Reconciling Confucianism with Human Rights in East Asia: A Critical Reconstruction of the Contemporary Discourse of Korean Scholars*

Keong-ran CHO
Institute for Korean Studies, Yonsei University

ABSTRACT

This paper conducts a self-reflexive review of the East-Asian human rights discourse that has taken place in Korean academic circles. This review focuses on the question of Confucianism's ability to provide cultural resources for forming new conceptions of human rights. The paper acknowledges the fact that the cultural foundation of East Asian societies is communalistic, and points to a need for new approaches and strategies to justify human rights in East Asia. Firstly, communalism should be redefined to engage with the neo-liberalism that enjoys dominance today. Secondly, it should be combined with sufficient reflection on modernity in East Asia. Thirdly, re-interpreting Confucianism within the context of twenty-first-century East Asia requires further investigation into the discourse of “Otherness.” This paper argues that human rights discourse in East Asia must proceed with a reflective understanding of Western modernity, mainstream Confucian culture, and the tumultuous history of East Asia and that it requires either East Asia's “negation of the negation” of its own culture, or a new understanding of it.

Keywords: human rights in East Asia, human rights in Confucianism, universal human rights, redefinition of communalism, modernity in East Asia, acquisition of Otherness

Background and Conditions of Human Rights Discourse in East Asia

The dynamism that East Asian societies have continuously demonstrated since the formation of a world system in the late nineteenth century explains, paradoxically, the degree to which the contradictions of world history are concentrated in this region. The fierce struggles of anti-imperialism and anti-feudalism (panje-panbongkön 反帝反封建), and rapid economic growth in the post-Cold War period illustrate that struggles intensify as contradictions deepen. The fact that Asian values discourse, a trend within East Asian academia in the early 1990s, was taken issue with in Europe and the United States (Bell and Hahm 2003, 2) might be seen as a Western reaction motivated by the urge to curb Asian dynamism. The flowering of East Asian discourse in the region after the collapse of the Cold War regime is not totally unrelated to the wave of post-modernism in East Asia, albeit with the awareness of a transition in the history of world civilization in the background.

Since the second half of the 1990s, there has been a trend to employ a characteristically East Asian model in explaining not just the economic growth but also the political democratization of the region. In any argument concerning
political democratization, the human rights issue is a key barometer that cannot go unmentioned. East Asia has not yet sufficiently reflected on the deepest problems of its self-identity, on its traditional culture, as it had to undergo rapid modernization through the colonial era and the Cold War period, be it a pro- or anti-capitalist modernization. Therefore, regardless of how it first started, we should welcome East Asian discourse, especially if we aspire to create a human rights discourse with the intention of reflecting on our own culture rather than simply restoring the past. This seems especially important during a time in which East Asia is establishing the foundation of democratization on the basis of economic growth.

Yet, discussing human rights in an East Asian context is no easy matter. Internationally, there are cases of national sovereignty being violated under a double standard of human rights, and domestically, the human rights of various groups and individuals are oppressed under the dogma of national sovereignty, as in China. Although multinational investments and government policies can provide positive steps towards alleviating extreme poverty, they may be seen as a source of human rights violations at the social, cultural and/or economic levels. Also, the remnants of human rights violations related to colonialism and Cold War ideology linger on in many forms, creating other human rights problems.

The recent economic and political success of East Asia gives rise to a need for a closer look at social and cultural rights. While this appears to be a natural process, it can be regarded as a challenge to universal human rights. The confrontation between universalist and culturalist understandings of human rights is seen as philosophically similar to that between individualism and communalism, and between uniculturalism and multiculturalism. If assertions of economic, social, and cultural rights do not serve to promote the collective rights of the underprivileged, but only serve the self-assertion of dictatorial hegemonies, and represent the ideology of a small number of the privileged, these rights lose their significance.¹

Instead of viewing challenges in East-Asian societies shallowly without contextualizing them, discourse on universal human rights should consider both the applicability and the specific historical context of human rights issues. Only then can such discourse realistically help solve problems of basic human rights and answer the criticism that Western-style human rights have acted as the vanguard of capitalism and become an instrument for expanding Western hegemony.

Human rights discourse must take due consideration of the political power relations manifest in social dynamics. If discussion disregards the moral and cultural foundation of a society, the possibility of achieving human rights will diminish. In this paper I bear in mind that the concepts of morality, propriety, and legality are not clearly distinguishable in East Asia. This idea is closely related with

---

¹ Bauer views human rights in East Asia as an issue raised by regimes promoting their own values and ideologies, with human rights activists protesting against them, rather than as a universal issue relevant to all. See Bauer and Bell, 1999; Bell and Hahm, 2003.
that of positing a new East Asian modernity which considers multiple modernities and cultures, rather than a single modernity.

With these thoughts in mind, this paper provides an overview of the Korean discourse on East Asian human rights in the period from the 1990s to the 2000s while examining its significance and limitations in the present day. It also attempts a critical review of the concepts on which those discussions are grounded and a critical reconstruction of the East Asian discourse on human rights. Specifically, this paper takes a critical view of the legitimacy and abstract nature of “universal human rights” premised on the idea of the absolute rights of individuals. At the same time, it takes a critical position towards the closed nature of cultural determinism and authoritarianism sometimes connected to the East Asian discourse on human rights, while accepting concerns regarding the position of relativism. I begin this paper by posing a challenging question: Is it possible that an insistence on the lasting significance of Confucianism, the basis of East Asian culture, may be viewed not as a mere rebellion against the West, or a conduit to criticize modernity, but as a means to create a new modernity and new understanding of human rights?

My initial impression from comparing and analyzing various positions and views on human rights discourse in Korea from the 1990s to the 2000s is that human rights discourse as a branch of an “East Asian discourse” has just begun. I expect that the discourse on human rights in East Asia will initiate more fierce debates. I believe that if the conceptualization of human rights in East Asia is built on a foundation of Confucian thought, it is worthwhile to reconsider the problem of an East Asian discourse and verify the grounds for its validity. To this end, it is necessary to emphasize such elements as the intellectualism and enlightenment that underlie the optimistic world view of the Confucian elite. If the East Asian discourse focuses on the expansion of universality in the Confucian sense, Confucian thought will have more appeal, as it will be strategically linked to the manner in which the East Asian discourse about human rights takes issue with the rationale and legitimacy of Western concepts of universal human rights. The East Asian discourse on human rights should take care, however, not to be trapped by attachments to political power structures. This demands special vigilance, considering that postmodern projects without rigorous reflection on modernity can be tainted by premodern thinking, a danger to which Confucianism is particularly prone.

Significance and Limitations of Confucian Human Rights Discourse
Revisiting the Confucian Human Rights Discourse

As mentioned in the introduction, there has been a prevailing trend in East Asia of explaining the success of modernization from the 1990s as a result of
Confucian capitalism (Bauer and Bell 1999; Bell and Hahm 2003). Recent changes in political and economic conditions within East Asia have facilitated new human rights discourses which are centered on the cultural identity of the region. This is encouraging, as it implies that East Asia has developed in its own self-consciousness.

As noted in the introduction, raising the issue of Confucianism has considerable significance in the twenty-first century. Internally, Korea is at a crossroads, having to overcome various crises arising in the wake of successfully achieving democratization and industrialization, and lay down a foundation for realizing national reunification. To accomplish this, we must obtain a new conception of Koreans’ common identity and orientation, a task which requires understanding traditional thought and discourses, Confucianism (Ham Chae-bong 2000, 18). We are compelled to reflect on a history of non-autonomous (other-directed) modernity characterized by self-denial for the past 100 to 150 years. It is worth considering whether the time has not come to raise Confucianism from the unconscious to the conscious level and build a discourse around it.

In Korea, more and more scholars sympathize with the argument put forth here, and are paying attention to Confucianism. In this section, I will introduce three representative scholars who squarely faced the problems of Western modernity early on in the 1990s and tried to find an alternative in Confucianism. The first is the political scientist Hahm Chai-bong (Ham Chae-bong) who gives salience to the differences in epistemology between East and West in tracing the origin of human rights in the two hemispheres. He argues that while the West posits an absolute individual and strives for objective knowledge, Confucianism hinges on inter-human relations (the meaning of which is contained in the Chinese characters for “human being” (ingan 人間) and idealizes morality). In Confucian thought, which places the “human” above the “individual,” there is no place for such concepts as absolute individual rights having precedence over human relations, or a private sphere which should never be violated even at the expense of the interest of society at large. Humans are thoroughly inter-subjective beings and can only exist in relations with others. “The Three Bonds and the Five Relationships” are the quintessential expression of the Confucian ontology of intersubjectivity (Ham 1998, 260).

The core idea of human rights in the West is the assumption that the public good cannot be defined objectively. Its conception of human rights begins with a fundamental distrust of government. Division of the three powers (the executive, the legislative, and the judiciary), regime change through elections, a minimal state, and a full sanction of human rights are the institutions and values that have resulted from deep-seated suspicion of the state (Ham 1996, 113). Conversely, Confucian political theory is contingent upon the premise that the state basically

---

3 Because Confucianism has taken different paths and been subjected to varying interpretations according to the social contexts of Korea, China and Japan, it defies any uniform discussion. Therefore, the discourse on human rights in East Asia should take consideration of divergences. Let me note once again that the discussion in this paper is limited to the Korean context.
Reconciling Confucianism with Human Rights in East Asia: 
A Critical Reconstruction of the Contemporary Discourse of Korean Scholars

can and should be good. The worldview of Neo-Confucianism (sŏngnihak 性理學) assumes that humans are capable of understanding objective and moral values through the exercise of reason (i 理) and putting them into practice in real life. In other words, Neo-Confucianism assumes that a group of intellectuals and leaders are able to acquire objective and moral knowledge and put it into practice. “A Confucian regime cannot logically allow any human rights violations, since it places politics, security, and economy within the same domain as morality and ethics. Thus, human rights in East Asia can be protected without the ontology of the ‘absolute individual’ that Western philosophers have postulated” (Ham 1996, 117). “In East Asia, the role of the state is to ensure the security and wellbeing of people or citizens based on the notions of humanism and democracy and to practice the rule of virtue by demonstrating a moral and ethical model. The existence of ‘the opposition’ is accepted and encouraged to perform the role of monitoring and criticizing the misconduct and corruption of the government” (Ham 2000, 107-08).

Hahm Chai-bong’s central message in the above arguments is that the difference between East and West lies in their divergent views of the relationship between different individuals and between individuals and the state. He argues that it is problematic to apply Western human rights standards, which assume an absolute individual, to the Eastern communal society that is premised on the ideals of goodness and morality. Here, it is generally accepted that the government and leaders of society steer the state towards goodness. According to this argument, the spheres of politics and the economy under the control of good leadership fall within that of ethics, which leads to the conclusion that a “violation of human rights” cannot exist in such a society. Of course, this argument is not wrong in theory. From a purely Confucian standpoint, it may be said that the political problems existing in Korea arise from the failure to realize the Confucian ideal.

The concept of human rights originated as a measure to check the state which, in the relationship between the state and the individual, can violate individual rights as well as help realize them. In the West, therefore, human rights belong to the realm of law and institutions, not morality. Thus, in his comparison of East and West, Hahm Chai-bong places the highest morality in theory with the lowest morality in reality at the same level. While it is important to explain Confucian ontology and epistemology, it is also necessary to conduct a thorough review of Confucianism’s social and historical functions, as a comprehensive assessment of Confucian principles can only be accomplished when based on a clear understanding of their historical functions. If we classify Hahm’s stance in terms of a cultural relativistic critique of universalism, it stands as a hybrid of meta-ethical relativism and normative relativism (Bauer and Bell 1999; Cho Hyo-je 2007, 206).

Hahm’s ideas seem to derive from the conception that the type of society we should strive for is not just one in which fundamental rights are guaranteed, but a moral community, that is, one that seeks ultimate—not instrumental—values. Therefore, we need to engage in an active understanding and reinterpretation of Confucian thought in building a society worth striving for (Ham 2000, 144;
Yi Sŏng-hwan 2001, 110). In the case of East Asia, we should recognize the fact that a community where propriety (ye 禮) equals benevolence (in 仁) need not be uniformly regarded as premodern and therefore, subjected to unconditional rejection (Mizoguchi 2001, 309). As Hahm notes, having succeeded in catching up with the West and setting out to lay the groundwork for further development in the twenty-first century, in order to rectify its distorted self-identity, East Asia needs to take on Confucianism as a discursive agenda, one that it should not seek to evade. Confucianism should no longer be subject to unconditional affirmation or negation for the mere reason of political differences; it should be looked upon as an essential domain of serious reflection, analysis, and criticism. However, one should not overlook the fact that attempts to overcome the problems of Western modernity through Confucianism should be equipped with complementary expedients to protect against the risk of turning a blind eye to the current realities of East Asia in the development of the discourse.

Searching for the Confucian Notion of Rights and Expanding Confucian Boundaries

Philosopher Yi Sŏng-hwan’s discussion of human rights begins with a critical examination of “Asian values.” He proactively elicits and justifies components of human rights embedded in Confucianism in an attempt to discover the idea of rights in Confucianism. Some of his major claims are outlined as follows: firstly, that although the absence of the word “rights” (kwŏlli 權利) in East-Asian languages before contact with the West might be taken to imply the absence of a notion of rights, the idea of “rights” could be expressed in other forms. Secondly, that Confucian ethics is based on the role of the individual in society and in human relations, and that hence there is no need to include the concept of rights. Yi views all roles in society as requiring a certain capacity of rights for the effective fulfillment of those roles. He notes that individuals in traditional society were given rights of different scopes in accordance with the principle of the division of social responsibilities, which at times was unequal. Thirdly since Confucian ethics is based more on communal ethics for the realization of a common good within a community than on individual freedom and autonomy, it might be thought that it is incompatible with the concept of “rights.” Against such objections he argues that the first step towards a harmonious community is respect for rights and observance of justice. Virtues such as “benevolence” (in 仁) and “righteousness” (uii 義) signify respect for rights as the bare minimum of morality as well as its full fruition (Yi Sŏng-hwan 1998).

With his three propositions Yi Sŏng-hwan expands the Confucian understanding of human rights. This expansion is positive, as it reinterprets Confucian thought in a way that is compatible with human rights discourse from a contemporary viewpoint and facilitates the potential for further development of the relationship between Confucian thought and human rights. His first claim is commonly made in non-Western cultures. Depending on what we mean by “rights,” such a claim is valid because each society has its own understanding of what constitutes basic human rights even if those are not spelled out in their laws. On this point, Jack Donnelly critically notes that not only Confucianism, but all
such arguments in almost every non-Western country assert the existence of an ordinary concept of human rights, and that China developed such a human rights ideology early in its history. He goes on to argue that “misunderstandings result from a confusion of human rights with human dignity or welfare or goods and services” (Donnelly 2001, 129-30). For Donnelly, human rights are the equal and inalienable rights of all human beings simply because they are human beings, and human rights are a specific set of social and political organizing principles. This implies that the regulation of human rights is not based in morality but in politics. He may have a valid point but what should not be forgotten is that historically in East Asia law and institutions have never been separated from morality and ethics. Although the human rights issue is, in principle, separate from morality and ethics, in reality, it can never be resolved solely through law and institutions. Terms such as “moralization of institutions” and “institutionalization of morality” are helpful in understanding East Asian society, as they remind us of the close connection between morality and law.

Concerning Yi’s third claim about the significance of the virtues of benevolence and righteousness one might argue that in actual practice they tend to be insufficiently represented, even if they signify respect for rights as the minimum level of morality. This is because morality that is not supported by laws and institutions would be severely limited in practice. Among Yi’s three propositions, the second needs the most serious debate, and here the key issue is how to view his concept of certain rights being attached to certain roles (“rights to roles”) which is based on the Confucian notion of the “rectification of names” (chōngmyǒng 正名). We know that Confucius believed that people should carry out their roles and responsibilities in accordance with their positions, and that this was closely related with the maintenance of the status quo in a class system. As Yi admits, it is clear that rights based on the rectification of names are “unequal.” Although there is a positive aspect to the notion of “rights to roles” a problem still remains in that it allows or even reinforces such inequality. In this regard, the concept of “rights to roles” leads to ordinary people being excluded from power and eliminates the pursuit of egalitarianism.

For those seeking to formulate a new human rights paradigm as an alternative to Western universalist human rights, relativism constitutes another complex issue in the human rights discourse in East Asia. As a complement to what is missing in the Western universalist discourse, a counter-discourse should be bound to an expansion of the universal. If it were to seek another center or form of dominance through resistance, it would slip into closed relativism. If we were to follow this argument, then the notion of “rights to roles,” as defended by Yi Sŏng-hwan, could be misunderstood as inherently imposing discrimination. As long as this is the case, its social and political implications would be severely limited in the East Asian context where there is a great deal still to be achieved in the area of universal human rights. Establishing a relative viewpoint is different from falling into relativism. If strong universalism attempts incessant expansion with itself at the center, strong relativism (or particularism) aspires to another kind of dominance and centrism, which allows these latter two to coexist.
The Potential of Confucianism and a Multifaceted Hermeneutics

Sociologist Han Sang-jin welcomes the challenge to Eurocentrism in human rights thought, because it facilitates a new quest for, rather than a rejection of, a human rights discourse. He believes that this enables dialogue, instead of clashes, between civilizations. He also assumes that while East Asia respects civil and political rights introduced by the West, the basic framework of human rights in East Asia will inevitably differ from that of the West. He then argues for the importance of human rights at the communal level (Han Sang-jin 2001).

Han asserts that it is time to discuss human rights with a balanced perspective by imparting importance to both individual dignity and communal wellbeing within the self-awareness of Eastern culture. In particular, he believes it is important that the East attain self-awareness of its own cultural tradition of looking at human rights from a different perspective from that of the West. He points out that the Western conception of human rights should not be esteemed so much that it leads to a distorted view of the East. He asserts that this self-awareness is growing among East Asian intellectuals (Han 2006, 96). This is closely connected with an aggressive and proactive attitude towards Western notions of human rights. For example, individual rights have improved noticeably in East Asian societies, but people do not feel an improvement in their lives. He asserts that what we really need is a fundamental insight into human life. It is of crucial importance to discover a basis for thought on which all humans can easily agree, namely the individuality and sociality of human life. However, the room for community is shrinking in the midst of trends toward individualization. This situation can make it difficult to integrate individual rights and communal rights in a systematic process (Han 2006, 103). Han stresses that the quality of human rights can improve when individual and communal rights are combined and institutionalized.

Han calls for acceptance of Charles Taylor's position advocating respect for rights at the communal level (Han 2001). However, it is not clear whether the “communal level” Han speaks of concerns the entire community or only a partial one. The reason why Taylor highlights communalism is to guard against the high tide of neo-liberalism. Had he accentuated communalism with the East Asian context in mind, he might have emphasized self-determination of particular sectors and collectivities, which would have underscored the communal dimension based on difference. It would have been preferable if he made clear the subjects, units, and purposes in his assertion for communalism (Han 2006).4

Han also demands the adoption of a hermeneutic attitude in order to find a fuller potential in Confucian thought. His intention is to reconstruct the forgotten or marginalized facets of Confucian thought and use it to shed light on today's problems. To this end, he suggests a “subversive genealogy.” He believes that this method allows us to question the usage of Confucianism which so far has been

---

4 Maybe being aware of my argument on this, Han Sang-jin took the discussion a step further by using the term ‘democratic community’ in another, more recent paper of his.
taken for granted and to reconstruct other aspects which the Confucian tradition inherently possesses. Tracing this “subversive genealogy,” we can criticize Asian values, which have become instrumentalized, and at the same time, pursue practical and comprehensive rationality in Confucian thought. One example given by Han is Yulgok Yi I’s (栗谷 李珥) thought on “public discussion” (kongnon 公 論) which assumes a certain level of a culture of debate and is connected with the culture of the literati, the sŏnbi (士) culture (Han 1998).

Calling attention to concepts like “public discussion” can be regarded as a very meaningful proposition considering the political situation today in East Asia, where procedural participatory democracy is becoming more and more important. If we are to construct a new concept of human rights in East Asia on the basis of existing East Asian cultural traditions, it is necessary to actively search for the modern rebirth of traditional culture. However, Han’s depiction of sŏnbi culture is too idealistic for this process and implies that the reconstructed modern Confucian thought is too optimistic. His overemphasis on sŏnbi culture makes us wonder whether he cares about genuine universality, in a way that is similar to the concerns raised by Yi Sŭng-hwan’s notion of “rights to roles.”

Universal Human Rights and Its Critics

Criticism of Confucian Human Rights and Support of “Universal” Human Rights

The three aforementioned scholars try to recontextualize Confucian thought in the contemporary period. Conversely, Chang Ûn-ju is critical of all of them from the stance of universal human rights. In order to assert universal human rights, he calls for a detachment of modern Western thought on such rights from the context of its own genesis. Chang’s view is that the ideology of human rights should move toward establishing itself on a “post-metaphysical” or culture-neutral basis, and avoid limiting it to a Western context. The universalism of human rights assumes that human rights have a universal aim, or a normative aim, stipulating that human rights must be attainable for all people unconditionally (Chang 2000). This “procedural” universalism is therefore a universality of “purpose” and of “purview” which includes all who have been excluded. Human rights can have a normative justification, provided there is this universality of “purpose” and of “purview” (Chang 2000). According to Mun Sŏng-wŏn, it is not that “universal human rights” have always existed in all societies and cultures in history, but that they emerged on the world stage with the ascension of modern civil society in the West. Therefore, the problem of universalism of human rights is related to that of the justification of liberalism and possesses features similar to the expansionist logic of the liberal political order in the West (Mun 2000, 67). Related to this Wallerstein says “there are two main ways of explaining the origins of universalism as an ideology of our present historical system. One is to see universalism as the culmination of an older intellectual tradition. The other is to see it as an ideology particularly appropriate to a capitalist world-economy” (Wallerstein 1991, 30). It was in the specific socioeconomic framework of the modern world that universalism has been pursued as a political doctrine in modernity (Wallerstein 1991, 31). According to these arguments, even if human rights, as Chang Ûn-ju saw them, possess a
“universality of purpose” and a “universality of purview,” they lost their original universality after liberalism was established as a hegemonic force. Therefore, not only in Eastern, but also in Western society, there should be an ongoing effort to justify the universal dimension of human rights in order to maintain them and continue to maintain a degree of normative significance.

Chang Un-ju views Western modernity and individualism as one solid truth, which is particularly evident in his criticism of Yi Sung-hwan. To Yi’s argument for complementarily pursuing the liberalist culture of demanding rights and the Confucian culture of virtue and community (Yi 1998), Chang responds that such a view confines modernity to its Western context of origin under the formula that modernization is equal to westernization, and regards modernization as being equal to economic development and material affluence. Chang also points out that Yi understands human rights—one of the modern forms in which individual freedoms are guaranteed—as a mere institutional mechanism to realize materialistic modernity. This is why Yi sees the intersubjective communal values and virtues touted by Confucian thought as having the potential to overcome Western modernity (Chang 2000, 175). Of course, Yi’s idea of overcoming Western modernity is based on a too-optimistic and subjective interpretation of Confucian thought, opening it to criticism. Nevertheless, Chang’s interpretation of Western modernity is similarly optimistic and subjective, and even anti-introspective.

Chang Un-ju repeatedly argues that in “our culture” we have never thought about human dignity in the form of human rights and so we are bound to be passive in realizing “universal human rights” in the present. An example he cites to support his claim is the inhumane treatment of illegal foreign workers. From Chang’s standpoint, it is inferred that there is no need for us to try to justify “universal” human rights in East Asia, and that all we need to do is to accept Western human rights for the mere reason of their “universalism” and to put them into practice.

Thus, it is difficult to trace in Chang’s argument any new vision for East Asia with regard to the conceptualization of human rights. However, as Mun Song-won notes, in viewing East Asian realities, the concept of universal human rights based on individualism possesses weaknesses in explaining specific aspects of what is, but is helpful in arguing for what ought to be (Mun 2000, 107). According to this point of view, the concept of universal human rights at minimum can bring some positive effects in the East Asian context. But it needs to be recalled that in many case oughness is powerless in front of reality.

**Critical Rethinking of Universal Human Rights and the Possibility of Communitarian Human Rights**

Regarding what Chang Un-ju believes to be the Western idea of the “universality of human rights,” Mun Song-won maintains that we should inquire into the true meaning of the term “universality” implied in the concept. Mun argues that “universal human rights” should not be accepted as something fixed but as historical, and should be understood as what arises as universal in the continuous movement toward becoming universal. Giving attention to the fact that human
rights did not exist universally in all societies and cultures but appeared with the advent of modern civil society in the West, he sees the call for universal human rights and the expansion of Western political order as inseparable. The concept of “universal” human rights has been a topic constantly revisited in the Western discourse on modernity. In this context, an important issue in the early modern period was how to establish human rights as a fact. Over time, efforts to this end have reaped some success, lending the concept of universal human rights the character of a reality, and now it is taken as a normative fact. Therefore, acts supporting human rights from the Western position today look different from the same acts during the early modern period. They appear to defend or expand the already existing factuality of human rights and therefore appear conservative. This sort of conservatism takes on the character of a defense against criticism of the justification and universality of human rights and against offenses to the political order concerned with human rights (Mun 2000, 59-67). In this regard, Mun criticizes Habermas and some other Western philosophers who try to support human rights by connecting them to their existing factuality. To Mun, the universalization of human rights is connected with the intention to justify liberalism.

On the other hand, Mun also acknowledges that there has been continuous resistance against the universalization of liberalism among philosophers in the West. This resistance has rejected the uniformity imposed by the dominant order and supported diversity and difference (Mun 2000, 77). At the same time, however, citing Mouffe, Mun asserts that there are limits to pluralism, conflicting forces within a society might be unable to forge political alliances, for instance. In this regard, he argues that while the act of throwing into question the basis of liberal democracy should be treated as illegal, its illegality or justifiability is defined within the relations of political forces, not by morals. Therefore, what is most needed for plural democracy is an understanding of forms of exclusion and dominance, rather than an attempt to protect dominant political relations under the guise of neutrality (Mun 2000, 81-82). Mun represents Mouffe’s thought as resisting the domination of hegemonic forces and the concomitant justification of their governing norms as universal rules. This mode of resistance has the advantage of not seeking an alternative form of domination through resistance.

Opposing prevailing universalism, radical relativism can give rise to an extremely closed state in which all universalities are forsaken. An important characteristic universality has with regard to social ideology is openness as opposed to closedness. While openness can be used as a weapon of dominance to force other societies to provide access, it can also be a weapon with which to fight off the closedness that accompanies dominance. In order to link universalism with genuine openness, Mun adopts the concept of the “exclusion of exclusion.” Universalism, which may be interpreted as “exclusion of exclusion,” is directly related to equality. Transcending the narrow limits of modern market capitalism, universalism opens up a way to criticizing the closedness of relativism, and allows the construction of practical discourses to critique collective egoism. Therefore, universalism as “exclusion of exclusion” can offer normative directions through
which it may be differentiated from human rights as factual universality.

Based on this argument, Mun analyzes the debate between communalism and liberalism. In his view, the significance of communalist tenets as advocated by Taylor lies less in the critique of atomic individualism and more in taking issue with the blind acceptance of liberalism, as well as neo-liberalism, which is becoming a universal trend in the name of globalization (Mun 2000, 121). This manner of understanding communalism contains important implications for South Korea, where the neo-liberalist tide is high compared with other countries.

According to Mun, communitarians generally believe that an important aspect of reality is communality or collectivity, which is generally ignored by liberalism. Because the rights of an individual are determined by those of the group to which he/she belongs, he stresses that when addressing human rights issues for a different social or cultural group, one should make clear the specific context of that group (Mun 2002). In the case of ethnic minorities in China, it is practically very difficult to think about the rights of individuals belonging to minorities in separation from the human rights conditions of the collectivities living in minority communities, even though such communities are actually disappearing as the Chinese government has relocated ethnic Han people to those areas in large numbers. Unveiling the abstract and fictitious aspect of “individual rights,” Moon's argument seems to make a valid point.

Nevertheless, this issue is complicated in the context of human rights discussions in East Asia. While Mun's argument may be appropriate when applied to problems arising between different cultures within a single country, or between countries with different human rights environments, it is a different story when looking into each society in East Asia. In particular, there has been a general tendency to equate the self-identity of the individual with that of the dominant or major group. Yet, it is quite common for individuals to have plural identities, to belong to many different groups at the same time, a tendency that has become more pronounced as society diversified and mobility increased. In such cases, individuals conceive their belongingness in relative terms, coming to have “no strong sense of affiliation to any group” (Loran 2001, 152-55). Perhaps we need to admit the possibility that individualism is no more an ideology than a common mode of life, which we all share. In other words, there is little left of individual rights that could be reverted to collective rights. If this is the case, we must give earnest thought to how individual rights may be connected with communal rights without isolating the two from each other.

Critical Reconstruction of Human Rights Discourse in East Asia

This paper has outlined the implications and limits of a portion of current human rights discourse in South Korea. Instead of a conclusion, based on my discussion on human rights in the main sections of this paper I would like to revisit some problems and attitudes that have been taken for granted and propose some directions for a contemporary reconstruction of human rights thought in East Asia. This may serve as a guide to consider the conditions and attitudes associated with the discourse on human rights, and also as preparation for undertaking a
fuller discussion of the possible significance of Confucianism in the domains of modernity and human rights. At the same time this provides an opportunity to criticize, accommodate, and complement some of the arguments made by the scholars introduced in the previous sections.

Firstly, human rights discourse in East Asia needs to be accompanied by reflection on East Asian modernity as a complex process that involves self-recognition, self-healing, and self-criticism. This is because modernization in East Asia began under duress within the asymmetric hegemonic structure of East and West. Proceeding from unequal power relations, modernization was, in terms of values, a process of making East Asians unconsciously internalize Orientalism. With little reluctance, they identified themselves with the degraded image of East Asia projected on them by Westerners. This self-imposed Orientalism or cultural inferiority has played out, in a sense, as a drive for modernization during the last hundred years of modern history, in efforts to become identical to the West. Yet, this modernization based on self-perceived cultural inferiority has had only instrumental value.

Modern Koreans are more or less Confucian in their way of thinking, speech, and behavior, but they advocate modernity in political ideology. Although they are on a Confucian footing at the unconscious level, they embrace modern Western thought and political ideals on the conscious level (Ham 2000, 179). More generally, East Asians live in an unbalanced state of having emotional attachment to Confucian thought and an ideological inclination to Western thought. Although they are Confucian on the unconscious level, it is undeniable that Confucianism dominated the mainstream culture in the premodern period and even today its vestiges linger on with such strength that one can hardly overestimate them.\(^5\) In this regard, the effort to activate a discourse possessing a new understanding of Confucianism is inextricably related with the issue of rectifying a distorted identity. It is now a matter of raising the unconscious to the conscious level and discussing it in minute detail. The first thing to do then is to liberate Confucianism from the spell of Orientalism and separate it from the feudal ideology that it is believed to represent. It is time to acquire a new understanding of Confucian thought and draw attention to its dual possibility and multiple values.

This re-evaluation of Confucianism should be carried out while eradicating the misunderstanding that the effort to activate a discourse possessing a new understanding of Confucianism is an attempt to appeal to an ahistorical symbol in an unmediated manner. One way to approach this problem is to measure to

---

\(^5\) Undeniably, Confucianism is an important emotional foundation and condition in the lives of East Asians. Because of this, it seems valid as a means to explain a large part of East Asian society. Clearly, some differences exist between East and West not only in ecological environment, economy, and social structure, but also in their cosmic views, epistemology, and way of thinking (Yu 2007). We should pay more attention to those differences in studying East Asia. While being attentive to the differences, however, we should note that East Asia operates on the basis of the same institutional mechanisms of modern society as the West. The modern mechanism refers to the pan-capitalist trend, and even the state is not inherently free from it. Capitalism and national politics represent the nodes of all East Asia's societal arenas, so we cannot afford to ignore either of them. What we need to do is to engage in discussion knowing exactly how the two are separate and connected at the same time.
what extent Confucianism is capable of responding to the problems faced in East Asia, namely, whether Confucianism can diagnose the root causes of and offer solutions to the complicated social problems sweeping East Asian societies, such as economic inequality and materialism. Even after passing this test, there would be one last question to ask. Can the Confucian idea of human rights represent the value orientation of twenty-first-century East Asia? This depends on whether Confucianism is capable of forging a new identity for East Asia and its people, while resolving the problems of its distorted past history and engaging in continuous dialogue with the present. It also depends on how the responsible actors who engage in Confucian discourse reinterpret Confucianism (Cho Keong-ran 2008).

Secondly, it is necessary to redefine communalism based on East Asian principles to counter the onrush of neo-liberalism that is becoming ever stronger today. This is directly concerned with the human rights of individuals who are experiencing deprivation in economic and social relations, and also with the key agenda of economic democratization, that is, the distribution of social and economic rights. At least two conditions should be met to justify proposing a new form of communalism in the current climate of East Asia. One is to eschew the impractical atomic individualism inherent in liberalism, and the other is to overcome the problems ingrained in the old form of East Asian communalism. In fact, communality is very strong in East Asian culture. As many people acknowledge, in East Asia the relationship between individual and society is not viewed as conflicting but as symbiotic (Han 2004, 35). However, if we argue for communalism just because of the communal character of the existing culture, we cannot respond effectively to the changing reality of East Asia, which is rapidly becoming multicultural, meaning that instinctive assertion of conventional communalism will not be very persuasive. The new brand of communalism must be formulated afresh through the internal critique of the communalism that was grounded in the particular pre-existing culture. If we accept that multiculturalism is a theory that proposes respect for cultural diversity as an ethical and political principle in order to resolve a reality laden with conflicts and tensions from multiculturalization due to the progression of globalization (Chin ÜN-yéong 2008, 257), we may be able to find ways to justify it.

Furthermore, today in East Asia, individuals, families, and societies are facing threats from the market and the state, just like in Western societies, “and therefore need the same protections of human rights” (Donnelly 1999, 69). Disregard of human rights by the state and the market is prevalent globally, particularly in East Asian societies, where the lower-classes suffers from grossly insufficient institutional protection in comparison with their Western counterparts, and are in greater need of a collective and communal response. East Asians do not solely pursue personal interest in exercising their right of self-determination and

---

6 Amartya Sen views poverty as deprivation, and the severest form of deprivation is that of human relations. This is similar to Mencius’ idea of “A full stomach makes a big heart” (hehchanhehxin 恒産恒心). When one is deprived of food, one may suffer mentally, and find it very difficult to maintain proper relations with others.
they take due consideration of the community they belong to. This demonstrates that the combination of advancing individual freedom and increasing communal welfare—rather than a lopsided expansion of individual freedom in a crumbling community—can offer a more favorable condition for human rights to prosper.\footnote{Studying human rights discourse in China for his inquiry into democracy and communal welfare, Han Sang-jin notes the discussions engendered by Zhao Tingyang (趙汀陽) and Xia Yong (夏勇) who emphasize the Chinese cultural heritage of peace in the world (ping tianxia 平天下) and the notion of the “three pillars” (sanben 三本). See Han 2006, 117-18.}

Of course, one has to agree with Chantal Mouffe, who argues, “while being attentive to its critique of liberal individualism, I am wary of many aspects of the communitarian approach. Its rejection of pluralism and defence of a substantive idea of the ‘common good’ represents, in my view, another way of evading the ineluctability of antagonism” (Mouffe 1993, 7). While being vigilant on this point, many political philosophers believe there is an urgent need to reestablish the relationship between politics and ethics, recognizing the current circumstances in which politics is lost and everything is reduced to the economic. At this juncture, it is necessary to rebuild the East Asian communitarian ideology abandoned in the wake of liberalism. Yet, the communal approach that I have in mind sufficiently reflects a pluralistic and democratic process to prevent the possibility of becoming totalitarian.

Thirdly, a critical condition for the re-contextualization of Confucianism in twenty-first-century East Asia is that it attains a positively charged otherness through self-renovation. In order to develop practical discussions on the issue of community, one should also explore the particular status and conditions of a specific group or community, and discuss how to resolve or deal with the differences. The carrying forward of human rights discourse in East Asia is associated with mutual recognition of the heterogeneous cultures of East and West, and therefore demands a thorough review. As for the differences, Charles Taylor’s idea of “recognition” is worth noting. What he means by recognition is to go beyond the boundary of “universality,” which starts with the self, and to accept “difference” proactively. According to Taylor, agreement or recognition should be established primarily on the assumption of difference. Difference arises from one’s own way of living one’s life, which is unique. This concept of uniqueness can be applied not only to individuals but also to the unique culture and tradition each nation possesses. Individuals and different cultures and traditions have been assimilated into the dominant or the majority’s identity and this process of assimilation is problematic in the sense that it prevents them from being faithful to their pure self-identity. What is most important is that a principle of universal equality should exist based on the need for recognition of difference. Recognition on the basis of equality leads to respect for difference. Here, what should be respected covers all universal potentials. The potential with which a culture can form and confirm its identity is based on the identity of difference. In this regard, liberalism, which is blind to difference, is a reflection of a particular culture, so it may be, in fact, a particularism in universalist disguise (Taylor 2001).
Emmanuel Levinas stresses that one's life has a unique world of its own, and that this world is formed through relations with others, especially, through solidarity with and responsibility for the suffering of others (Levinas 2009, 7). Levinas’ insight into the ethics of the other has something in common with Confucian ethics. For instance, Levinas locates the humaneness of human beings in their ethics. Confucius and Mencius regarded human ethics as part of human nature. Both sides reveal a similarity in regarding humans as ethical agents rather than as selfish individuals fixated on self-originated self-preservation (Kim Yŏn-suk 2000, 547-48). So we need to strive to discover human ethics, engage in public discourse on it, and reinterpret it in a postmodern way. Yet it should not be a reinterpretation of an unmediated East Asian tradition, but one which embeds the historical experiences of Other-ization in East Asia.

In conclusion, human rights discourse in East Asia must proceed with a reflective understanding of Western modernity, the mainstream Confucian culture, and the tumultuous history of East Asia so that it can recognize the practical significance of internal criticism of East Asian culture and society as well as the criticism of the notion of rights for atomic individuals in Western liberalism. In other words, human rights discourse in Asia requires East Asia's “negation of the negation” of its own culture.

GLOSSARY

| chŏngmyŏng | sa | 正名 | 士 |
| hengchanhengxin | sanben | 恒産恒心 | 三本 |
| in | sŏngnihak | 仁 | 性理學 |
| ingan | Xia Yong | 人間 | 夏勇 |
| kongnon | ye | 公論 | 禮 |
| kwŏlli | Yulgok Yi I | 權利 | 栗谷 李珥 |
| panjebanbonggon | Zhao Tingyang | 反帝反封建 | 趙汀陽 |
| pintianxia | üi | 平天下 | 義 |

REFERENCES

Reconciling Confucianism with Human Rights in East Asia: A Critical Reconstruction of the Contemporary Discourse of Korean Scholars


Munye Ch’ulp’ansa 문예출판사.