Faithful / Fateful Encounters
Religion and Cultural Exchanges between Asia and the West
Proceedings from An International Conference
Human Rights or Human Rites?
Insights from a Cross-Cultural Exchange

James T. Bretzke

Abstract

Recent discussion concerning the globalization of ethics and the prospect for common morality, as well as related issues such as pluralism and multiculturalism provide a challenging context for critical ethical reflection on the notions of human rights as these are found in various cultural and religious traditions. This article focuses on a cross-cultural discussion of human rights by considering the Confucian understanding of human rights as human rites grounded in the notion of relationality, based on the Confucian Five Relationships and the virtues of Li (propriety) and Xin (fidelity). Though these two virtues may seem odd choices for a discussion of human rights, it is the thesis of this article that a proper approach to a cross-cultural understanding of human rights should look first to how the basic matrix of rights and responsibilities is conceived and constructed within a particular culture. In other words, looking first to the particularity of how this or that culture approaches human flourishing should come before trying to attempt any sort of universalization or abstraction. In the Confucian context, human rights are not historically conceived of in terms of a Kantian autonomous individual, but rather the individual can only be grasped in terms of the concrete matrix of roles and relationships in which he or she finds and exercises his or her identity. Understanding an individual in this way does not sacrifice either identity or autonomy in favor of the community, but rather the attention to the various relationships and roles exercised within the community actually helps the person to become a true autonomous individual who lives in a harmonious balance with the community. This article further argues that Confucianism is a positive resource for both inter-religious dialogue and cross-cultural ethics. It concludes by outlining some prospects for using the Confucian notion of human rights and the common good to further discussion on multiculturalism, and inter-religious and cross-cultural dialogue.

A few years ago at the Society of Christian Ethics annual convention, I presented a paper which argued that the notion of human rights could be discerned in both the tradition and the classic texts of Confucianism. One attendee insistently asserted that Confucianism had no tradition of human rights, and she admitted she came to my presentation only to learn better why Confucianism was inimical to the notion of the individual autonomous human. I replied that it was true that the term “human rights” was not present in classical Confucianism. Nevertheless, I argued that the basic notions were there, and moreover, that a Confucian rendition of human rights might help correct some of the excessive individualism—especially as seen in the emphasis on entitlement and in the downplaying of the sense of community identity and social responsibility—which is often found in the West. After some discussion, I suspect we both felt a bit aghast at how anyone of seeming good will and reasonable intelligence could hold the position the other espoused.

That the basic idea of human rights has become firmly established as a universal, global, cross-cultural concept is by now uncontroversial. However, as my anecdote reveals, precisely what this concept means is still a matter of great debate, and the ways in which this discourse is conceived and carried on continue to provoke considerable interest and dis-
agreement. Even within the context of East Asia, the material on human rights is more extensive than one might initially expect. The homonyms, "Human Rights or Human Rites?" suggests my primary focus is in the area of the religious and ritual ways in which human rights have come to be embodied in Confucian cultures. The subtitle, "A Cross-Cultural Ethical Perspective," indicates the primary methodology by which this investigation will be guided: looking at some aspects of a particular culture's understanding of human rights against the backdrop of another culture's conception of the same issue. Specifically, I approach the Confucian understanding of human rights as human rights from the perspective of human relationality based on the Confucian Five Relationships and the virtues of _Li_ (propriety) and _Xin_ (fidelity).

Western human rights discourse is grounded primarily in a deontological approach which owes much to the Kantian Enlightenment tradition. However, my primary thesis is that there are alternative approaches, and in particular that a virtue-based Confucian understanding of human rights can be expounded through a cross-cultural methodology that will contribute to our global understanding of what constitutes authentic human rights. I will also illustrate how one key non-Western philosophical tradition has developed its understanding and cultural embodiment of human rights in terms distinct from, but not incongruent with, contemporary Western political liberalism. In other words, I argue that an authentic rendition of human rights can be genuinely articulated from the Confucian philosophical heritage in a way that is both understandable by a non-Confucian audience, and does not unnaturally force Confucianism to "translate" itself so totally into a Western philosophical vocabulary that the resulting language is no longer intelligible in the original Confucian idiom. Nevertheless, the incommensurability problematic should be squarely faced: Confucianists often do not understand Western notions of human rights and the human person; Westerners frequently do not grasp foundational Confucian philosophical concepts. In fact, the conceptions about the human person as an individual moral agent are so different between West and East that there really is no proper Chinese ideogram for an individual "person" in the abstract sense. Classical Chinese also lacks ideograms for a number of common ethical terms such as "moral," "freedom," "liberty," "autonomy," "utility," "principles," "rationality," "duty," or "rights." Thus, the sort of cross-cultural investigation I propose is crucial to help clear up some of these misperceptions, misunderstandings, and translation difficulties, as well as to develop fuller mutual understanding. I would add that a consequence of this investigation should show the Confucian approach to human rights to be a positive resource for augmenting much of our contemporary ethical discussion on a range of issues. It should also open new avenues for navigating a cross-cultural approach to the common good in light of the multi-faceted challenges posed by pluralism and multiculturalism.

Though some recent discussion has focused on the interplay between religion and human rights, Western ethicists may consider it problematic that human rights can be understood in the context of religious ritual. Since the Enlightenment, the Western philosophical approach has sought to establish a strong foundation for human rights largely by highlighting the trans-cultural and trans-historical aspects of human dignity. It has held that these aspects, in turn, ought to be acknowledged and protected by universal norms applicable to all peoples and contexts. In this perspective, human rights are articulated as an individual's set of political and economic rights. They are expressed in documents such as the American Declaration of Independence and Bill of Rights, as well as in multi-na-
tional documents such as the 1948 United Nations *Universal Declaration of Human Rights*.

In communitarian ethics it is now commonplace to contrast the Western notion of the human person—i.e., essentially grounded in the autonomy of the individual, whose dignity is enshrined in an array of rights—to the Eastern conception which sees the individual as one who finds his or her identity only through a matrix of relationships. This relational identity is expressed best through a range of duties to be performed. The investigation frequently ends at the demarcation of two rival camps—individuals vs. communitarians—which rarely come close enough to one another to establish a genuine dialogue. Yet, if we were to venture out into the philosophical man’s land with a cross-cultural perspective what might we see on the Confucian horizon?

To begin with, we note that the commonplace observation mentioned above is largely, though not completely, true. In Confucian society, the individual finds his or her basic identity within the web described by the well-known Five Relationships, which in turn provide a taxonomy for the whole moral community. Taken together, these Five Relationships seek to build from a collection of individuals gathered in one geographical location (a *Gemeinschaft*), a true “fiduciary” moral community (a *Gesellschaft*). It is only in this fiduciary community of relationships that each individual finds his or her identity. This will involve living out roles in which both rights and duties are inseparable from one another. If a society is knit together by individuals committed to living out the Five Relationships and if it follows the lead of the ancients in keeping to the moral path of the Confucian *Tao*, then that society will be truly happy, prosperous and just: its individual citizens morally upright, and the rights of all and the common good will assured in a fiduciary community built on reciprocal trust.

It will not understand itself as a society based on an “adversarial system” in which the dignity and rights of the individual must be protected, lest the community impinge upon these rights. The fundamental import of the Confucian Five Relationships is that there can be no split between self and society, no “oxymoronic private citizen” (to borrow sociologist of religion Robert Bellah’s phrase), since the very identity of each human person is conceived essentially in terms of his or her matrix of moral relationships. Thus, there is no “I” that is not at one and the same time “my father’s son”, “my sibling’s older brother”, “a member of the nation” and so on. Through these various relationships, each individual comes to know who she or he is: morally aware of one’s particular, social identity and inculcated into that role, with all of its attendant rights, rites, responsibilities, and duties.

The Government, embodied in the First Relationship of *Yi* (righteousness) between the ruler and ministers, shows not a system of mutual checks and balances designed to ensure democratic protection of the individuals’ rights to life, liberty and the pursuit of happiness, but rather an interlocking system of mutual trust and aid designed to foster a true community that is dedicated to a common moral purpose of justice and righteousness. A thorough analysis of the Confucian approach to human rights would have to consider each of the Five Relationships at great length. For the purpose of illuminating better the aspect of the “sacred claim” involved in the Confucian perception of human rights as human rites, I will focus only on the last two of the Relationships: between elder and younger, whose paradigmatic virtue is *Li* (propriety), and between friend and friend, whose virtue is *Xia* (fidelity).

Though *Li* is the virtue associated with the Fourth Confucian relationship, its influence is not restricted to conduct between juniors and
their seniors. Li is difficult not only to translate, but also to explain in an adequate way so that those who come from a Western philosophical tradition might be able to grasp its full moral significance in Confucian ethics. Herbert Finley terms Li the expression of the "uniquely human way of getting things done," which provides the "foundation not only of habit but also of ultimate standards that, jointly, give shape to our original nature and make a truly human life according to the Way. [Tao] possible."

In the Confucianism the "uniquely human way of getting things done" always presumes the context of community. In the Confucian theory of human rights, we could say that Li is the principal ground and framework for the way in which Confucianism comprehends what the concept of human rights means in the concrete. The rites (Li) and human rights are linked together in the basic principle of "rightness", i.e., the moral order of the universe, expressed as the Tao (Way) of Heaven (Tian). It is sometimes also expressed as the Tian-ming, or Mandate of Heaven. In Confucius' own thinking, Li is a cardinal virtue which guides one to the path (Tao) of moral truth: "The Master [Confucius] said, 'By extensively studying all learning, and keeping himself under the restraint of the rules of propriety [Li], one may thus likewise not err from what is right.'" Li establishes a person's moral character. Li, is required not only of individuals, but for the proper government of a state as well, as Confucius notes in a number of occasions in The Analects.

If Li stands alone as an isolated virtue then the charge of empty formalism, occasionally leveled at Confucianism, might be true. This is not the case. Li must be interpreted as an appropriate response to each situation and can be interpreted properly only in light of, and in relation to, the other Confucian virtues, especially to the foundational virtue Ren (benevolence). The relation of Ren to Li was central in Confucius' own philosophy, and occurs in numerous places throughout The Analects, The Great Learning, and The Doctrine of the Mean. Ren is the principle of inwardness, but this is not an inwardness which seeks perfect inner harmony by eliminating all involvement in the world. Rather the point of Li is to actualize Ren so that the person can be of use to society in the real world.

While the external dimension of Li is expressed in the myriad rites and rituals which make up daily living, the strong moral commitment attached to these rites shows that the concept of "morality" has a somewhat broader meaning in Confucian ethics than in the West. Confucian morality embraces explicitly the mores, customs, and rituals embodied in the cultural ethos. This insight is important in order to understand the Confucian concept of human rights because it is this integrated relationship among the individual, the common good, Li, and the other principal Confucian virtues of Ren (benevolence), Yi (righteousness), and Zhi (knowledge, especially moral knowledge)—which provides the central organizing concept for Confucian ethics. In Western liberal society, however, a notion of the common good tends to be de facto something of a "remainder concept," i.e., what is left over after proper attention has been given to safeguard the more important human rights and prerogatives of the individuals themselves. By contrast, in Confucianism Ren and Li must move together and live out Yi (righteousness) in the spheres of the individual, family, community, nation, and finally in the whole world.

As an illustration of how the rules of propriety of Li can function both as rites and rights, I consider briefly the special relationship which exists between an elder and younger in Confucian society. Though the fourth Confucian Relationship was originally understood to typify the con-
duct between elder and younger brother or sister. The practical application of *Li* is meant to go beyond the family confines and into the whole of human society. In a Confucian society such as Korea, this idealized portrait of the relationship between elder and younger is best seen in the bond between the *Son-bae* and *Hu-bae* (*Xian-bae* and *Hu-bae* in Chinese), which usually refers to elder and younger students in school. To be a *Son-bae* implies a whole set of rights and responsibilities vis-à-vis the younger *Hu-bae*. The elder *Son-bae* would be responsible for seeing that the younger *Hu-bae* was properly oriented in the life of the university. If, for example, the *Hu-bae* started to get into trouble, or adopted a too-carefree life-style, the elder student (*Son-bae*) would be expected to reprimand the younger one in order to bring him or her back into the straight-and-narrow.

The younger student would defer to the elder *Son-bae* in a number of ways. In general the elder’s wishes would be given precedence and the younger, by using a different social level of speech, would speak in a more deferential manner than she or he was spoken to. A detailed study of this relationship would illustrate how human rights and duties have become ritualized in the Korean society to the overall acceptance and basic satisfaction of all parties. It is worth highlighting that, in both the relationship between the elder and younger and the other four Confucian relationships, absolute equality or individual autonomy are never necessary predicates for an understanding of what constitutes basic legitimate human rights. But one partner would not necessarily feel oppressed by the other. Confucianism does not hold equality to be essential to the understanding of human rights because these rights are always understood in relational rather than in individual terms. Thus, even though the Fourth Relationship is strongly hierarchical, both parties have rights and duties which are inseparable from their relationship. Moreover, it is only in the ritualized divorces of these rights and duties (i.e., through the *Li* of this relationship) that either individual can perceive and claim his or her human rights.

Though we have only begun to uncover the moral significance *Li* has for the Confucian understanding of human rights, let us consider another illustration of how Confucianism understands one important aspect of human rights. The virtue of *Xin* (fidelity) is embodied in the Fifth Relationship, between friends. Though the Fifth Relationship is the only one among the Five Confucian Relationships which might be called egalitarian in the sense of being non-hierarchical, this does not mean that all friends are created equal. Truly some individuals, from an ethical point of view, will show themselves to be better friends than others. The virtue of *Xin* indicates how among friends human rites both ground and embody genuine human rights.

In the West, the familiar adage, “though one is born with one’s relatives one can choose one’s friends,” might be taken to indicate that our friends are first and foremost people we find enjoyable to be around. In the Confucian view, friends are so important that they must be chosen and cultivated not primarily in the hope of pleasant company, but rather in much the same way as the other facets of the virtuous life are pursued. Only when such discretion is exercised will friendship lead the Superior Person (*Jun-zi*) along the Way. In this sense, we can say that just as each person has a basic human right to good government, a family, and spouse as expressed in the first Four Confucian Relationships, the Fifth Relationship underscores the moral importance of friendship as a basic human right.

“*The Master said, ‘Is it not delightful to have friends coming from
distant quarters?" is but one of several examples which appear throughout the text to show the intimate connection between the virtuous life and the cultivation of friends. Choosing good friends is a way of practicing the virtues of faithfulness and sincerity. When one discovers faults in oneself they are to be corrected; if the individual intent on his or her moral self-cultivation discovers a "friend" who is incapable of holding fast to these principles, then that friend must be left behind. Initially, this may seem cold-hearted or selfish, but upon further reflection we see that this is not the case. A friend who is incapable of living the basic human relations in a moral way would be likewise incapable of true friendship. A person who is trying to become a Jun-zi, or Superior Person, will indeed be known by the company she or he keeps, because this is company of like-minded people who help one another along the Way of the Tao. One chooses worthy friends in part so that one might be corrected by them. This may strike us as being a bit odd, even masochistic, to choose friends who offer reproof. Yet, this notion conforms perfectly to the life of moral cultivation led by the Superior Person, in which friendship is also a foundational requirement for moral living. The Superior Person practices his or her virtue in service to the community, and one aspect of the support she or he derives from the community is this sub-community of like-minded people. Thus, the community of friends is not a mutual admiration society, but rather a mutual aid society. Of course, part of mutual aid comes through friendly intercourse, but Confucius was only being realistic when he recognized that even the best-intentioned people will at times fall short of the mark. Since the Superior Person is first of all a learner, she or he should be able to learn from friends. Just as it was an aspect of Zhong, or loyalty, on the part of the minister to reprove the king when the latter went astray, so too, reproofing one's own friends is part of the demand of Xin, or true fidelity.

It is admittedly difficult at first glance to see reproof of one's friends as embodying some aspect of human rights. Yet, if we recall the basic purpose of the Fifth Confucian Relationship, we can resolve this apparent enigma. Fraternal correction is often a real aid to moral progress, even if at times it is as difficult to administer as to take. In this context, the ritual element of the way in which the correction is given and received becomes paramount. This is what is meant by what we might term the Li or rites of "faithfully admonishing" a friend by "skillfully leading" him or her forward. This sort of mutual support along the Way, [Tao] afforded by true friendship both in the form of encouragement and correction, is what grounds the Fifth Relationship's particular contribution in the Confucian view of human rights. As in the case with the other Confucian Relationships, the human rights associated with this Fifth Relationship are intelligible only within the fiduciary moral community which in turn understands and lives these rights through the Li, or rites of concrete human living.

Though the preceding investigation has hardly exhausted the richness or complexity of the Confucian comprehension of human rights, it is nevertheless time to draw some conclusions, both: general and particular, from the perspective of cross-cultural ethics. The first general conclusion is simply a reminder that the Confucian notion of human rights is meant to be neither a rival claimant to a Western-undersanding of the same concept, nor a complete philosophical expression of its own within the category of human rights, which would satisfy all the requirements for a contemporary global ethics. A key insight from the methodology suggested by cross-cultural ethics is that no one philosophical or religious tradition can stand alone, or express in a credible and comprehensive fashion the totali-
ty of a complex, multifaceted, and polyvalent notion such as human rights.

Since human rights have little tangible value when abstracted from concrete situations, we must look to a variety of individual cultures and societies to see how these human rights have become instantiated in different ways. Thus, my investigation of human rights discourse, whether conceived in relation to one particular culture or cross-culturally, must pay sufficient attention to the aspects of culture itself which are necessarily prior to any ethical reflection. Cross-cultural ethics aims to foster precisely this sort of research, which in turn will encourage the dialogue among various philosophical and religious traditions so that not only a better mutual understanding may be reached, but also so that, through a process akin to cross-fertilization, the fruits from this dialogue may be grafted onto the traditions of the respective dialogue partners. Thus each particular tradition will be enriched and that we will come to a fuller and more truly global, universal ethics of human rights.

A second general conclusion, which follows as a corollary to the first, is that no one tradition—Confucian or Western—should be evaluated solely either by its strengths or weaknesses. Confucianism definitely has its philosophical and historical blind spots and weaknesses. It has tendencies to oppress the marginalized and to abuse the very human rights. I have been arguing that it basically supports and expresses. The same can be said for the tradition of Western political liberalism. Nevertheless, these respective dements should not negate the positive contributions which each tradition has to offer.

Keeping these two general conclusions in mind, what might be some particular conclusions to draw from this consideration of human rights in the Confucian tradition? The first particular conclusion is to note how closely tied human rights are with *Li*, as both a ground-concept and as an expression for the many ways in which Confucian human rights are embodied and manifested in daily life. While this article focuses primarily on the Fourth and Fifth Confucian Relationships, the same sort of analysis could easily be extended to the other three Relationships. It is part of the special genius of Confucianism to link rights and rites with moral rightness in an integrated vision. This integrated vision is facilitated by Confucianism's incorporation of religiosity into its moral philosophy. It is expressed traditionally through the concept of living in conformity with the *Tian-ming* (Mandate of Heaven); but, in fact, this religiosity permeates every aspect of Confucian moral philosophy. Thus, considering human rights through the lens of human rites may both widen our perspective and sharpen our focus so we can see better those aspects which might otherwise escape us. Specifically, the role of religiosity is a fuller consideration of human rights suggests greater attention to those texts, practices, and views which enjoy what I term a "sacred claim" in a particular culture. If we consider human rights to be an evolving concept, then studying the "sacred claims" of different groups and cultures will foster the process of evolution.

Another conclusion we can draw from cross-cultural reflection on Confucian human rights concerns a refined understanding of the role and relationship of the individual to the larger society. A charge often leveled against communitarianism in general, and Confucianism in particular, is that the individual and his or her rights tend to be absorbed into the larger community to such an extent that the individual's own identity is lost, and his or her rights compromised or destroyed. Yet, a careful analysis of how the Confucian Five Relationships function in tandem with virtues such as *Li*, *Ren*, and *Xin* shows that the individual, rather than losing his or
her identity, discovers and secures that identity—with its concomitant human rights—precisely in and through the acceptance and living out of these socially grounded relationships. Private interests do exist in Confucian society, though these are viewed properly as contributing both to the harmony and resilience of the community. Thus, while the locus of Confucian rights lies within the community rather than in an individual who could be considered in some abstract sense as existing independent of, or logically prior to, his or her membership in the community, the individual’s rights nevertheless do clearly exist.

This clearer understanding of Confucianism’s understanding of the relation of the individual to human rights may require a revision of some of our assumptions about related concepts, such as “egalitarianism,” “equality,” and “autonomy.” In place of equality Confucianism would speak of equity. This raises a caveat to the Western rendition of autonomy which can be so easily exaggerated into identifying every individual entitlement as a basic human right. The resulting insistence on always getting one’s due ultimately may prove counterproductive to the common good of the community as a whole, and therefore to the human dignity and rights of others.

A final conclusion I would posit is that the Confucian societal paradigm of a fiduciary community grounded in a virtue ethics can make a positive contribution. This is in contrast with an adversarial social organization whose ethical parameters are articulated deontologically. In the latter case each individual seeks to protect or maximize his or her own rights, and as a quid pro quo, is willing to “respect” the rights of others. Of course, the distinction between a consensual and adversarial model can be over-simplified and exaggerated, but the basic concept of a fiduciary community may pose a helpful challenge to Western political liberalism, especially in moving the concept of human rights beyond a view of basic minimum legal standards and personal entitlements, which do not easily brook counterclaims or sacrifice. In the last century, the Western understanding of what is involved in a coherent theory of human rights has clearly been augmented by perspectives coming from different cultural and philosophical traditions. Let us hope such cross-cultural ethical insights will continue to augment our global understanding as we move forward into the next millennium. In this process, Confucianism has a rich contribution to make.

Glossary of Chinese Terms

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<tr>
<td>Jun-zi</td>
<td>Superior Person, Paradigmatic Individual</td>
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<tr>
<td>Li</td>
<td>Prophecy, rites, mores</td>
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<tr>
<td>Ren</td>
<td>Benevolence, charity, human-ness</td>
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<tr>
<td>Son-bae/Hwa-bae</td>
<td>Elder (senior) / younger (junior)</td>
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<td>Xian-bai/Hou-bai</td>
<td>Heaven</td>
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<tr>
<td>T'ian</td>
<td>Mandate of Heaven</td>
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<tr>
<td>Ti'an ming</td>
<td>The Way, path (both literally and figuratively)</td>
</tr>
<tr>
<td>Tao (Dao)</td>
<td>Faithfulness, fidelity</td>
</tr>
<tr>
<td>Xin</td>
<td>Righteousness, justice</td>
</tr>
<tr>
<td>Yi</td>
<td>Knowledge (especially moral)</td>
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<tr>
<td>Zhi</td>
<td>Loyalty, faithfulness, patriotism</td>
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1 For some helpful bibliography see the section “Human Rights in the East Asian Context” in James T. Bretzke, S.J., Bibliography on East Asian Religion and Philo-

2 On this point see Henry Rosemont, Jr., "Why Take Rights Seriously? A Confucian Critique," in *Human Rights and the World's Religions*, ed. Leroy S. Rouner, (Notre Dame: University of Notre Dame Press, 1988), 173. Yet, it is important to note that contemporary Chinese, Korean, and Japanese have derived commonly used ideograms that express many, if not all, of these concepts. Thus, we can trace a certain amount of philosophical acculturation and cross-fertilization from the West to East.

3 This expression is used by Tu Wei-ming as a principal organizing concept in his analysis of the Doctrine of the Mean. See especially the third chapter of his *Centrality and Commonality: An Essay on Confucian Religiousness*, (Albany: SUNY Press, 1989).


Even more recent translations may be preferred by sinologists, but Legge's is arguably still the best-known in non-sinological circles and also has the advantage of being the only translation of all the books of the canon done by a single individual, and is the
信仰之间的重要相遇
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