in seeking the public opinion on the principles of justice. Rawls’s liberal conception of justice aims to provide the political space in which individuals or people of different conceptions of the good can live together abiding by the same political principles. Confucian politics of ren pursues ultimately an ideal of all living under the heaven in great unity. The fundamental ideas in both of the political theories seem to converge on accepting the ideas of toleration and human rights and establishing minimal material conditions for human life. Yet the two theories show some differences over specification for implementation. This difference does not mean the impossibility of agreement but means some constraints for agreement.