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Daniel A. Bell

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Human Rights and "Values in Asia": Reflections on East-West Dialogues

IN THE EARLY 1990s the economic and social achievements of modernizing East Asian states became too conspicuous to ignore. Senior Asian statesmen such as Lee Kuan Yew and Dr. Mahathir trumpeted their high GNPs on the world stage, arguing that the "Asian miracle" rested on distinctive "Asian values." The point was to cast doubt on the normative superiority of Western-style human rights and to question the desirability of exporting that model to East Asian societies. If Asians can do well with their own moral values and conceptions of political organization, then why should defenders of Western-style human rights seek to impose their ideas on the rest of the world?

The Asian values debate, unfortunately, generated more heat than light. In retrospect, the substantive problem seems obvious: the debate was neither about Asia nor about values. Asia is a huge and exceptionally diverse landmass, encompassing much of the world's population. It hosts a number of religions, such as Islam, Hinduism, Buddhism, Confucianism, Taoism, Christianity, and Judaism, as well as a myriad of races, ethnicities, customs, and languages. The assumption that Asia has its own cultural essence fundamentally different from that of the West is, to say the least, dubious. In fact, as Tatsuo Inoue has argued, the Asian values thesis ironically owes its roots to Western intellectual imperialism, that is, "Orientalism," the very force that was being criticized by official Asian critics of human rights.¹

There are no distinctly Asian values, and anything that goes by the name of "Asian values" tends to refer to values that are either narrower (distinctive only to some societies, or parts of societies, in Asia) or broader (the values characterize societies both in and out of Asia) than the stated terms of reference. More surprisingly, perhaps, most claims made on behalf of Asian values were not even about values! Consider some claims typically put forward by politicians under the rubric of Asian values: political rights conflict with economic development; free speech leads to

¹ Tatsuo Inoue, "Liberal Democracy and Asian Orientalism," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999).

racial and religious conflict; Confucian values promote economic development. Whatever the merits of these claims, they are ultimately empirical claims that must be answered by social scientists, not by moral philosophers. The only way to evaluate these claims is by means of historical and sociological analysis.

Of course, political actors tend to be motivated by considerations other than clear thinking, and it may not be fair to blame elderly Asian politicians for the obfuscating discourse on Asian values.² The interesting part, however, is that the debate attracted so much global attention, suggesting the presence of something besides obfuscation and self-promotion. Several East and Southeast Asian societies did modernize quickly, while seeming to build upon traditional values somewhat at odds with Western liberal approaches to human rights. Fortunately, the less publicized but more nuanced views of critical intellectuals in East Asia help to make sense of the key issues underlying the debate. Over the last decade, I have been fortunate to participate in several East-West dialogues on the subject of human rights, and this chapter constitutes my reflections on these dialogues.³ My aim is to get beyond the rhetoric that has dogged the human rights debate and identify relatively persuasive East Asian criticisms of traditional Western approaches to human rights.

² Lee Kuan Yew, to be fair, has backed away from the term "Asian values," arguing that he was referring only to values shared by East Asian countries with a Confucian heritage.

³ In the mid-1990s the Carnegie Council on Ethics and International Affairs convened several workshops involving dialogues between East Asian and Western intellectuals on the subject of human rights in East Asian societies. The project was planned and administered by Joanne R. Bauer, director of studies at the Carnegie Council. Workshops were held in Hakone (Japan), Bangkok (Thailand), and Seoul (Korea), with a final wrapup session at the Harvard Law School. My reflections on the Hakone workshop appeared as the article "The East Asian Challenge to Human Rights," *Human Rights Quarterly*, vol. 18, no. 3, (August 1996), and my reflections on the Bangkok workshop appeared as the article "Minority Rights: On the Importance of Local Knowledge," *Dissent* (Summer 1996). I have also coedited (with Joanne R. Bauer) a book that is the product of this multiyear project, *The East Asian Challenge for Human Rights*. Chapter 1 of my book *East Meets West: Human Rights and Democracy in East Asia* (Princeton: Princeton University Press, 2000) also draws on the findings of this project. Over the past several years, I have also participated in a multiyear, cross-cultural dialogue on Confucianism convened by Hahm Chaibong then of Yonsei University and UNESCO that has dealt with the topic of human rights (among other topics). I have coedited two books that resulted from this project, *Confucianism for the Modern World*, co-edited with Hahm Chaibong (New York: Cambridge University Press, 2003), and *The Politics of Affective Relations: East Asia and Beyond*, co-edited with Hahm Chaibong (Lanham, MD: Lexington Books, 2004). This chapter draws on all these sources and some unpublished arguments made by East Asian participants at these workshops. My own qualifications and elaborations of these arguments are largely confined to the footnotes and the concluding section. I have also updated the arguments and examples by drawing on other sources.

One can distinguish between four sorts of arguments put forward by East Asian critics of Western approaches to human rights (I do not mean to imply that these arguments are distinctly or uniquely Asian). First, the argument often asserted by East Asian governments that a right must be temporarily curtailed in order to deal with an unfortunate set of particular social and political circumstances. Once the perceived crisis is over, according to this view, then the rights denial is no longer justified. This viewpoint is not in the first instance a "cultural clash" over human rights, as both the government in question and the human rights activist share a common set of moral and political aspirations as an end goal. However, cultural factors can affect the *prioritizing* of rights, which matters when rights conflict and it must be decided which one to sacrifice.

The other challenges to Western liberal conceptions of human rights are more directly disputes over cultural values. Supporters of universal human rights tried to discredit the Asian values discourse by pointing to the diversity of values within the Asian region, but such arguments also undermined their own position. As Randall Peerenboom argues, "if such diversity precludes the common values within the Asian region, then it also precludes *a fortiori* the possibility of *universal values*."⁴ Hence, I will use the term "values in Asia," which is sensitive to the pluralism of values within Asia yet retains the implication that such values can pose challenges to Western liberal approaches to human rights.

The second challenge is an argument over the *justification* of rights. As against the claim that the Western liberal tradition is the only possible moral foundation for human rights, many East Asian human rights activists argue that their own cultural traditions can provide the resources for local justifications of ideas and practices normally realized through a human rights regime in Western countries. This argument is not merely theoretical, it also has strategic importance for advocates of human rights reforms in East Asia.

The third challenge is an argument for moral pluralism. That is, cultural particularities in East Asia may justify a different moral standpoint vis-à-vis the human rights regime typically endorsed by Western governments, scholars, and human rights activists. To repeat, the East Asian region is a complex mix of societies, cultural traditions, and political viewpoints. It is also true that values change significantly over time in response to various internal and external pressures, and this is evident in the region. However, some values in Asia may be more persistent than others and may diverge from some human rights ideas and practices typically endorsed in Western countries. If these values are widely shared by

⁴ Randall Peerenboom, "Show Me the Money—the Dominance of Wealth in Determining Rights Performance in Asia," *Duke International Law Journal*, vol. 15, no. 1 (2005), 131.

both defenders and critics of the political status quo, there is a strong presumption in favor of respect for those values.

The fourth challenge is the argument that the current "international" human rights regime needs to be modified to incorporate East Asian viewpoints. East Asian critics have argued that the current rights regime has been forged largely on the basis of Western liberal-democratic norms, and that the people of East Asia can contribute positively to the evolution of a truly international human rights discourse in which they had not heretofore played a substantial part. The point here is not to displace human rights in favor of some other set of principles,⁵ but rather to allow for the possibility of learning from values in Asia so that the human rights regime reflects the outcome of an international dialogue between peoples of different cultures. The section ends with my own doubts regarding the feasibility of such a project.

TRADE-OFFS AND PRIORITIES

Rights versus Development: A Zero-Sum Game?

A common East Asian argument is that Western-style civil and political liberties need to be sacrificed in order to meet more basic material needs. Most famously, Lee Kuan Yew argues that political leaders in developing countries should be committed to the eradication of poverty above all else: "As prime minister of Singapore, my first task was to lift my country out of the degradation that poverty, ignorance and disease had wrought. Since it was dire poverty that made for such a low priority given to human life, all other things became secondary."⁶ If factional opposition threatens to slow down the government's efforts to promote economic development or to plunge the country into civil strife, then in Lee's view tough measures can and should be taken to ensure political stability. Such is the message Lee delivers to receptive audiences in China, Japan, Vietnam, and the Philippines.⁷

Nobel Prize-winning economist Amartya Sen, however, casts doubt on the validity of this proposition.⁸ He argues that there is little empiri-

⁵ See Anthony J. Langlois, *The Politics of Justice and Human Rights: Southeast Asia and Universalist Theory* (Cambridge: Cambridge University Press, 2001).

⁶ Nathan Gardels, "Interview with Lee Kuan Yew," *New Perspectives Quarterly*, vol. 9, no. 1 (Winter 1992).

⁷ The idea that the government's first obligation is to secure the means of subsistence has Confucian roots and has been influential throughout East Asian societies with a Confucian heritage: see chapter 9.

⁸ Unless otherwise specified, the examples from this section were provided by East Asian participants at the workshop held in Hakone, Japan, in June 1995 (see note 3).

cal evidence that civil and political rights lead to disastrous outcomes. Systematic cross-national statistical studies do not support the claim that there is a correlation or a causal connection between authoritarianism and economic success. Civil and political rights in fact help to safeguard economic security in the sense that such rights draw attention to major social disasters and induce an appropriate political response:

Whether and how a government responds to needs and sufferings may well depend on how much pressure is put on it, and the exercise of political rights (such as voting, criticizing, protesting, and so on) can make a real difference. For example, one of the remarkable facts about famines in the world is that no substantial famine has ever occurred in any country with a democratic form of government and a relatively free press.⁹

Similar to Lee Kuan Yew, the Burmese military junta argues that rights must be curtailed in order to provide the political stability said to underpin economic progress. At least some freedoms, however, need to be restored to allow for economic growth. In the words of Yozo Yokota, then UN Special Rapporteur on Human Rights in Burma: "If the government allows economists to freely engage in research and to make necessary recommendations to improve the economic situation of the country, and if the people are allowed to do business freely by traveling without government restrictions and collecting information and conducting negotiations as they like, there is a great chance that the country would grow rapidly."¹⁰

The current status of Burma and North Korea—desperately poor countries governed by the region's most repressive rulers—supports Yokota's doubts.

The Need for Specificity

While the general claim that civil and political rights must be sacrificed in the name of economic development may not stand up to social scientific scrutiny, East Asian governments also present narrower justifications for curbing *particular* rights in *particular* contexts for *particular* economic or political purposes. These actions are said to be taken as a short-term measure to secure a more important right or more of that

⁹ Amartya Sen, "Human Rights and Economic Achievements," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999), 92. If the problem is severe malnutrition, however, the record is not so clear: since Deng's reforms, autocratic China has a better record in this respect than democratic India.

¹⁰ Yozo Yokota, "Economic Development and Human Rights Practice," paper presented at the Hakone workshop (on file with author), 3.

same right in the long term. Xin Chunying, a lawyer working at the Human Rights Center of the Chinese Academy of the Social Sciences, notes that East Asian governments emphasize "the particularity of human rights protection and the priority determined by the specific conditions of each country."¹¹ Such claims are put forward by government officials but often attract significant local support.

Consider the following examples of situation-specific justifications for the temporary curtailment of particular rights:¹²

1. Kevin Tan, then professor of constitutional law at the National University of Singapore, noted that Singapore in the 1960s was plagued by "the threat of a communist takeover, and communal and ethnic divisions, which pitted Singapore's majority Chinese population against the minority Malays."¹³ Tan noted that Singapore made use of emergency powers (originally established by British colonial rulers) to counter these threats when it was expelled from Malaysia in 1965. The Singapore government argued that without these powers, including the authority to detain without trial persons suspected of being subversives, it may not have been able to prevent the country from plunging into civil strife.¹⁴
2. The Malaysian government sometimes deprives indigenous populations of access to forests and waters, thus restricting their right to a secure cultural context. The Malaysian government asserts that control of such natural resources is necessary for economic development in that country.
3. When Korean President Park issued a threat to execute blackmailers, a capital outflow that was hemorrhaging the country's economy ceased.
4. Post-World War II land reform in Japan, South Korea, and Taiwan would have been much more difficult to accomplish without a U.S. occupying force. If instead there had been a democratic context in each country, the political process may have been captured by landed interests that would have posed serious obstacles to land reform.

¹¹ Xin Chunying, "East Asian Views of Human Rights," paper presented at the Hakone workshop (on file with author), 9.

¹² East Asian participants at the Hakone workshop gave these examples but did not necessarily endorse them. They were raised as examples of justifications that cannot be rebutted without the acquisition of local knowledge.

¹³ Kevin Tan, "Economic Development, Legal Reform, and Rights in Singapore and Taiwan," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999), 266.

¹⁴ Needless to say, it is difficult to prove that such powers were necessary to prevent civil strife because the alternative scenario is counterfactual. Experience from other contexts, however, does suggest that civil liberties can contribute to communal strife if left unchecked: the freedom of the press in Rwanda, for example, allowed Hutu demagogues to whip up hatred against the Tutsi minority and thus provided ideological justification for the 1994 genocide. See Chua, *World on Fire*, 168-70.

5. The constitutional right to own property and to receive fair compensation for state acquisition of such property was deliberately left out of Singapore's postindependence constitution because it conflicted with the imperatives of economic development. According to Kevin Tan, the "overall national interest, which required that vast tracts of land be reclaimed and developed for industrial use, was given priority in the passage of the Land Acquisition Act. Two key objectives were secured through the powers accorded under this act, since it allowed the government to acquire land for both industrial development and public housing."¹⁵

6. The existence of underpaid labor, denied the right to protest,¹⁶ has attracted much international investment in China's coastal regions, leading to high growth rates and increasing opportunities for enrichment. As international enterprises along the coast become increasingly capital- and technology-intensive, foreign firms requiring cheaper labor move inland. There is an argument that the whole process has a spillover effect that, in the end, may benefit much of the country.

7. Although meaningful political participation for people with hearing disabilities requires state subsidies for the use of sign-language interpreters in public forums when political leaders address citizens in an official capacity, and the use of interpreters for the hearing disabled to make their own views known to political officials, as well as the use of subtitles when political candidates speak on television, poor countries such as China, Vietnam, and the Philippines simply cannot afford to provide such services.¹⁷

Whatever one thinks about these justifications for rights violations, it is important to note that they are not offered as general arguments for repression and hence cannot be refuted by social scientific evidence based on generalizations. What makes these arguments for human rights violations plausible is that they include a description of a pressing social problem (communal strife, capital outflow, lack of economic

¹⁵ Tan, "Economic Development," 268.

¹⁶ While the central government does oppose, at least rhetorically, this kind of maltreatment of labor, Dorothy Solinger points out that its own economic policies (decentralizing profit retention to local governments and allowing tax receipts on local industry to be collected and kept locally) have disposed local leaders to solicit rights abusing investors. As Solinger observes, "the problem is pretty complex—it's not just a question of 'the state' and its approach to rights . . . the various echelons of the state may have separate interests and different reasons for their stances on rights." Letter from Dorothy Solinger to Daniel Bell (23 September 1995) (on file with author).

¹⁷ The example of human rights violations against people with hearing disabilities was provided by Akihiko Yonaiyama in a public forum on "The Growth of East Asia and Its Impact on Human Rights," held at the United Nations University in Tokyo, June 1995, following the Hakone workshop.

resources) and an account of why a rights violation (the right to detain without trial, a threat to execute blackmailers, not providing interpreters for the hearing impaired) is the only effective way of dealing with that particular problem.¹⁸ To counter such arguments with the claim that most countries do not have to face similar problems or that not all rights need to be curtailed for purposes of economic development seems beside the point.

Nor is it appropriate to respond to this "Asian" challenge with the claim that human rights are universal and hence cannot be restricted under any circumstances. The so-called Asian side of the debate often concedes that human rights are universal and that ideally governments ought to try to secure as many rights as possible.¹⁹ The point being made here, however, is that certain rights may conflict, and that consequently governments may have to either sacrifice some rights in order to safeguard more important ones or sacrifice a certain right in the short term in order to secure more of that same right in the long term. Put differently, the real East Asian challenge is often not so much a dispute about the ideal of promoting human rights or different cultural "essences" as a plea for recognition of the (alleged) fact that certain East Asian governments often find themselves in the unenviable position of having to cur-

¹⁸ It is worth noting that article 4 of the United Nations International Covenant on Civil and Political Rights (1966) explicitly allows for short-term curbs on rights if these are necessary to deal with particular social crises:

In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, color, sex, language, religion or social origin.

¹⁹ For example, article 8 of the Bangkok Declaration adopted by several Asian states in April 1993 states that "while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, [and] bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds." Michael W. Dowdle argues that this formulation is wholly consistent with the conception of rights as principles (rather than hard commands) defended by John Rawls and Ronald Dworkin in the context of Anglo-American jurisprudence. Dowdle, "How a Liberal Jurist Defends the Bangkok Declaration," in *Negotiating Culture and Human Rights*, ed. Lynda S. Bell, Andrew J. Nathan, and Ilan Peleg (New York: Columbia University Press, 2001), 125–52. The challenge to the universalization of human rights is more explicit in the case of Islam, however: the Cairo Islamic conference in August 1993 contrasted Islamic values with the UN Declaration. Jose Rubio-Carracedo, "Globalization and Differentiability in Human Rights," in *Beyond Nationalism: Sovereignty and Citizenship*, ed. Fred Dallmayr and Jose M. Rosales (Lanham, MD: Lexington Books, 2001), 277.

tail certain rights in order to secure other more basic rights.²⁰ To paraphrase Isaiah Berlin, not all good rights go together, contrary to the optimistic and well-meaning pronouncements of some Western human rights activists.

When countering plausible government justifications for rights violations of this sort, one can question either the premise that the East Asian country under question is facing a particular social crisis (for example, a high risk of intercommunal warfare) requiring immediate political action or the idea that curbing a particular right is the best means of overcoming that crisis.²¹ Whatever the tactic, the social critic must be armed with detailed and historically informed knowledge of the society that finds itself in a specific, historically contingent condition.²²

Even if it turns out that (1) the social crisis is real and (2) curbing rights is the most effective way of overcoming it, such local justifications for the denial of rights are, as Jack Donnelly put it, "at best a short-run excuse."²³ Once the economic or political troubles are more or less successfully overcome, then, according to the government's own logic, the

²⁰ The U.S. government's reaction to the September 11, 2001, terrorist attacks shows that such arguments are not distinctly Asian. As Randy Peerenboom puts it, "When stable, Euro-America can afford to preach to developing countries struggling with terrorists about the value of civil and political rights and the importance of the rule of law. But when faced with threats, much cherished rights go out the window. If there is anything universal, it would seem to be disregard for rights whenever there are real or perceived threats to stability or order" (Peerenboom, "Human Rights and Rule of Law: What's the Relationship?", *Georgetown Journal of International Law*, vol. 36, no. 3 (2005), 935. The September 11 terrorist attacks have also led to rethinking in some human rights circles regarding the possibility that social crises may justify the temporary curtailment of rights: see, e.g., William F. Schulz (executive director of Amnesty International U.S.A.), "Security Is a Human Right, Too: Have Rights Advocates Failed to Face Up to Terrorism?", *The New York Times Magazine*, 18 April 2004, 20.

²¹ Of course, human rights groups and NGOs are likely to look harder for feasible alternatives to rights violations than government officials, but if they look and find nothing, it may be time to move on to something else.

²² The social critic, in other words, must first concede the possibility of situational constraints on the part of the power holder and then proceed to show (on the basis of a contextual argument) that those constraints do not apply in that particular situation. Social critics in East Asia may be better culturally prepared to engage in this sort of contextual criticism. In experimental settings, according to Richard Nisbett, "Americans in general failed to recognize the role of situational constraints on a speaker's behavior whereas Koreans were able to." Nisbett, *The Geography of Thought*, 190. For whatever concatenation of historical reasons, there may be perceptual and cognitive processes that make Americans typically think in "black and white" terms (perhaps helping to explain the readiness to condemn "foreign" practices without any understanding of different cultures as well as the popularity of such U.S. presidents as Ronald Reagan and George W. Bush).

²³ Jack Donnelly, "Human Rights and Asian Values: A Defense of 'Western' Universalism," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999), 72.

denial of rights is no longer justified.²⁴ This leads us once again to the point that the Asian values debate is something of a misnomer. Some government arguments for curtailing rights turn mainly on the validity of empirical facts, not on culture. These arguments are sometimes used to call for curtailing rights in such a way that the traditional cultural values are actually violated. As Amartya Sen observed, the Chinese government justifies its one-child policy by claiming (erroneously, in Sen's view) that it is necessary to deal with the population crisis. In fact, the resulting policy violates, not honors, a deeply held cultural preference for siring male children.²⁵

Nonetheless, the argument is not purely a matter of how best to stamp out undesirable cultural values. Traditional values can be widely adhered to and considered defensible by members of a particular community, and this can affect the *prioritizing* of rights. Different societies may rank rights differently, and if they face a similar set of disagreeable circumstances they may come to a different conclusion about the right that needs to be curtailed. For example, U.S. citizens may be more willing to sacrifice a social or economic right in cases of conflict with a civil and political right: if neither the constitution nor a majority of democratically elected representatives support universal access to health care, then the right to health care regardless of income can be curtailed. In contrast, the Chinese may be more willing to sacrifice a civil or political liberty in cases of conflict with a social or economic right: there may be wide support for restrictions on the right to form free labor associations if they are necessary to provide conditions for economic development.²⁶ Different priorities assigned to rights can also matter when it comes to deciding how to spend scarce resources. For example, East Asian societies with a Confucian heritage will place great emphasis upon the value of education, which may help to explain the large amount of spending on

²⁴ Note, however, that the "short term" can last a long time, particularly if the social crisis is replaced by another that similarly justifies the rights curtailment. (For example, in the late 1990s, pressure was building on Singapore and Malaysia to repeal internal security acts that allowed indefinite detention without trial because the initial justification, viz., fear of communist takeover, was no longer plausible, but the September 11 terrorist attacks, along with the concomitant fear of terrorist attacks by Islamic "fundamentalists" in Southeast Asia, put an end to that debate.) Moreover, if the main reason for rights curtailment is insufficient economic resources (e.g., few countries can afford to subsidize sign-language interpreters in all political forums so that people with hearing disabilities are guaranteed equal rights to meaningful political participation), then the "short-term" restriction on rights will not "wither away" in the foreseeable future.

²⁵ Sen, comment at Hakone workshop.

²⁶ To repeat, I do not mean to imply that such beliefs justifying constraints on civil and political rights are necessarily distinctive to the East Asian region. What I do mean to argue is that they will seem more plausible to a wider array of constituents compared to people in Western liberal democratic countries.

education compared to other societies with similar levels of economic development.²⁷ Note, however, that these choices are not meant to be celebrated; they reflect the difficult circumstances that may bind political actors in the short to medium term.

In short, these arguments for curtailing rights do not undermine the quest for a truly universal human rights regime: Cultural arguments for the *systematic* denial of basic civil and political rights, as well as economic, social, and cultural rights, cannot withstand critical scrutiny, even allowing for justifiable moral and political differences and for plausible accounts of situation-specific curtailment of particular rights. At best, different cultural values can justify different priorities given to rights in cases of conflict, but both “sides” can agree that such hard choices are unfortunate and hopefully temporary.

The other challenges to Western ideas of human rights are more directly arguments over cultural values. Several East Asian intellectuals have argued that Western-style human rights discourse and instruments have not yet adequately incorporated “values in Asia.” The proposed remedies draw on the positive—potential and realized—contributions of East Asian cultural traditions.

ASIAN JUSTIFICATIONS FOR HUMAN RIGHTS

Human Rights: Is Liberalism the Only Moral Foundation?

According to the prominent human rights theorist Jack Donnelly, “the idea that all human beings, simply because they are human, have certain inalienable political rights” was essentially foreign to traditional Asian political thought as well as to premodern Western political thought.²⁸ The theory of human rights was first fully developed in John Locke’s *Second Treatise on Government*. These ideas spread broadly in response to the dual threats to human dignity posed by modern centralized states and socially disruptive free markets in seventeenth-century Europe.

The claim that the concept of human rights is foreign to East Asian political traditions may be out of date: China, for example, has been the

²⁷ China is an exception within the East Asian region. As the official newspaper *China Daily* notes, “in the 1990s, China spent just 2 percent of its GDP on education, growing to more than 2.4 percent in 2003. In 2003, developed Western nations invested an average 6 to 7 percent of their GDP in education, and even in third world countries the average was 4.1 percent.” “Experts Say Education Input Vital,” *China Daily*, 7 August 2005 (www.china-daily.com.cn/English/doc/2005-07/08/content_458397.htm, visited 7 January 2006). As China continues to recover its Confucian tradition, it is hoped that this percentage can increase. In any case, social critics can appeal to the Confucian tradition to argue for an increase.

²⁸ Donnelly, “Human Rights and Asian Values,” 62.

site of a rich discourse on rights for the last century or so, every since the term “rights” began to be translated into the Chinese term *quanli*.²⁹ Moreover, several East Asian intellectuals argued that values similar to aspects of Western conceptions of human rights can also be found in some “premodern” non-Western traditions. For example, the distinguished Islamic scholar Nurcholish Madjid notes that “Islam too recognizes the right to found a family, the right to privacy, the right to freedom of movement and residence, the right to use one’s own language, the right to practice one’s own culture and the right to freedom of religion.”³⁰ The University of Hong Kong political philosopher Joseph Chan argues that values similar to aspects of Western conceptions of human rights can also be found in the Confucian tradition.³¹ The notion of *ren* (variously translated as benevolence, humanity, or love), for example, expresses the value of impartial concern to relieve human suffering. In Mencius’s famous example of a child on the verge of falling into a well, a person with *ren* would be moved by compassion to save the child, not because he or she had personal acquaintance with the child’s parents, nor because he or she wanted to win the praise of fellow villagers or friends, but simply because of his or her concern for the suffering of a human person. Such concern shows that Confucianism allows for duties or rights that belong to human persons *simpliciter*, independent of their roles.³²

In addition, the functional equivalents of some human rights *practices* can be found in Asian traditions. For example, the idea of curbing the ruler’s exercise of arbitrary state power figured prominently in Confu-

²⁹ See Stephen C. Angle, *Human Rights and Chinese Thought: A Cross-Cultural Inquiry* (New York: Cambridge University Press, 2002), and Marina Svensson, *Debating Human Rights in China: A Conceptual and Political History* (Lanham, MD: Rowman and Littlefield, 2002). Angle and Svensson have coedited and translated *The Chinese Human Rights Reader* (Armonk, NY: M. E. Sharpe, 2002), which includes many of the key Chinese-language documents and essays on human rights.

³⁰ Nurcholish Madjid, “Islam, Modernization and Human Rights: A Preliminary Examination of the Indonesian Case,” paper presented at the Hakone workshop (on file with author) (quoting Chandra Muzaffar), 7. Since the downfall of Suharto, Nurcholish Madjid has played an important role in aiding the transition to democratic rule, and his views have been respected partly, if not mainly, because he appeals to Islamic foundations and is personally respected for his religious piety.

³¹ In the same vein, Stephen Angle argues that the Chinese rights discourse owes much to neo-Confucian theories about legitimate desires that date back to the sixteenth century. Angle’s main argument is not that there is an exact convergence between Western and Chinese views on human rights, but rather that the Chinese background has shaped a distinctively Chinese discourse about rights. I have critically evaluated this argument in my review of Angle’s book, “Human Rights and Social Criticism in Contemporary Chinese Political Theory,” *Political Theory*, vol. 32, no. 3 (June 2004), 397–400.

³² See Chan, “A Confucian Perspective on Human Rights,” 218.

cian political regimes.³³ Jongryn Mo argues that the Censorate provided an effective institutional restraint on the ruler's power in Choson dynasty Korea. The Censorate consisted of three organs that were explicitly designed to prevent abuse in the exercise of political and administrative agents. The censors were not only judicial and auditing agents, but also voices of dissent and opposition, playing roles similar to that of opposition parties in modern democracies.³⁴

There were also functional equivalents of some social and economic rights. Classical Confucians strongly emphasized that the first obligation of government is to feed the people, and this norm was often put into practice in imperial China. In the Song dynasty (960–1279 C.E.), the central government established a granary in each district for the storing of rice that came from the public land as rent. Each of the four classes of people was given rice and sometimes clothes. In the Qing dynasty (1644–1911), there were strict legal sanctions to punish officials who failed to secure the “right to food”: “According to the Law Code of the Tsing [Qing] Dynasty, if the officials do not support the four classes, the very sick person and the infirm and superannuated who need public support, they shall be punished by sixty blows of the long stick.”³⁵

³³ It is rather surprising that Alasdair MacIntyre, known for his supposed hostility to Western-style rights discourse, has argued that modern states necessarily must draw on that discourse in a way that precludes Confucianism: “my view does involve a denial that any modern state, Asian or Western, could embody the values of a Mencius or a Xunzi. The political dimensions of a Confucianism that took either or both of them as its teachers would be those of the local community, not of the state.” MacIntyre, “Questions for Confucians: Reflections on the Essays in Comparative Study of Self, Autonomy, and Community,” in *Confucian Ethics: A Comparative Study of Self, Autonomy, and Community*, ed. Kwong-loi Shun and David B. Wong (New York: Cambridge University Press, 2004), 217. But if some aspects of Confucian-inspired practices and institutions can serve as the functional equivalent of Western-style practices and institutions that secure civil and political rights, then why take such a hard line against “political Confucianism”? MacIntyre underestimates the potential of Confucian-inspired political institutions, just as he overestimates the potential of Confucian ethics to structure ethical life at the level of local community. Few contemporary adherents of Confucianism regard Confucianism as a “well-defined concept of the kind of community within which relationships could be defined by the relevant norms, and the four virtues would provide the standards for practice” (ibid., 215); rather, Confucianism is viewed as part of the good life, particularly relevant for structuring relationships with elderly parents, but most Confucians freely draw upon other ethical resources such as Christianity and Buddhism for structuring ethical lives.

³⁴ Jongryn Mo, “The Challenge of Accountability: Implications of the Censorate,” in *Confucianism for the Modern World*, ed. Daniel A. Bell and Hahm Chaibong (New York: Cambridge University Press, 2003).

³⁵ Chen, Huan-Chang, *The Economic Principles of Confucius and His School*, vol. 2 (New York: Columbia University Press, 1911), p. 599. Quoted in Joseph Chan, “Giving Priority to the Worst-Off: A Confucian Perspective on Social Welfare,” in *Confucianism for the Modern World*, ed. Daniel A. Bell and Hahm Chaibong (New York: Cambridge University Press, 2003), 241–42.

In short, the Western liberal tradition may not be the only moral foundation for realizing the values and practices associated with human rights regimes. But why does this matter, practically speaking?

*Increasing Commitment to Human Rights in East Asia:
Strategic Considerations*

While it may be possible to defend the argument that human rights ideas and practices resonate to some extent with Asian cultural traditions, are there any particular reasons for proponents of human rights to adopt culturally sensitive strategies for the promotion of rights, either instead of, or as a complement to, other strategies? If the ultimate aim of human rights diplomacy is to persuade others of the value of human rights, it is more likely that the struggle to promote human rights can be won if it is fought in ways that build on, rather than challenge, local cultural traditions.³⁶ To deny the possibility that human rights norms and practices are compatible with Asian traditions translates into dependence on a foreign standard for promoting human rights. This approach has a number of drawbacks.

First, the argument that Western liberalism is the only moral foundation for human rights unwittingly plays into the hands of nasty forces in East Asia who seek to stigmatize human rights voices as “agents of foreign devils” and defamers of indigenous traditions. Similarly, the argument that the development of human rights is contingent on the development of capitalism strengthens the position of antimodernists who oppose human rights, while the argument that human rights is contingent on anthropocentric arguments strengthens advocates of a theocentric view who oppose human rights.³⁷ Worse, arguments that present a stark choice between religion and human rights (as opposed to an

³⁶ The conception of tradition refers to an ongoing argument about the good of the community whose identity it seeks to define. The cultural traditions of interest to human rights activists, in other words, should be living in the sense that fundamental values still have the capacity to motivate action in the contemporary era. For similar accounts of tradition, see Robert Bellah et al., *Habits of the Heart* (Berkeley: University of California Press, 1985), 27–28, 335–36; and Alasdair MacIntyre, *Whose Justice? Which Rationality?* (London: Duckworth, 1988).

³⁷ John L. Esposito points out that “[t]oo often analysis and policymaking have been shaped by a liberal secularism that fails to recognize it too represents a world view, not the paradigm for modern society, and can easily degenerate into a ‘secularist fundamentalism’ that treats alternative views as irrational, extremist, and deviant.” Esposito, “Political Islam: Beyond the Green Menace,” *Current History*, vol. 93, no. 579 (January 1994), 24. The problem with “secular fundamentalism” is not just that it fails to respect nonliberal cultural traditions, but that it plays into the hands of “religious fundamentalists” who also seek to reject wholesale values and practices associated with the Western liberal tradition.

approach that promises to reconcile religious insights with human rights ideas) may lead politically moderate religious persons into developing feelings hostile to human rights positions.³⁸

Second, it is a widespread belief within the United States—currently the dominant voice/actor on the world diplomatic stage—that exporting U.S. political practices and institutions is necessary for the promotion of human rights abroad. As Stephen Young, former assistant dean at the Harvard Law School, puts it,

Many Americans seem to believe that the constitutional pattern of governance in the United States today—as formalized in the Declaration of Independence, the Constitution, and the Bill of Rights—is a necessary prerequisite for protecting human rights. Thus, they evaluate the performance of other countries in the field of human rights by comparing their conduct with the standards of American politics.³⁹

It may well have been feasible to act on this belief in the post-World War II era, when the United States was powerful enough to insist upon human rights norms. The U.S. capacity to dictate appropriate forms of government to Japan in the immediate post-World War II period is a classic example. Today, however, the relative economic and military strength of East Asia means that the United States must now rely primarily on moral authority to promote human rights in Asia. However, several factors undermine U.S. moral authority in this respect.

Widely publicized social problems in the United States no longer make it the attractive political model that it may once have been. For example, Tokyo University's Onuma Yasuaki is an active proponent of human

³⁸ This is not to deny that aspects of religious traditions are inconsistent with contemporary human rights values and practices, but only to suggest that aspects of religious traditions may be supportive of human rights and to offer the possibility that contemporary members of religious traditions may be able to formulate persuasive interpretations while excising "contingent" aspects inimical to human rights concerns. See the discussion of Islamic feminism below.

³⁹ Stephen B. Young, "Human Rights Questions in Southeast Asian Culture: Problems for American Response," in *The Politics of Human Rights*, ed. Paula Newberg (New York: New York University Press, 1980), 187. Young then proceeds to criticize this standpoint: "Although the Anglo-American political and legal tradition has been a forceful expositor of human rights causes, it is not the only basis upon which to build a political system that respects individual dignity." Nonetheless, he falls into his own universalist trap when he fails to distinguish between democracy and human rights, apparently assuming that Western-style electoral mechanisms are necessary and sufficient to secure basic human rights (see *ibid.*, 187–88, 209). It is important to keep in mind that nondemocratic governments sometimes do fairly well at securing human rights (e.g., contemporary Hong Kong or the Republic of Venice for most of the previous millennium), whereas democratic governments can sometimes have atrocious human rights records at home (e.g., Sri Lanka and El Salvador under Duarte) and abroad (e.g., the United States in Vietnam and Iraq).

rights in Japan, but he is also a harsh critic of the attempt to export the U.S.-style rights regime, which emphasizes civil and political liberties over social and economic rights.⁴⁰ Onuma argues that this regime—with its excessive legalism and individualism—contributes to various social diseases, such as high rates of drug use, collapsing families, rampant crime, growing economic inequality, and alienation from the political process.⁴¹

It is obvious that recent foreign policy developments, particularly since the Iraq War, have undermined U.S. moral credibility in Asia and elsewhere.⁴² The tendency to subordinate human rights concerns when they conflict with security and commercial considerations contributes to cynicism regarding the true motivation of U.S. policymakers, not just among government officials, but also among ordinary citizens.⁴³ The refusal to make amends for past misdeeds such as the Vietnam War further undermines U.S. moral authority in Asia,⁴⁴ just as Japan's refusal to accept full responsibility for its war of aggression weakens its own moral authority in Asia. For the foreseeable future, the attempt to export "American ideals" is likely to fall on deaf ears, if not be counterproductive, in the East Asian region.

Third, appeal to the Universal Declaration of Human Rights (UDHR) as a standard for promoting human rights in East Asia is not without drawbacks. Although the UDHR has served as an effective tool in some human rights struggles in East Asia (for example, by human rights cam-

⁴⁰ The U.S.-style priority of civil and political rights refers to the official policies of the U.S. government (its invocations of "human rights and democracy" tend to refer to civil and political rights), the works of leading American political philosophers (e.g., John Rawls's *A Theory of Justice*), and U.S.-based human rights groups (e.g., Human Rights First, formerly known as the Lawyers Committee for Human Rights). It is worth noting, however, that the U.S. branch of Amnesty International is explicitly critical of the official U.S. devaluation of economic rights (see the following chapter).

⁴¹ Onuma Yasuaki, "Toward an Intercivilizational Approach to Human Rights," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell, eds. (New York: Cambridge University Press, 1999), 107.

⁴² The lack of moral authority in the rest of world was explicitly recognized by the U.S. State Department when it postponed the annual release of its (2004) Country Reports on Human Rights Practices following the public release of photos depicting the torture ("abuse," as the U.S. government called it) of Iraqi prisoners at Abu Ghraib prison.

⁴³ On the case of China, see Randall Peerenboom, "Assessing Human Rights in China: Why the Double Standard?," *Cornell International Law Journal*, vol. 38, no. 1 (February 2004), 73, n. 7.

⁴⁴ The Bush administration, needless to say, is not likely to apologize for the Vietnam War. More surprisingly, perhaps, the Clinton administration added insult to injury by pressuring the Vietnamese government to repay \$145 million in debts incurred by the U.S.-backed government of the former South Vietnam, effectively putting "Hanoi in the position of retroactively footing part of the bill for a war against itself." Clay Chandler, "Ghosts of War Haunt Rubin's Vietnam Trip," *International Herald Tribune*, 11 April 1997.

paigners in the Philippines during Marcos' rule),⁴⁵ in many parts of East Asia the UDHR and other U.N. documents are not nearly as relevant.

Since the UDHR was formulated without significant input from East Asia, it is not always clear to East Asians why the UDHR should constitute "our" human rights norms (the Bangkok Declaration was significant because it was the first organized expression of Asian opposition to the UDHR).⁴⁶ Although the UDHR is normatively binding, most East Asian states endorsed it for pragmatic, political reasons and not because of a deeply held commitment to the human rights norms it contains. The UDHR thus does not have the normative force and political relevance of a constitution that emerges from genuine dialogue between interested parties keen on finding a long-term solution to a shared political dilemma.⁴⁷ The lack of a proper enforcement mechanism for the International Bill of Human Rights, as the UDHR and subsequent documents are called, further reduces the practical viability of this standard.

Another fundamental weakness of the U.N. documents is that they are pitched at too high a level of abstraction (perhaps necessarily so in view of the need to reach agreement among many states) to be of use for many actual social and political problems.⁴⁸ For example, does the "right to life" (article 3 of the UDHR) mean that capital punishment should be abolished? It is much easier to secure agreement at the level of high principle than to secure agreement over the application of those principles to

⁴⁵ One can explain this phenomenon in part by the fact that the Marcos regime depended to a great extent on U.S. economic and military support. Because of this, Marcos was extremely conscious of his public image before the world. This, in turn, led him to employ legalistic justifications for his policies. As Maria Serena Diokno puts it, "what better way than to apply international instruments he had publicly proclaimed as the guiding principles of his rule?" Letter from Maria Serena Diokno to Daniel Bell (20 November 1995) (on file with author).

⁴⁶ Sumner B. Twiss notes that the Chinese delegate to the drafting process of the UDHR argued for the inclusion of the Confucian idea of *ren* in article 1, which was eventually reflected in the idea that human beings are endowed not just with "reason," but also with "conscience." Twiss, "A Constructive Framework for Discussing Confucianism and Human Rights," in *Confucianism and Human Rights*, ed. Wm. Theodore de Bary and Tu Weiming (New York: Columbia University Press, 1998), 41. If that is the only concrete manifestation of an East Asian contribution to the UDHR, however, it won't quell the critics who view it as a "Westcentric" document.

⁴⁷ One might also ask why the government's voice should count as the normatively binding final interpretation of human rights issues in East Asia. Ironically, the same critics who point out that East Asian governments illegitimately present their own interpretations of human rights (often self-interested arguments for the denial of rights) as though it represents a society-wide consensus are saying, in effect, that international human standards upheld in the UDHR should be upheld because their governments endorsed this document.

⁴⁸ Similar problems arise with principles laid out in state constitutions: on the (mistaken) tendency to think that constitutionalizing property rights is sufficient to secure those rights, see Greg Alexander, "Property in Global Constitution-Making: Avoiding the Formalist Trap" (ms. on file with the author).

particular cases. Moreover, U.N. documents do not provide much guidance when rights conflict or need to be violated preemptively to prevent further violations of rights.

In short, U.S. and "international" justifications for human rights do not seem particularly promising from a tactical point of view, and to be effective human rights activists may need to pay more attention to local justifications for human rights in Asia. There are also positive reasons in favor of drawing on the resources of indigenous cultural traditions to persuade East Asians of the value of human rights.

First, awareness of "values in Asia" allows the human rights activist to draw on the most compelling *justifications* for human rights practices. Many rights battles will be fought within societies according to local norms and justifications. Consider the example of the Sisters in Islam, an autonomous, nongovernmental organization of Muslim women in Malaysia.⁴⁹ This group challenges the way that Islam has been (mis)used by powerful forces to justify patriarchal practices, often contravening Islam's central ideas and animating principles. It tries to advocate women's rights in terms that are locally persuasive, meaning that it draws upon Islamic principles for inspiration.⁵⁰ For example, the Sisters in Islam submitted a memorandum to the prime minister of Malaysia urging the Federal Parliament not to endorse the *hudud* law passed by the Kelantan state legislature. The *hudud* punishments included such troubling features as the inadmissibility of women as eyewitnesses. Sisters in Islam argued against the endorsement of these punishments by rejecting the crude equation of *hudud* with *Shari'a* and *Shari'a* with Islam that helped to justify the Kelantan enactments. Apparently this campaign was effective, because the Federal Parliament states that it will not pass the Kelantan *hudud* code. The Sisters in Islam also engage in long-term human rights work, such as distributing pamphlets on Quranic conceptions of rights and duties of men and women in the family that provide the basis for a more egalitarian view of gender relations than the regressive ideas typically (and misleadingly) offered in the name of Islam itself. The assumption is that building human rights on traditional cultural resources—on the customs and values that people use to make sense of their lives—is more likely to lead to long-term commitment to human rights ideas and

⁴⁹ See Norani Othman, "Grounding Human Rights Arguments in Non-Western Culture: *Shari'a* and the Citizenship Rights of Women in a Modern Islamic State," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (New York: Cambridge University Press, 1999), chap. 7.

⁵⁰ Similar arguments have been put forward by Islamic feminists in Morocco: see Wendy Kristianasen, "Debats entre femmes en terres d'islam," *Le Monde Diplomatique*, Avril 2004, 20. In Kenya, the argument that female genital cutting is inconsistent with the teachings of the Quran (Koran) has been relatively effective at changing the minds of (former) practitioners of genital cutting. Mark Lacey, "Genital Cutting Shows Signs of Losing Favor in Africa," *The New York Times*, 8 June 2004, A3.

practices. Conversely, the group seems to recognize that defending rights by appealing to "universal human rights" (not to mention Western feminist ideas) is likely to be ineffective, if not counterproductive.⁵¹

It can be argued that predominantly Islamic societies present a special case, where people's outlooks and "habits of the heart" are profoundly informed by religious values. In this context, it seems obvious that defenders of human rights are more likely to be effective if they work within the dominant tradition. But cultural traditions may also be relevant for human rights activists and democratic reformers elsewhere. For example, Wang Juntao—a long-time democratic activist who spent nearly five years in jail after the 1989 Beijing massacre—argues that many of the key figures in Chinese democracy movements drew inspiration from Confucian values. From the late nineteenth century to the present, nearly all the important figures in the history of democracy movements in mainland China, Taiwan, and Hong Kong tried to revive Confucianism in order to support democratization. Wang Juntao supports this aspiration, partly on the grounds that democracy may be easier to implement in the Chinese context if it can be shown that it need not conflict with traditional political culture: "If Confucianism is consistent with democracy, the traditional culture may be used as a means of promoting democratization in East Asia. At the very least, the political transition will be smoother and easier, with lower costs, since there will be less cultural resistance."⁵² Of course, there is an element of speculation here since the "effectiveness" of Confucian-based arguments for democracy remains to be proven in mainland China, but such arguments, at minimum, can be deployed to counter official attempts to use "Confucianism" to justify constraints on democratic rule.

Second, local traditions may shed light on the *groups* most likely to bring about desirable social and political change. For example, Han

⁵¹ Note, however, that the strategy adopted by Sisters of Islam is not without controversy. At the Bangkok workshop, a representative of the group was severely criticized by a devout Muslim from Malaysia, who questioned the Islamic credentials of the group, including the fact that some members could not read the Quran in Arabic. Such criticisms suggest that local justifications are most effective if deployed by "true believers" of the tradition: in the case of Islam, if a nonbeliever draws on Islam to push forward values similar to human rights in an Islamic context, the strategic use of the religion is not likely to be viewed as sincere and may be rejected as another form of cultural imperialism. Needless to say, I do not mean to imply that the members of Sisters of Islam are not true believers: in fact, their successes in the Malaysian political area suggests that they are taken seriously by other Muslims. In this case, it appears to be a dispute between competing interpretations of Islam, not between believers and nonbelievers.

⁵² Wang Juntao, "Confucian Democrats in Chinese History," in *Confucianism for the Modern World*, ed. Daniel A. Bell and Hahm Chaibong (New York: Cambridge University Press, 2003), 69.

Sangjin of Seoul National University suggests that students from universities in Korea, centers of "cultural authority," could draw on the Confucian tradition of respect for intellectual elites and hence play a crucial role in establishing a society-wide commitment on the need for improving the human rights situation in Korea.⁵³ It may be that intellectual elites are granted uncommon (by Western standards) amounts of respect in societies shaped by Confucian traditions, with the implication that human rights activists need to target this group in particular, as opposed to investing their hopes in a mythical liberalizing middle class that often supports human rights reforms only insofar as they maintain a political order conducive to the accumulation of wealth.⁵⁴

Third, regardless of the substance or the moral justification for one's arguments, awareness of local traditions may shed light on the appropriate attitude to be employed by human rights activists. For example, Onuma Yasuaki reminds us that "[i]n Japanese culture, modesty is highly valued. Even if one believes in certain values, proselytizing for them is regarded as arrogant, uncivilized, and counterproductive. Instead, one should find ways to induce others to appreciate these values in a quiet and modest manner."⁵⁵ This has implications for cross-cultural critics of human rights violations: instead of the high-decibel "naming and shaming" approach⁵⁶ that is often seen in East Asia as high-minded and self-righteous, even by dissident intellectuals, criticism of human rights violations in East Asia is often more effective if it is presented in a more subtle and indirect way.

Fourth, local traditions may also make one more sensitive to the possibility of alternative, nonlegalistic mechanisms for the protection of the vital human interests normally secured by a rights regime in a Western context.⁵⁷ As Onuma (himself a professor of international law) notes,

⁵³ Han Sangjin, "Political Liberalization, Stability, and Human Rights" (paper presented at the Hakone workshop, on file with author), 21.

⁵⁴ See David Brown and David Martin Jones, "Democratization and the Myth of the Liberalizing Middle Classes," in Daniel A. Bell et al., *Towards Illiberal Democracy in Pacific Asia* (London and New York: Macmillan/St. Antony's College and St. Martin's Press, 1995), 78–106.

⁵⁵ Onuma Yasuaki, "In Quest of Intercivilizational Human Rights: 'Universal vs. Relative' Human Rights Viewed from an Asian Perspective," Centre for Asian Pacific Affairs, The Asia Foundation, Occasional Paper no. 2, 1996, 4.

⁵⁶ See the discussion in the following chapter of the "naming and shaming" approach defended by Human Rights Watch.

⁵⁷ If human rights practices and institutions refer by definition only to the legal protection of individual rights, then, needless to say, nonlegalistic mechanisms for the protection of those same individual rights cannot be termed "human rights practices." However, if the end result is the same—that is, the protection and promotion of vital human interests, which is presumably the whole point of a human rights regime—it is unclear why one should place too much emphasis on this terminological issue.

"legalistic thinking has been rather foreign to many Japanese . . . to resort to juridical measures and to enforce one's rights is not appreciated. Rather, one is expected to reach the same goal by resorting to less forceful measures such as patient negotiations, mediation, and other conciliatory measures."⁵⁸ In such a context, human rights activists can suggest nonjuridical mechanisms for the protection of vital human interests, emphasizing that legal means are to be employed only as a last resort.⁵⁹

It would seem, then, that strategic considerations of practical relevance speak strongly in favor of local justifications for the values and practices that, in the Western world, are normally realized through a human rights regime. Perhaps, however, the deepest and most controversial question remains to be addressed: Can one identify aspects of East Asian cultural traditions relevant not just in the strategic sense of how best to persuade East Asians of the value of a human rights regime, but also in the sense that they may provide a moral foundation for political practices and institutions different from the human rights regimes typically favored in Western countries? It is to this topic that we now turn.

VALUES IN ASIA VERSUS WESTERN LIBERALISM: JUSTIFIABLE MORAL DIFFERENCES?

A human rights regime is supposed to protect our basic humanity—the fundamental human goods (or needs or interests) that underpin any "reasonable" conception of human flourishing. But which human goods are fundamental? There is little public dispute over rights against murder, torture, slavery, and genocide (though, needless to say, many governments continue to engage in nasty deeds off the record). As Singaporean government official Bilahari Kausikan puts it, "It makes a great deal of difference if the West insists on humane standards of behavior by vigorously protesting genocide, murder, torture, or slavery. Here there is a

⁵⁸ Onuma, "In Quest of Intercivilizational Rights," 4. See also Albert H. Y. Chen, "Mediation, Litigation, and Justice: Confucian Reflections in a Modern Liberal Society," in *Confucianism for the Modern World*, ed. Daniel A. Bell and Hahn Chaibong (New York: Cambridge University Press, 2003) chap. 11. Several areas of conflict, such as traffic and industrial accidents, that would be dominated by private litigation in the United States are settled by administrative procedures in China. William C. Jones points to the imperial roots of such practices and suggests that administrative agencies can also protect and promote freedom in China's future. William C. Jones, "Chinese Law and Liberty," in *Realms of Freedom in Modern China*, ed. William C. Kirby (Stanford: Stanford University Press, 2004), 55–56.

⁵⁹ For the view that legalistic human rights language is generally counterproductive (i.e., not just in the East Asian context) given what it is trying to achieve, see Charles Blattberg, "Two Concepts of Cosmopolitanism" (ms. on file with author).

clear consensus on a core of international law that does not admit of any derogation on any grounds."⁶⁰ However, beyond this agreed upon core, it may well be possible to identify "civilizational" faultlines with respect to differing conceptions of vital human interests.

To repeat, both Western and Asian cultural traditions are complex and change a great deal in response to various internal and external pressures. Nonetheless, it is possible that most politically relevant actors, both officials and intellectuals, in East Asian societies typically endorse a somewhat different set of fundamental human goods than their counterparts in Western societies now and for the foreseeable future. Different societies may typically have different ideas regarding which human goods must be protected regardless of competing considerations, and which human goods can be legitimately subject to trade-offs with other goods as part of everyday politics. If there is some truth in these propositions, it is essential for purposes of improving mutual understanding and minimizing cross-cultural conflict to take them into account. It may mean that some Western conceptions of human rights are actually culturally specific conceptions of fundamental human goods, not readily accepted elsewhere, too encompassing in some cases and too narrow in others.

Limiting the Set of Human Rights for an East Asian Context

For example, it is not only defenders of "Asian" autocratic rule who question the "American" idea that individuals have a vital interest in speaking freely, so long as they do not physically harm others, along with the political implication that the government has a "sacred" obligation to respect this interest. Consider the case of Dr. Sulak Sivaraksa, a leading prodemocracy activist in Thailand and a nominee for the Nobel Peace Prize. In 1991 the Thai ruler, General Suchinda, pressed charges against Sulak for *lèse-majesté*—derogatory remarks directed at the royal family—and for defaming the general in a speech given at Thammasat University in Thailand. Fearing for his life, Sulak fled the country, but he returned in 1992 to face charges after the Suchinda government had fallen. In court, Sulak did not deny that he had attacked the "dictator" Suchinda, but he did deny the charge of *lèse-majesté*,

⁶⁰ Bilahari Kausikan, "Asia's Different Standard," *Foreign Policy*, vol. 92 (1993), 39. The consensus, soon breaks down once it comes to the application of general prohibitions to particular cases, as illustrated by disputes over the whether the abuse of Iraqi prisoners constitutes "torture." There may even be disputes over the application of "torture" in everyday, familial settings: an American student of Indian descent told me that her parents forced her to eat spicy food as a child even after she was crying from the pain, telling her that God would punish her if she didn't eat it (if the point of this child-rearing practice was to promote the love of spicy food, it was effective in this case).

referring to the many services he had performed for the royal family. Sulak explains:

I did not . . . stake my ground on an absolute right to free speech. My defense against the charge of *lèse-majesté* was my innocence of the charge; my defense was my loyalty to the King and the Royal Family and, even where I discussed the use of the charge of *lèse-majesté* in current Siamese political practice, it was to highlight abuse and to point to the ways in which abuse might undermine the monarchy, rather than to defend any theoretical right to commit this action. I am not affirming, nor would I affirm, a right to commit *lèse-majesté*. This aspect of the case is particularly concerned with my being Siamese and belonging to the Siamese cultural tradition.⁶¹

In other words, Sulak aimed to persuade fellow citizens that the dominant political system should be replaced with an alternative, relatively democratic political structure, but he made it explicit that this did not mean advocating the removal of the existing constraint on direct criticism of the Thai king. Perhaps Sulak, like many Thais, would feel deeply offended, if not personally harmed, by an attack on the king. In such a case—where a constraint on the freedom of speech seems to be endorsed by both defenders and critics of the prevailing political system—there should be a strong presumption⁶² in favor of respecting this deviation from American-style free speech.⁶³

Other examples put forward by East Asian intellectuals regarding the possibility of narrowing the definition of vital human interests more than would typically be the case in liberal Western countries—hence narrowing the list of rights that belong to the core of the human rights zone—include the following:

1. In Singapore, there is a law that empowers the police and immigration officers to “test the urine for drugs of any person who behaves in a suspi-

⁶¹ Sulak Sivaraksa, “Buddhism and Human Rights,” paper presented at the Bangkok workshop on Cultural Sources of Human Rights in East Asia, March 1996 (on file with author).

⁶² I do not mean to deny that this presumption can be overridden. For example, the foreign human rights advocate would not have an obligation to refrain from critique of the Thai king if the king were to call for an unjustified war against a neighboring state, even if all Thais support this call. But such an eventuality is very unlikely (at least under the current king, who is widely admired and recognized to be a benevolent ruler), hence the strong presumption in favor of deferring to the “Thai” constraint on free speech.

⁶³ At the Bangkok workshop (March 1996), Charles Taylor pointed out that relatively uncontroversial laws against hate speech also exist in Canada. It could be argued, however, that the Thai case is more of a deviation from American-style free speech because the core of this ideal is the right to criticize political leaders, which is precisely the right being called into question here.

rious manner. If the result is positive, rehabilitation treatment is compulsory.”⁶⁴ Joseph Chan comments that “[t]his act would be seen by Western liberals as an unjustifiable invasion of privacy. But for some Asians this restriction may be seen as a legitimate trade-off for the value of public safety and health.”⁶⁵

2. In democratic South Korea, each household is required to attend monthly neighborhood meetings to receive government directives and discuss local affairs.⁶⁶ What may be viewed as a minor inconvenience in Korea would almost certainly outrage most U.S. citizens, and it is likely that the U.S. Supreme Court would strike down a governmental policy that forced citizens to associate for political purposes of this sort as a violation of the First Amendment. Once again there seems to be more willingness in East Asia among the general population to serve the common good by limiting individual freedom, perhaps as a residue of the Confucian cultural tradition.

3. Islamic legal scholar and human rights activist Abdullahi A. An-Na'im offers the following example from Islamic criminal law. According to Islamic law, which is based on the Quran and which Muslims believe to be the literal and final word of God, and on the Sunna, or traditions of the Prophet Muhammad, theft is punishable by the amputation of the right hand and homicide by exact retribution or payment of monetary compensation. An-Na'im notes that

Islamic law requires the state to fulfill its obligation to secure social and economic justice and to ensure decent standards of living for all its citizens before it can enforce these punishments. The law also provides for very narrow definitions of these offenses, makes an extensive range of defenses against the charge available to the accused person, and requires strict standards of proof. Moreover, Islamic law demands total fairness and equality in law enforcement. In my view, the prerequisite conditions for the enforcement of these punishments are extremely difficult to satisfy in practice and are certainly unlikely to materialize in any Muslim country in the foreseeable future.⁶⁷

Notwithstanding the practical impediments to the legitimate implementation of corporeal punishment under Islamic law, An-Na'im argues that

⁶⁴ Joseph Chan, “The Asian Challenge to Universal Human Rights: A Philosophical Appraisal,” in *Human Rights and International Relations in the Asia Pacific*, ed. James T. H. Tang (London: Pinter, 1995), 25, 36 (quoting Won Kan Seng, “The Real World of Human Rights,” address at the Second World Conference on Human Rights, Vienna, 1993).

⁶⁵ *Ibid.*

⁶⁶ Kim Dae Jung, “Is Culture Destiny?,” *Foreign Affairs*, November/December 1994, 190.

⁶⁷ Abdullahi A. An-Na'im, “Toward a Cross-Cultural Approach to Defining International Standards of Human Rights: The Meaning of Cruel, Inhuman, or Degrading Treatment or Punishment,” in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus* (Philadelphia: University of Pennsylvania Press, 1992), 34.

Islamic criminal law is endorsed in principle by the vast majority of Muslims today,⁶⁸ whereas most Western liberals and human rights activists would almost certainly regard it as a violation of the human right not to be subjected to cruel, inhuman, or degrading treatment or punishment.

Expanding the Set of Human Rights for an East Asian Context

The East Asian challenge, however, is not simply an argument for shortening the set of rights typically endorsed by members of Western liberal societies. In some areas, there may be a case for *widening* the scope of fundamental human goods to be protected by a rights regime. In Japanese society, for example, well-developed empathetic ability is regarded as one of the necessary conditions for the pursuit of the good life. Such ability is normally acquired via warm, intimate human relationships in early stages of life, leading Teruhisa Se and Rie Karatsu to argue that “a new right could be included in the category of human rights: a right to be brought up in an intimate community.”⁶⁹

Consider also the value of filial piety, what Confucians consider to be “the essential way of learning to be human.”⁷⁰ East Asian societies influenced by Confucianism strongly emphasize the idea that adult children have a duty to care for elderly parents,⁷¹ a duty to be forsaken only in the most exceptional circumstances.⁷² Thus, whereas it is widely seen

⁶⁸ Ibid.

⁶⁹ Teruhisa Se and Rie Karatsu, “A Conception of Human Rights Based on Japanese Culture: Promoting Cross-cultural Debates,” *Journal of Human Rights*, vol. 3, no. 3 (September 2004), 283. He and Rie point to the possibility that such new rights can improve the human rights scheme prevailing in Western cultures (ibid., 284–85), though my view is that well-developed empathetic ability is not nearly so central to the Western liberalism and is not likely to be adopted as the foundation for new rights in the West.

⁷⁰ Tu Wei-ming, *Confucianism in an Historical Perspective*, Institute of East Asian Philosophies, Occasional Paper and Monograph Series no. 13, 1989, 15.

⁷¹ Interestingly, this moral outlook still seems to inform the practices of Asian immigrants to other societies. According to the *New York Times* (11 July 2001), fewer than one in five whites in the United States help care for or provide financial support for their parents, in-laws, or other relatives, compared with 28 percent of African Americans, 34 percent of Hispanic Americans, and 42 percent of Asian Americans. Those who provide the most care also feel the most guilt that they are not doing enough. Almost three-quarters of Asian Americans say they should do more for their parents, compared with two-thirds of Hispanics, slightly more than half of African Americans, and fewer than half of whites.

⁷² The obligations of filial piety do not end with the death of one’s parents: equally, if not more important, are the mourning period and the subsequent rituals designed to show ongoing respect for one’s parents. In Korea, for example, the large majority of families endorse the practice of ancestor worship. Geir Helgesen, *Democracy and Authority in Korea: The Cultural Dimension in Korean Politics* (Richmond, England: Curzon, 1988), 128. Arnold Schwarzenegger expressed a contrasting approach in the film *Pumping Iron*, where he seemed proud of the fact that he chose to train for a body-building competition rather than return home for his father’s funeral.

as morally acceptable in the West to commit elderly parents to nursing homes,⁷³ from an East Asian perspective this often amounts to condemning one’s parents to a lonely and psychologically painful death and thus should be considered as a violation of a fundamental human good. In political practice, the value of filial piety means that it is incumbent on East Asian governments to provide the social and economic conditions that facilitate the realization of the duty to care for elderly parents.⁷⁴ This can take the form of laws that make it mandatory for children to provide financial support for elderly parents, as in mainland China,⁷⁵ Taiwan,⁷⁶ Japan, and Singapore, and/or reliance on more indirect methods such as tax breaks and housing benefits that simply make at-home care for the elderly easier, as in Korea, Hong Kong, and Singapore.⁷⁷ In some cases, the right to be cared for by adult children is secured in the constitution itself, along with other “constitutional essentials.”⁷⁸

In sum, East Asian conceptions of vital human interests may well justify deviations from the human rights standards typically endorsed by liberal theorists, Western governments, and international human rights documents formulated without substantial input from East Asia. The position that different societies can draw different lines between the core

⁷³ This is not to deny that Westerners sometimes agonize over the decision to commit a parent to an old-age home. It is only to say that, generally speaking, East Asians are more likely to provide personal care for older parents (see also chapter 10).

⁷⁴ In the case of elderly parents without family members, Mencius argues that the obligation falls to the state: see the discussion in Chan, “Giving Priority to the Worst-Off,” 238–42.

⁷⁵ In China’s basic courts, appeals by parents for support from their children constitute 5–10 percent of the cases. Upham comments that “Confucian values notwithstanding, the refusal of young Chinese to obey their legal obligation to support their parents is a significant social problem” (Upham, “Who Will Find the Defendant?”) (ms. on file with the author). But the fact that young Chinese have such a legal obligation shows the continuing relevance of the value of filial piety (the point is to punish the minority of young Chinese who do not pay the “costs” of this value).

⁷⁶ It is interesting to note that laws meant to secure the traditional value of filial piety are not subject to political debate in Taiwan, one of the few areas of consensus in an otherwise highly polarized society where the government seems intent on casting aside manifestations of traditional “Chinese” values and practices (see chapter 6).

⁷⁷ The Singapore state, for example, promotes the ideal of “three generations under one roof” by means of policies that give priorities of allocation for publicly subsidized accommodation or additional housing subsidies for newly married couples who live within a certain distance of their old neighborhood where their parents continue to live. Antonio L. Rappa and Sor-hoon Tan, “Political Implications of Confucian Familism,” *Asian Philosophy*, vol. 13, nos. 2/3 (July 2003), 90.

⁷⁸ The right to be cared for by adult children may not be expressed in rights language—for example, the 1992 Mongolian Constitution specifies the duty to care for elderly parents. But if adult children can be punished for neglecting their parents, the difference is terminological rather than substantive.

of the human rights regime and less important values is not particularly controversial in East Asia.⁷⁹ However, many otherwise progressive liberal voices in the West still seem compelled by a tradition of universalist moral reasoning that proposes one final solution to the question of the ideal polity yet paradoxically draws only on the moral aspirations and political practices found in Western societies.

One obvious implication of these reflections is to allow for the possibility of justifiable deviations from Western-style human rights regimes in East Asia. If otherwise critical East Asian voices endorse their government's "autocratic" measures, Western human rights activists need to think twice before intervention. Let me put it differently. Given the extent of human suffering in today's world, with so many obvious and uncontroversial violations of the minimal conditions of human well-being, it is difficult to understand why Western human rights groups would want to spend (scarce) time and money critiquing human rights "violations" that would not be viewed as such by East Asians with no particular axe to grind.

CROSS-CULTURAL DIALOGUES ON HUMAN RIGHTS: WHAT IS THE POINT?

But it is not just a matter of defending parochial attachments to particular nonliberal moralities. Far from arguing that the universalist discourse on human rights should be entirely displaced with particular, tradition-sensitive political language, some critics of Western-style human rights have criticized liberals for not taking universality seriously enough, for failing to do what must be done to make human rights a truly universal ideal. If the ultimate aim is an international order based on universally accepted human rights, the West needs to recognize that human rights have been in constant evolution and allow for the possibility of positive non-Western contributions to this process. Such critics argue for more cross-cultural dialogues on human rights, with the perspective that Asian proposals for improving the current "Westcentric" human rights regime

⁷⁹ I leave aside the question of cultural differences that may affect different ways of determining the core of human rights *within* societies. For example, newly arrived Hmong immigrants to the United States believe that ritual killings of animals is necessary to heal sick family members, but once the practice became known to residents of Merced, California, the city passed an ordinance banning the slaughter of livestock and poultry within city limits. See Anne Fadiman, *The Spirit Catches You and You Fall Down: A Hmong Child, Her American Doctors, and the Collision of Two Cultures* (New York: Farrar, Straus, and Giroux, 1997), 107–8. Were the Hmong to frame their grievances in terms of the language of human rights, they would have a good case to argue that their basic rights are being violated.

should be welcomed, not feared.⁸⁰ These critics—let us label them "cosmopolitan critics of liberalism"—have suggested various means of improving the philosophical coherence and political appeal of human rights. In this section, I discuss their proposals and raise some doubts regarding their feasibility.

As mentioned, there is little debate over the desirability of a core set of human rights, such as prohibitions against slavery, genocide, murder, torture, prolonged arbitrary detention, and systematic racial discrimination.⁸¹ These rights have become part of international customary law, and they are not contested in the public rhetoric of the international arena. But political thinkers and activists around the world can and do take different sides on many pressing human rights concerns that fall outside what Michael Walzer terms the "minimal and universal code."⁸² This gray area of debate includes criminal law, family law, women's rights, social and economic rights, the rights of indigenous peoples, and the attempt to universalize Western-style democratic practices. For cosmopolitans, the question is: how can the current "thin" list of universal human rights be expanded to include some contested rights?

The Perils of Inclusive Dialogues

Onuma Yasuaki proposes an "intercivilizational approach to human rights" that would entail dialogue between members of "civilizations" with the aim of achieving the widest possible consensus on human

⁸⁰ There is less reason to welcome such proposals if they are likely to be motivated by economic or political self-interest, but it still does not mean that seemingly self-interested proposals should be rejected, a priori. In reaction to a suggestion by then Malaysian Prime Minister Mahathir bin Mohamad that the Universal Declaration of Human Rights might be in need of review to allow for more input from developing nations, then U.S. Secretary of State Madeleine Albright vowed that the United States would be "relentless" in opposing review of the UDHR. Leaving aside the point that the United States does a poor job of living up to the social and economic rights enshrined in the UDHR, the problem with Albright's position is the assumption that the particular rights affirmed in the UDHR should be valid for eternity. As Peter Van Ness puts it, "Mahathir should instead [of being condemned] have been encouraged to make a concrete proposal, because one of the basic requirements of achieving and sustaining consensus is to be prepared to reshape global standards whenever better principles are discovered." Van Ness, ed. *Debating Human Rights* (London: Routledge, 1999), 11.

⁸¹ Terrorist groups that justify the mass killing of civilians are an obvious exception. It is interesting to note, however, that even Osama bin Laden does not straightforwardly proclaim responsibility for the September 11 attacks, presumably on the grounds that this would undermine his base of support.

⁸² Michael Walzer, *Interpretation and Social Criticism* (Cambridge: Harvard University Press, 1987), 24. See also Walzer, *Thick and Thin* (Notre Dame: University of Notre Dame Press, 1994).

rights.⁸³ Such a dialogue would seek to address the concern that most international human rights groups interpret and prioritize rights according to the Western liberal tradition and that international human rights instruments have not yet adequately incorporated non-Western views. Onuma's proposal, however, is not without problems. For example, the boundaries between civilizations, if they exist at all, are never easy to delineate, especially when considering the fact there are disputes over these issues even within particular traditions. More serious, this dialogue would exclude those not belonging to the major religious, philosophical, and cultural traditions: marginalized groups and individuals who may be particularly vulnerable to human rights abuses.⁸⁴ For example, members of small indigenous tribes, sex workers, refugees, and people who are mentally ill would not have their interests represented at the intercivilizational dialogue on human rights.

Addressing this problem by increasing participation, however, would raise its own set of problems. Amitai Etzioni, for example, proposes a worldwide moral dialogue that would not be limited to representatives of the major civilizations: "Before we can expect to see global mores that have the compelling power of those of various societies, the citizens of the world will have to engage in worldwide moral dialogues."⁸⁵ But does it mean that five billion people must participate in the global dialogue? Leaving aside the issue of cost, the main obstacle such megalogues face is getting participants to agree upon anything more than vague aspirations and empty platitudes. Put simply: the more inclusive the deliberations, the more difficult it will be to arrive at any politically meaningful resolutions.

So participation needs to be limited. One might reasonably argue that a representative sample of leaders and citizens from around the world, if the sample were kept small enough, would be able to reach agreement on the global values that are supposed to guide and constrain policymakers. But this leads to a number of questions: Should the dialogue involve political leaders, diplomats, international lawyers, leaders of religious traditions, academics, representatives of nongovernmental organizations, ordinary citizens, or a combination of these? How many from each group? How many from each country? If the outcomes of these deliberations are meant to command international legitimacy and trump

⁸³ Onuma, "Toward an Intercivilizational Approach to Human Rights."

⁸⁴ See Neve Gordon, ed., *From the Margins of Globalization: Critical Perspectives on Human Rights* (Lanham, MD: Lexington Books, 2004).

⁸⁵ Amitai Etzioni, *The New Golden Rule* (New York: Basic Books, 1996), 236. I have critically evaluated Etzioni's proposals in my essay, "Toward an International Human Rights (and Responsibilities) Regime: Some Obstacles," in *Autonomy and Order: A Communitarian Anthology*, ed. Edward W. Lehman (Lanham, MD: Rowman & Littlefield, 2000), 211-18.

the decisions of national political leaders, there will be endless disputes over the right way to select "representative" participants.

Can Tolerating Disagreement Lead to Meaningful Resolutions?

Following an extended period of study in Thailand with Buddhist practitioners and thinkers, the Catholic philosopher Charles Taylor has put forward another proposal for establishing an unforced, cross-cultural consensus on human rights. He imagines a cross-cultural dialogue between representatives of different traditions. Rather than argue for the universal validity of their views, however, he suggests that participants should allow for the possibility that their own beliefs may be mistaken. This way, participants can learn from each other's moral universe. There will come a point, however, when differences cannot be reconciled. Taylor explicitly recognizes that different groups, countries, religious communities, and civilizations hold incompatible views on theology, metaphysics, and human nature. In response, Taylor argues that a "genuine, unforced consensus" on human rights norms is possible only if we allow for disagreement on the ultimate justifications of these norms. Instead of defending contested foundational values when we encounter points of resistance (and thus condemning the values we do not like in other societies), we should try to abstract from those beliefs for the purpose of working out an "overlapping consensus" of human rights norms. As Taylor puts it, "we should agree on the norms while disagreeing on why they were the right norms, and we would be content to live in this consensus, undisturbed by the differences of profound underlying belief."⁸⁶

While this proposal moves the debate on universal human rights forward, it still faces certain difficulties. For one thing, it may not be realistic to expect that people will be willing to abstract from the values they care deeply about during the course of a global dialogue on human rights. Even if people agree to abstract from culturally specific ways of justifying and implementing norms, the likely outcome is a withdrawal to a highly general, abstract realm of agreement that fails to resolve actual disputes over contested rights. For example, participants in a cross-cultural dialogue can agree on the right to political participation, while radically disagreeing upon what this means in practice: a Singaporean official may argue that competitive elections are sufficient, whereas a Western liberal will argue that meaningful elections must be accompanied by the freedoms of speech and association.

⁸⁶ Charles Taylor, "Conditions of an Unforced Consensus on Human Rights," in *The East Asian Challenge for Human Rights*, 124.

The Failures of Cross-Cultural Dialogues

The problems noted above are not simply theoretical possibilities. In the last decade or so, there have been many attempts to put forward truly universal moral values, and the response has ranged from hostility to indifference. None has come even close to supplanting the Universal Declaration of Human Rights as a normative frame of reference, notwithstanding the ongoing controversy regarding the "Westcentric" perspective of this document.

The attempt by a group of former heads of state to formulate "A Universal Declaration of Human Responsibilities"⁸⁷ illustrates some of the problems with global dialogues. This declaration was supposed to complement the UDHR, but its main effect would have been to dilute it. Most of the declaration consists of vacuous moralizing. Article 3 is not atypical: "Everyone has the responsibility to promote good and to avoid evil in all things." Such platitudes are not necessarily harmful, but they serve to draw attention from the really important rights that do need to be enforced.

The more serious problem is that some sections of the declaration would be politically dangerous if they were taken seriously. Consider article 14: "The freedom of the media to inform the public and to criticize institutions of society and governmental actions, which is essential for a just society, must be used with responsibility and discretion. Freedom of the media carries a special responsibility for accurate and truthful reporting. Sensational reporting that degrades the human person and dignity must at all times be avoided." It is interesting to note that the group of former heads of state includes the father of the "Asian values" debate, Singapore elder statesman Lee Kuan Yew. In Singapore, Lee has often advanced similar arguments about the need for "responsible" journalism that "at all times" avoids "sensational reporting that degrades the human person and dignity." The result? Singaporean newspapers have been completely defanged, and foreign newspapers like the *Asian Wall Street Journal* and the *International Herald Tribune* have had to pay huge damages for having "defamed" members of the Lee family. Not surprisingly, article 14 met with vigorous opposition from journalists.⁸⁸ Such opposition ensured that the Universal Declaration of Human Responsibilities never did get far in the UN General Assembly.⁸⁹

⁸⁷ See <http://www.interactioncouncil.org/udhr/declaration/udhr.pdf> (visited 2 March 2005).

⁸⁸ <http://www.wpfc.org/index.jsp?page=Newsletter%20December%2021%201998> (visited 2 March 2005).

⁸⁹ The UNESCO effort to develop "A Common Framework for the Ethics of the 21st Century" similarly ended in failure.

In short, the aspiration to develop values of more universal scope with substantive content may not be realizable.⁹⁰ Cross-cultural dialogue will lead to either empty platitudes or politically controversial conclusions likely to be rejected by affected constituents. The good news is that no major damage has been done to the human rights movement (other than, perhaps, wasting funds that could have been more productively spent elsewhere). The truth of the matter is that only philosophers and theologians will be deeply concerned about the need to secure truly universal foundations for human rights. For governments concerned with implementing human rights, national laws usually serve as the normative point of reference. For local human rights groups (or their functional equivalent), it is sufficient to ground their work in the local values and traditions that members of the community use to make sense of their moral lives. For international human rights organizations, much of the work will consist in exposing the gap between public allegiance to uncontested rights (such as the right not to be tortured) and sad reality of ongoing abuse. They will not waste time writing about or deliberating about the desirability of practices that everyone condemns at the level of principle. Such organizations will also provide funds and expertise to local and national human rights organizations, and here too the lack of a truly universal foundation for human rights is not an obstacle: everybody agrees on the shared ends.

This is not to deny, of course, that human rights organizations encounter ethical challenges during the course of their work. But practitioners, not academic theorists, are best placed to identify such challenges. Let us then turn to reflections on dialogues that involve the views of practitioners. The next chapter will discuss those challenges, with particular focus on the East Asian region, followed by some normative reflections that may provide some practical guidance for dealing with the challenges.

⁹⁰ Fred Dallmayr expresses a more optimistic view: "The point of comparative political theory, in my view, is precisely to move toward a more genuine universalism, and beyond the spurious 'universality' claimed by the Western canon and by some recent intellectual movements." Dallmayr, "Beyond Monologue: For a Comparative Political Theory," *Perspectives on Politics*, vol. 2, no. 2 (June 2004), 253. I do not mean to imply that cross-cultural dialogue and comparative theorizing should not be done (quite the opposite), but the main aim would be to identify areas of justifiable moral difference, thus teaching us "about the diversity and richness of what human beings may reasonably prize, and about the impossibility of reconciling all they prize in just a single ideal" (David Wong, "Comparative Philosophy: Chinese and Western," *Stanford Encyclopedia of Philosophy*, <http://plato.stanford.edu/entries/comparphil-chiwest/>, 9, visited 18 February 2005), as well as learning from other cultures with the aim of improving flaws in one's own culture.