Introduction

A few years ago I presented a paper on the notion of human rights which could be discerned in both the tradition and the classic texts of Confucianism and one of the first questioners asserted that Confucianism had no tradition of human rights and she admitted coming to my presentation to learn better why Confucianism was inimical to the notion of individual autonomous human. I replied that while it was true that the vocabulary term "human rights" was not present in classical Confucianism, nevertheless I argued that the basic notions were there, and that moreover, a Confucian rendition of human rights might help correct some of the excessive individualism, especially seen in the emphasis on entitlement and the downplaying of the sense of community identity and social responsibility which is often found in the West. After some see-sawing back and forth I suspect we both left the discussion with a sense of mutual aghastness at how anyone of seeming good will and reasonable intelligence could hold the position that we felt each other espoused.

That the basic idea of human rights has become firmly established as a universal, global, cross-cultural concept is by now incontrovertible. However, as my anecdote above 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 disagreement. Even within the context of East Asia the material on human rights is more extensive than one initially expect. My own homonymic title, "Human Rights or Human Rites?" suggests a primary focus is in the area of the religious and ritual ways in which human rights have come to be embodied in Confucian cultures, while the subtitle, "A Cross-Cultural Ethical Perspective," indicates the primary methodology by which this investigation will be guided: i.e., by looking at some aspects of this particular culture's understanding of human rights against the backdrop of another culture's conception of the same issue. Specifically, from the perspective of human relationality based on the Confucian Five Relationships and the virtues of li (propriety) and hsin (fidelity) I approach the Confucian understanding of human rights as human rites. 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 can be alternative approaches and that in particular a virtue-based Confucian understanding of human rights itself can be expounded with a cross-cultural methodology in such a way that will contribute both to our global understanding of what constitutes authentic human rights from a universalistic perspective, as well as to illustrate how one key non-Western philosophical tradition has developed its understanding and cultural embodiment of human rights in terms distinct from, but not incommensurate 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 which at the same time does not unnaturally force Confucianism to "translate" itself so totally into a Western philosophical vocabulary that the resulting language is no longer readily intelligible in the original Confucian idiom. Nevertheless, the incomensurability problematic should be
squarely faced: Confucianists often do not understand well Western notions of human rights and the human person; Westerners frequently do not grasp well foundational Confucian philosophical concepts.\(^2\) In fact, as one sinologist has observed, there is such a considerable difference between the conceptions of the human person as an individual moral agent between the West and the East that there really is not even a proper Chinese ideogram for an individual "person" in the abstract sense,\(^3\) while another expert notes that classical Chinese also lacks lexical terms for a number of common ethical terms such as "moral," "freedom," "liberty," "autonomy," "utility," "principles," "rationality," "duty," or "rights."\(^4\) 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 lead positively to fuller mutual understanding.

If this thesis can be successfully demonstrated, then I would add that a further by-product of this investigation will 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, such as opening up new avenues to navigate a cross-cultural approach to the common good in light of the multi-faceted challenges posed by pluralism and multiculturalism.\(^5\)

Even though Western political liberalism clearly is the philosophical tradition that shapes and frames most of the contemporary discourse on human rights, many scholars continue to question some of the implicit assumptions of this discourse. Generally speaking these dissonant voices in the global chorus of universal human rights discourse can be grouped into one of two principal sets. The first set is comprised of those who would deny any universalizability at all to the language of human rights moral discourse. Proponents of this view hold that individual cultural particularity is so strong and diverse as to render either impossible or meaningless attempts at cross-cultural universal language. Yet, it seems the logical alternative of this position is such a pronounced ethical and cultural relativism that few Christian ethicians can be counted among its adherents.

However, there is a second broad position that raises some critical questions for a "universal" or "global" ethics, and yet which does not deny a basic ontology or anthropology common to all peoples which could be articulated and used to build a genuine universal human rights theory.\(^6\) Thinkers who could be numbered in this second group often fall into one of two further subsets: those who concentrate on pointing out the limits and/or inadequacies of many of the contemporary approaches to "universal" human rights,\(^7\) or others who try to discern and decipher the existence of a human rights position in a philosophical or cultural system which at first glance seems to lack human rights as a well-developed concept.\(^8\) Those who adopt this approach often undertake methodologically a "thick" description\(^9\) of human rights in their analyses of how this concept might be traced in a particular culture or philosophical tradition. Yet, I suggest that the contributions of both of these subsets can be brought together through a synthetic approach which, on the one hand, pays proper attention to the particularity of an individual culture's tradition, and, on the other hand, seeks to indicate ways in which the prevailing Western notions of human rights might be corrected, refined, or augmented by a study of more cultures, especially non-Western ones.\(^10\) This article attempts this sort of synthesis.

**Rites as Rights**

Though some recent discussion has focused on the interplay between religion and human rights, still the idea that human rights be understood in the context of religious ritual may strike Western ethicians as problematic at best. 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, which 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 which are expressed in documents such as the American Declaration of Independence and Bill of Rights, as well as multi-national documents such as the 1948 United Nations Universal
Declaration of Human Rights.11
From the perspective of comparative ethics it is now commonplace to contrast the Western notion of the human person as essentially grounded in the autonomy of the individual, whose dignity is enshrined in an array of rights, while the Eastern conception sees the individual as one who finds his or her identity only through a matrix of relationships, and which relational identity is expressed best through a range of duties to be performed. Frequently the investigation seems to end here, with the demarcation of two rival camps—individuals vs. communitarians—who rarely come close enough to one another to establish a genuine dialogue. Yet, if we were to venture out into the philosophical no-man's land from a cross-cultural perspective what might we see on the Confucian horizon?

Confucian Human Rites
To begin with, we note that the commonplace observation mentioned above is largely, though not completely, true. In Confucian society the individual does find 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. These Five Relationships are grouped in paradigmatic pairs which cover the entire range of society: 1) Ruler and Ministers; 2) Father and Son; 3) Husband and Wife; 4) Elder and Younger (often portrayed as between elder and younger brother); and 5) Friend and Friend. One principal moral virtue is emphasized with each one of these individual relationships and thus, First, between the ruler and the government's ministers there is to be righteousness (yi),12 which should then characterize the whole conduct of the government; Second, between father and son, intimacy (ch'in), which mark the close family bonds; Third, between husband and wife, distinction (pieh, reciprocity) of duties and roles, which indicates how each person's performance of his or her proper duties aids the harmonious welfare of the whole; Fourth, between elder and younger, respect based on propriety (li), which recognizes the proper hierarchy of care and concern implicit even in "unequal" relationships; and Fifth, between two friends, fidelity (hsin), which emphasizes the essential trust necessary for individuals to live together. Taken together, these Five Relationships seek to build from a collection of individuals gathered in one geographical location (a Gesellschaft), a true "fiduciary"13 moral community (a Gemeinschaft). It is only in this fiduciary community of relationships that each individual finds his or her identity, which will involve living roles in which both rights and duties are inseparable from one another. As Henry Rosemont puts it,

there can be no me in isolation, to be considered abstractly: I am the totality of roles I live in relation to specific others. I do not play or perform these roles; I am these roles. When they have all been specified I have been defined uniquely, fully, and altogether, with no remainder with which to piece together a free, autonomous self (1988:177).

If a society is knit together by individuals committed to living out the Five Relationships and following 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, with the rights of all and the common good assured in a fiduciary community built on reciprocal trust, rather than on an understanding of society as 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 Robert Bellah's phrase, since the very identity of each individual human person is conceived essentially in terms of his or her moral matrix of relationships.14 Thus, to echo Rosemont cited above, there is no "I" that is not at one and the same time the "I" that is 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 s/he is, i.e, morally aware of one's particular social identity, as well as to become enculturated into
that role, with all of its attendant rights, rites, responsibilities, and duties. Confucianism views government as functioning best in the relationship of mutual trust embodied in the First Relationship of righteousness or justice (yi), between the ruler and the ministers. Thus, in the Confucian understanding, the ideal government is not a system of mutual checks and balances designed to insure 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 dedicated to a common moral purpose of justice and righteousness. Though a thorough analysis of the Confucian approach to human rights would have to consider at greater length each of the Five Relationships in their complexity, for the purposes 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, which is to be characterized by hsin (fidelity). My choice of the last two Relationships rather than the First Relationship (between ruler and ministers there is to be justice) may initially strike an odd chord. Why not center my investigation on "justice," which seems to be a more universal concept? I would answer that it is precisely because I want to demonstrate that human rights can be discerned in modes other than comparative or common denominator ethics that leads me to this particular choice. If we can find an understanding of human rights embedded in the lived out human rites, then I believe my whole approach to cross-cultural ethics, as opposed to comparative ethics, will have demonstrated its merit—at least in part. So now let us turn to a closer look at these last two Relationships.

Li

Though li is the paradigmatic virtue associated with the Fourth Confucian relationship, its influence is not restricted to conduct between juniors and their seniors. Chinese philosophical concern with li predates Confucius himself by several centuries, as evidenced by the inclusion of the Li Chi or Book of Rites in the pre-Confucian canon of the Five Classics. Li is a complex ideogram requiring eighteen strokes to write, and is arguably one of the most difficult concepts not only to translate, but 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 Fingarette 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" (Fingarette 1991:218). In the Confucian context the "uniquely human way of getting things done" always presumes that these things are accomplished in a community. Echoing this theme, Roger Ames notes that li functions reciprocally for the individual and his or her community. Engagement in the moral performance concretized in li enculturates and socializes the individual in a given community, but also is a means by which the individual contributes "to the pattern of relationships which ritual entails, and thereby to have determinative effect on society." In terms of articulating 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. In other words, 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 (tien), or sometimes also expressed as the tien-ming, or Mandate of Heaven. As Wm. Theodore de Bary, puts it, li as rite serves as the formal definition and concrete embodiment of principle, (which) covers some of the same ground as our rational and moral conception of rights, expressing the principles of propriety and respect toward others in the broadest sense—that is, respect not only for other human beings but also for things and affairs in the world at large, including the entire
natural order

In Confucius' own thinking *li* was a cardinal virtue which would guide one in 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" (*The Analects* 12:15). *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* stood alone as an isolated virtue then the charge of empty formalism, which is often leveled at Confucianism, might be true. However, 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 relation to, the other Confucian virtues, especially the foundational virtue of *jen* (benevolence). The relation of *jen* 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*. *Jen* 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 *jen* so that the person can be of use to society in the real world. This strong social aspect of *jen*, lived out through exercise of *li*, is demonstrated in a pair of conversations between Confucius and two of his disciples in Book 12 of *The Analects*:

Yen Yüan asked about perfect virtue (*jen*). The Master said, "To subdue one's self and return to propriety (*li*) is perfect virtue (*jen*). If a man can for one day subdue himself and return to propriety (*li*), all under heaven will ascribe perfect virtue (*jen*) to him" (*The Analects* 12:1).

Chung-kung asked about perfect virtue (*jen*). "It is, when you go abroad, to behave to every one as if you were receiving a great guest; to employ the people as if you were assisting at a great sacrifice; not to do to others as you would not wish done to yourself; to have no murmuring against you in the country, and none in the family" (*The Analects* 12:2).

While the external dimension of *li* is expressed in the myriad rites and rituals which make up daily living, the strong moral connotation attached to these rites shows once again that the concept of "morality" has a somewhat broader meaning in Confucian ethics than in the West. Confucian morality embraces explicitly the mores, customs, rituals, etc. embodied in the cultural ethos. This insight is important in order to understand the Confucian concept of human rights in relation to both *li* and to the common good of the entire moral community, because it is this integrated relationship among the individual, the common good and *li* and the other principal Confucian virtues of *jen* (benevolence), *yi* (righteousness), and *chih* (knowledge, especially moral knowledge) which provides the central organizing concept for Confucian ethics. However, in Western liberal society it often seems that a notion such as 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 *jen* and *li* must move together into a living out of *yi* (righteousness) in the spheres of the individual, family, community, nation and finally to the whole world. Confucianism lacks a philosophical basis to ground the individual as "a locus of interest independent of and prior to society" (Ames 1988:205).

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 understood originally as between siblings, the practical application of the propriety of *li* meant to typify the conduct between elder and younger brother or sister 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 seen best in the bond between the son-bae and hu-bae, usually referring to elder and younger students in school.28 To be a son-bae implies a whole set of rights and responsibilities vis-a-vis the younger hu-bae. Concretely the context in which I have seen these relationships operating has usually been that of the university.29 The elder son-bae would be responsible for seeing that the younger hu-bae got oriented well into the life of the university. If, for example, the hu-bae started to get into trouble, or perhaps 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 on the straight-and-narrow.

Meanwhile 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 would speak in a more deferential manner than s/he was spoken to, by using a different social level of speech. A detailed study of this relationship would illustrate well how human rights and duties have become ritualized in the Korean society to the overall acceptance and basic satisfaction of all parties.30 In this context, it is worth highlighting that neither in this relationship between the elder and younger, nor with the other four Confucian relationships, is absolute equality or individual autonomy a necessary predicate for an understanding of what constitutes basic legitimate human rights. Nor would one partner 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 individual terms. Thus, even though this Fourth Relationship is strongly hierarchical, both parties have rights and both parties have duties which are inseparable in their relationality. Moreover, it is only in the ritualized living out 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.

Hsin

While we really have only begun to scratch the surface of 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 through the virtue of hsin (fidelity)31 as it is embodied in the Fifth Relationship, i.e., 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, and the virtue of hsin indicates how among friends human rites both ground and embody genuine human rights:

The philosopher Yû said, "When agreements (hsin) are made according to what is right (yi), what is spoken can be made good. When respect is shown according to what is proper (li), one keeps far from shame and disgrace. When the parties upon whom a man leans are proper persons to be intimate with, he can make them his guides and masters" (The Analects 1:13).

In the West the familiar adage that "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. Yet, in the Confucian view friends are so important that they must be chosen and cultivated not primarily with a view to pleasant company, but rather in much the same way as all the other facets of the virtuous life are pursued. Only when such discretion is exercised will friendship lead the Superior Person forward along the Way:

Confucius said, "There are three friendships which are advantageous, and three which are
injurious. Friendship with the upright; friendship with the sincere; and friendship with the
man of observation: these are advantageous. Friendship with the man of specious airs;
friendship with the insinuatingly soft; and friendship with the glib-tongued: these are
injurious” (The Analects 16:4).

In this sense we can say that just as each person has a basic human right to good government, a
family, spouse, etc., as expressed in the first Four Confucian Relationships, the Fifth Relationship
underscores the moral importance of friendship also as a basic human right.
The Analects opens with an accolade to the Confucian understanding of friendship and several
other examples appear throughout the text which shows the intimate connection between the
virtuous life and cultivation of friends:

Tsze-hsiâ (one of Confucius' disciples) said, "If a man withdraws his mind from the love of
beauty, and applies it as sincerely to the love of the virtuous; if, in serving his parents, he
can exert his utmost strength; if, in serving his prince, he can devote his life; if, in his
intercourse with his friends, his words are sincere (hsin) men say that he has not learned, I
will certainly say that he has" (The Analects 1:7).

This statement suggests that all of the Five Relationships, if lived out properly and whole-
heartedly, are the foundation of moral learning and character development in the Confucian
sense, as the next saying illustrates this connection in reference to friendship:

The Master said, "If the scholar (chün-tzu) be not grave, he will not call forth any
veneration, and his learning will not be solid. Hold faithfulness (ch'ung) and sincerity
(hsin) as first principles. Have no friends not equal to yourself. When you have faults,
do not fear to abandon them" (The Analects 1:8).

These four maxims are grouped together so as to interpret each other. 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 (i.e., the chün-
tzu or "scholar" or Superior Person) 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 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 chün-tzu, or Superior Person, will indeed be known by the
company s/he keeps, because this will be a company of like-minded people who help one another
along the Way of the tao:

The Master said, "He who aims to be a man of complete virtue (chün-tzu) in his food does
not seek to gratify his appetite, nor in his dwelling-place does he seek the appliances of
ease; he is earnest in what he is doing, and careful in his speech; he frequents the
company of men of principle (tao) that he may be rectified (ch'eng): such a person may be
said indeed to love to learn" (The Analects 1:14).

We see here in this last selection that one chooses worthy friends in part so that s/he might be
rectified or have his or her behavior "rectified" by them. At first this may strike us as being a
bit masochistic, or at least odd, to choose friends who will reprove one. Yet, following the points
outlined above, we see that this notion conforms perfectly with the entire life of moral cultivation
led by the Superior Person in which friendship is also a foundational requirement for this moral
living. The Superior Person practices his or her virtue in service to the community, and one
aspect of the support s/he derives from the community is this sub-community of like-spirited people:

The philosopher Tsang said, "The superior man (chün-tzu) on grounds of culture (wen) meets with his friends, and by their friendship helps his virtue (jen)" (The Analects 12:24).

Thus, the community of friends is not a mutual admiration society, but rather a mutual aid society. Of course, part of this 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, s/he should be able to learn also from the friends with whom they are in contact:

The Master said, "When I walk along with two others, they may serve me as my teachers. I will select their good qualities and follow them, their bad qualities and avoid them" (The Analects 7:21).

Just as it was an aspect of ch'ung, or loyalty, on the part of the minister to reprove the king when the latter went astray, so too, reproving one's own friends is part of the demand of hsin, or true fidelity:

Tse-kung asked about friendship. The Master said, "Faithfully (chu'ng) admonish your friend, and skillfully lead (tao) him on. If you find impracticable, stop. Do not disgrace yourself" (The Analects 12:23).

It is admittedly difficult at first glance to see this aspect of reproval 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 swallow. 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. In the last analysis 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 to the Confucian view of human rights. As is 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.

Cross-Cultural Insights on Human Right
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 understanding of the same concept, nor does it pretend even to offer a complete philosophical expression of its own of 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 in isolation, or hope to express in a credible and comprehensive fashion the totality of a complex, multifaceted, and polyvalent notion such as human rights.

Since human rights have little tangible value abstracted from their lived expression in various concrete situations we must look to a variety of individual cultures and societies to see how these human rights have become "inculturated" in different ways. Thus, our 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 in its approach 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 so that 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 this first conclusion is that no particular tradition, Confucian or Western, should be evaluated solely either by its strengths or weaknesses. Confucianism definitely has its philosophical and historical blind spots, weaknesses, tendencies to oppress the marginalized, and 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 demerits should not negate the positive contributions which each tradition does have to offer.

Keeping these two general conclusions in mind, what might be some particular conclusions we can draw from our consideration of human rights in the Confucian tradition? The first particular conclusion would be 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, expressed traditionally through the concept of living in conformity with the tien-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 in a fuller consideration of human rights suggests greater attention to those texts, practices, views which enjoy what I have termed 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 our 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, jen and hsin 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 belonging not to the individual but to the group•a family, lineage, or community. In the Confucian view, man is born into society and cannot prosper alone; the individual depends on the harmony and strength of the group (Nathan 1986:138).

Thus, while the locus of Confucian rights lies within the community rather than the 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 equality and autonomy. In place of equality Confucianism would speak of equity. As de Bary observes,

Confucians accepted social distinctions as an inevitable fact of life and believed that differences in age, sex, social status, and political position had to be taken into account if equity were to be achieved in relations among equals (de Bary, 186).

Roger Ames elaborates on this insight by noting that the very conception of personhood in Confucianism as a specific matrix of roles will not tolerate our assertion of natural equality. There is another sense of equality, however, that is relevant. Although persons stand in hierarchical relationships that reflect fundamental differences among them, ritual practice serves the notion of qualitative parity in several ways. First, the dynamic nature of roles means that privileges and duties within one's community tend to even up across a lifetime. One's duties as a child are balanced by one's privileges as a parent. One's field of relationships over time produce of degree of parity in what is perceived as the most vital source of humanity•one's human relations (Ames, 208).

In the same vein autonomy can be exaggerated by identifying every individual entitlement as a basic human right. Such an insistence on always getting one's due ultimately may prove counter-productive 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 positive contribution the Confucian societal paradigm of a fiduciary community grounded in a virtue ethics can make, especially when contrasted with an adversarial social organization whose ethical parameters are articulated deontologically and in which each individual seeks to protect and/or maximize his/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 either basic minimum legal standards or personal entitlements which do not easily brook counter-claims or sacrifice. In the last century in the West the understanding of what is involved in a coherent theory of human rights has clearly been augmented by perspectives coming from different cultural and/or philosophical traditions. A Marxist understanding of human rights as a set of economic rights has complemented our constitutional expression of human rights as essentially political in nature. As we move forward into the next millennium hopefully such cross-cultural ethical insights will continue to augment our global understanding. In this process Confucianism has a rich contribution to make.

Abstract
Recent discussion concerning the globalization of ethics and the prospects for a common morality, as well as related issues such as inculturation, pluralism, and multiculturalism all 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 hsin (fidelity). The article argues that Confucianism is a positive resource for both inter-religious dialogue and cross-cultural ethics and concludes by outlining some prospects for using the Confucian notion of human rights and the common good to further discussion on multiculturalism, inter-religious and cross-cultural dialogue.

GLOSSARY OF CHINESE TERMS

Sincerity, rectified
Rectification of names
Knowledge (especially moral)
Intimacy
Superior Person, prince, moral model
Loyalty, faithfulness, patriotism
Faithfulness, fidelity
Benevolence, charity, human-ness
Propriety, rites, mores
Reciprocity, distinction, difference, separation (of duties)
Principle (e.g. of being, abstraction)
Elder (senior)/younger (junior)
The Way, path (both literally and figuratively)
Heaven
Mandate of Heaven
Culture, literature, liberal arts studies
Benevolence, charity, human-ness
Propriety, rites, mores
Reciprocity, distinction, difference, separation (of duties)
Principle (e.g. of being, abstraction)
Elder (senior)/younger (junior)
The Way, path (both literally and figuratively)
Heaven
Mandate of Heaven
Culture, literature, liberal arts studies
Righteousness, justice

NOTES

1. For some helpful bibliography on this whole theme see Bretzke 2001: 231-46. There is a significant amount of literature among those writing about human rights in the Asian context which would support my operative thesis. For a recent article that would support my basic thesis see Dallmayr 2002: 173-89. Using Henry Rosemont’s notion of "concept clusters" which reflect different modes of human flourishing–clusters that are not completely incommensurable on the one hand, nor uniformly exchangeable on the other, Dallmayr argues that neither globalism nor universalism of human rights is so much a starting premise accepted as self-evident by all, as it is a challenging practical task which will require intensive inter-human and cross-cultural learning–what Tu Wei-ming has called the ongoing "humanization" of humankind.

2. For an insightful analysis and response to this problematic of difficulties in appreciating the Confucian appreciation of human rights see Chan 1999: 212-37.

3. Woo 1980:119. This is an excellent article for highlighting some of the key differences between a Confucian and Western liberal view of the human person and human rights.

4. Rosemont 1988:173. Yet, it is important to note that contemporary Chinese, Korean, and Japanese have derived and commonly use 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.

5. For an example of this sort of investigation see Bretzke1996:83-105.

6. For a succinct overview of both of these major positions see Ilesanmi 1995:293-322, esp. 293-7. The problematic between universality and relativism is well-discussed in Ilesanmi 1994: 30-59.

7. E.g., see Wilfred 1992:194-214; also 1994:206-20. For another example, see Bujo 1990.


9. This term is borrowed from cultural anthropology. For a fuller treatment of this concept see Geertz 1973:3-30.

10. This is the same point made by Preston N. Williams in his response to Simeon O. Ilesanmi's article cited above. See Williams 1995:323-31.

11. Citing the fact that Peng-chuan Chang served as a member of the 1948 UN Declaration drafting committee, comparative ethicians such as Sumner Twiss argue that Chang’s support for the universalism which runs through the Declaration gives evidence that the version of human rights contained in the Declaration is either truly "universal" or that minimally it shows that this rendering of human rights dovetails well enough with the Chinese philosophical cultural tradition. However, it should be noted that while Chang was certainly Chinese, he was one who had been educated in the
West, earning his doctorate in philosophy under John Dewey at Columbia University in 1921. Fleeing China after the Japanese invasion in 1937 Chang became a diplomat to alert the West of the Japanese atrocities in China, as well as trying to promote a better understanding of Chinese culture. Therefore, it might be better to identify Chang more as a bridge person between the East and West than to judge that his involvement and support for the United Nations Universal Declaration of Rights shows that the Declaration itself was universally cross-cultural. Even though Chang did support the eventual UN Declaration he registered strong disagreements with some of the other drafters, especially Charles Malik, on just how the philosophical grounding for human rights should be presented, e.g., in a (Western) articulation of human "nature" (as Malik preferred), or in more individually culturally articulated positions (as Chang preferred). Discussion of Chang's work on the committee which drafted the Declaration can be found in Glendon 2001.

12. This ideogram, (sometimes also Romanized as I), in various literary contexts has been translated as principle and obligation, as well as justice. However, the term definitely should not be equated with the modern Western liberal understanding of justice. For a further treatment of the ramifications of this point see Peerenboom 1990:17-32. Peerenboom discusses the Confucian notion of a just society in contrast to John Rawls' well-known concept of "justice as fairness" and suggests that the Confucian concept might be both a challenge and a corrective to that of Rawls.

13. This expression is used by Tu Wei-ming as a principal organizing concept in his analysis of the Doctrine of the Mean. See Tu 1989. Tu's expression is taken up by contemporary sinologists, especially in contrasting Confucian views on society with those of Western political liberalism, which Confucians often characterize as an "adversarial" system. For two such examples see Hsiung 1985:1-30; and Cheng 1993:61-81.

14. Bellah et. al 1985:271, go on to assert that the vision of the moral community grounded in the American Constitution's political expressed as the "We the People" of the Constitution's Preamble has deteriorated to such a degree that "our concern for the economy (is) the only thing that holds us together, (and that) we have reached a kind of end of the line. The citizen has been swallowed up in 'economic man.'"

15. Thus, my approach is somewhat atypical since the focus among the Five Relationships usually falls on the first three, called the Three Bonds, as being the most important for society: the relationships between King and Minister, Father and Son, and Husband and Wife.

16. However there is a five-stroke abbreviation which is commonly used today. This abbreviation testifies also to the enduring importance of this concept, as only complex characters which are still frequently employed tend to be abbreviated. For a discussion of how Chinese ideograms function in the creation, perception, and transmission of ideas see Hansen 1993:373-99.

17. The bibliography on this concept is extensive, however, for a good overview see Cua 1989:209-36. A recent article which is helpful in critiquing some of the major cross-cultural analyses of li is Wilson 1995:263-89.

18. Fingarette 1966:62. This article is also found as Chapter One of Fingarette 1972.


20. In Neo-Confucianism (which focused more on abstraction) this principle is expressed as ri (principle). Therefore, we could state the moral equation as li is ri, i.e., the abstract, ontological principle of being (ri) is concretely manifested in the rites of li.

21. Bary 1988:196. In this citation de Bary is commenting on the position of Lü Liu-liang (1629-1683), who in turn is commenting on the linkage found among rites, rightness, and principle in Mencius 4B6.

22. I am using Legge 1971 classic translation; republication of the second revised edition, Oxford: Clarendon Press, 1893 as Volume I in "The Chinese Classics" Series. Even though one or another of the books of the classical Confucian canon has been more recently translated into better English (from a technical sinological point of view) Legge's is arguably still the best-known translation 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 thus it is easier for the non-expert to track some of the pertinent vocabulary. Legge's translation also provides the reader with the original Chinese text so it is easier to work with in terms of textual analysis.

23. "Another day, he (Confucius) was in the same way standing alone, when I (Po-yü, a disciple of
Confucius) passed by below the hall with hasty steps, and said to me, 'Have you learned the rules of Propriety (li)?' On my replying 'Not yet,' he added, 'If you do not learn the rules of Propriety (li), your character cannot be established.' I then retired, and learned the rules of Propriety (li)." (The Analects 16:13) Virtually the same words are repeated in the penultimate verse of The Analects (cf. 20:3).

24. Cf. these two examples: The first is an exchange between Confucius and Tsze-lû, Tsang Hsî, Zan Yû, and Kung-hsî Hwâ, recorded in The Analects 11:25, in which Confucius states emphatically that "The management of a state demands the rules of propriety (li)" and thus this may not be forsaken for any reason. A second example has Confucius observing the interplay between a ruler who practices li and the effect it will have on the governed: "The Master (Confucius) said, When rulers love to observe the rules of propriety (li), the people respond readily to the calls on them for service" (The Analects 14: 44).

25. The locus classicus which illustrates Confucius' own discernment on what is to be preserved and discarded in ritual is found in the following exchange from The Analects: "The Master said, 'The linen cap is that prescribed by the rules of ceremony (li), but now a silk one is worn. It is economical, and I follow the common practice. The rules of ceremony (li) prescribe the bowing below the hall, but now the practice is to bow only after ascending it. That is arrogant. I continue to bow below the hall, though I oppose the common practice'" (The Analects 9:3).

In the first instance Confucius accepts an innovation because it does not detract from the proper religious nature of the rite; in the second instance he resists change because it strikes him as lacking in proper reverence.

26. Because the classical Chinese is a very compact language, certain interpolations must be made in order to translate some parts of the text of the Analects into readable English. Legge marks his translation•interpolations by putting them in italics. Strictly speaking, these italicized words are not found in the original.

29. A symposium on Confucianism makes a similar point on this aspect of the relationship between the individual and the larger community: "While Confucian values have long emphasized the dignity and internal autonomy of the individual, this by conscious choice has never been developed into a doctrine of individualism. This is part of the reason that the emphasis on the dignity of the person does not necessarily provide the Chinese with the symbolic resources needed for developing the theory of human rights. Indeed, William Theodore de Bary speaks of Confucianism as more concerned with 'human rites' than with 'human rights,' or, to use T'ang Chun-I's terminology, duty consciousness rather than rights consciousness." Tu Wei-ming, Hejtmanek and Wachman 1992:17.

28. Translated simply, these two words are relational terms signifying the senior (elder) and the junior (younger). However, the lived-out meaning of these terms in Korean society is untranslatable by any one or two words in English. 'son' is the Chinese ideogram for that which comes prior, while 'hu' signifies that which comes after; 'bae' simply refers to a generation or age-group. Often this relationship of son-bae to hu-bae refers to bonds developed in grammar school or high school. This is the time when most important non-familial relationships are formed in Korean society. In this instance I am using the Korean pronunciation of the ideograms, rather than the Chinese pronunciation.

29. By this I mean that the locus where I personally have witnessed best this dynamic operating was on the campus of Sogang University in Seoul where I lived and taught for over three years. The relationship is usually established in the high school: i.e., the son-bae and hu-bae are graduates of the same high school. Certainly the relationship between son-bae and hu-bae extends far beyond the university campus in both time and space. In fact, this relationship continues throughout life. The English "Old Boy" network might be the closest Western analogue to the Korean son-bae/hu-bae relationship, though I hold that the Korean relationship is much, much stronger.

30. However, it must be admitted that occasionally this son-bae--hu-bae relationship is open to abuses as well, such as requiring a certain blind obedience. For example, it has not been unknown that a senior importunes a junior to take an exam in the former's place or something of a similar nature. On a more serious level, there has even been an instance in which a senior university student, in a drunken rage, actually killed a junior for not using the proper level of deferential address.
31. *Hsin* is sometimes translated in this context as "loyalty"—which at first glance may seem to be a more logical virtue of friendship. However, the ideogram itself depicts a person standing next to his or her words, and the ideogram therefore represents a fidelity which is meant to transcend even loyalty to one's friends. This point will become clearer as my analysis develops in this section.

32. "The Master said, "Is it not delightful to have friends coming from distant quarters?"" (*The Analects* 1:1).

33. The concept of the *chün-tzu* is fundamental to Confucianism, and yet a proper translation of this term is very difficult in contemporary English and I am sympathetic to A.S. Cua's suggestion that "paradigmatic individual" best renders Confucius' own understanding of this term. See Cua 1978.

34. The ideogram used here for "rectified" is *ch'eng*, also means "sincerity," and when coupled with another ideogram (*ch'eng ming*) gives us the important Confucian concept of the "Rectification of Names."

35. Though Legge translates *wen* here as "culture," I would argue that the term in this context connotes a certain mutual devotion to moral learning by which scholars come together to study the Classics in order to come to a greater understanding and appreciation of the moral truth of the *tao* as it is embodied in their concrete situation. Such groups of scholars have long been an important rite of learning in Confucian societies.

36. The first part of this citation, "When I walk along with two others, they may serve me as my teachers," is a well-known moral maxim still widely used today in Confucian societies such as China and Korea, and once again indicative of the way this philosophical conception has become rooted and ritualized as a sacred claim.

37. For a further discussion of these points see Bretzke 1996:69-86; and 2003.

38. The acceptance and incorporation of religiosity in the Confucian understanding of humanity distinguishes it from many contemporary secular philosophies, but is fundamental to understanding how Confucianism perceives the nature of the human persons and their relationships with one another and the whole cosmos. For a brief, but helpful consideration of this point see Rubin 1981:72-80.

39. A number of Confucian scholars can be frankly guilty of this tendency, such as James Chieh Hsiung, 1-30, and Cheng, 61-81.

**REFERENCES**


Theology Society, 41. Edited by James Donahue and Theresa Moser. (Mystic CT: Twenty-Third Publications).
Chan, Joseph
Cheng, Kevin Shun-Kai
Cua, A.S.
Dallmayr, Fred
Fingarette, Herbert
De Barry, Theodore Wm.
Geertz, Clifford
Glendon, Mary Ann
Hall, David L. and Ames, Roger T.
Hansen, Chad
Hsiung, James Chieh
Howard, Rhoda
Ilesanmi, Simeon O.
Keown, Damien
Legge, James
Nathan, Andrew J.
Peerenboom, R.P.
Rosemont, Henry Jr.
Rubin, Vitali A.
Tu, Wei-ming
Tu Wei-ming, Hejtmanek, Milan and Wachman, Alan (eds.)
Wilfred, Felix
1992 "The Language of Human Rights•An Ethical Esperanto?" *Vidyajyoti* 56.
Williams, Preston N.
Wilson, Stephen A.
Woo, Peter K.Y.