

# Rights and Community in Confucianism

David B. Wong

## I. INTRODUCTION

There is an interesting turn toward Confucianism in much U.S. scholarship on Chinese philosophy. Heiner Roetz, in a recent book on Confucian ethics, detects certain frequently recurring themes in this scholarship. Quoting and paraphrasing from authors such as Herbert Fingarette, Henry Rosemont, David Hall, and Roger Ames, Roetz summarizes the themes in the following way:<sup>1</sup>

China can teach us to recognize that the mentality of self, autonomy, and freedom has run its course. Together with the Chinese, we should recall our "communal rituals, customs, and traditions"<sup>2</sup> and "inherited forms of life."<sup>3</sup> We should abandon the "myth of objective knowledge," and adopt a "thinking that avoids the disjunction of normative and spontaneous thought."<sup>4</sup> Confucius especially presents us with a model which for our world is perhaps "more relevant, more timely, more urgent" than it has been even in China herself.<sup>5</sup>

Roetz criticizes the line of thought he finds in these authors for its apparent paradoxicality: the criticism of negative developments within Western society presupposes general normative criteria, yet the allegedly better model - Confucianism - is deployed to argue for a "contextualism which is no longer interested in questions of right and wrong, or relativity and objectivity."<sup>6</sup> Furthermore, Roetz argues that context and tradition sanctified foot-binding in China, widow burning in India, and slavery in the United States. Roetz asks, "How can we criticize the unspeakable injustice inflicted upon man in the name of traditions and contexts if we leave the final say to both and abandon any ethical reserve?"<sup>7</sup> Roetz goes on to argue for an interpretation of Confucianism that finds within

it important universalistic ethical themes relating to Habermasian and Kohlbergian conceptions of moral development.

Now I am not certain that the authors Roetz mentions would agree that they hold the particular combination of views he attributes to them.<sup>8</sup> But on the other hand, it is not unusual to find this combination of views in Westerners who react favorably to Confucianism - both the view that Confucianism reveals something important that one's own tradition has neglected or underemphasized and the view that it is wrongheaded to search for some transcendent truth about which tradition is objectively superior to others. I suspect that many of us who do comparative ethics get caught in the tension between these two views. In this essay I want to explain a way to live with both. I stake out a position between the new contextualist and postmodernist approaches to Confucianism, on the one hand, and the universalist approach that can find insight or injustice in Confucianism.

I want to focus on the question of whether moralities ought to recognize individual rights and in particular the rights to speech and dissent. The common view, one to which I have contributed in the past, is that rights do not find a congenial home in Confucianism because of its emphasis on community. In this essay I want to take a more complex position. I still maintain that there is a significant difference between typical rights-centered moralities and the community-centered morality of Confucianism. I will argue for a pluralism that accepts both rights-centered and Confucian moralities, and in that respect I am with the contextualists and postmodernists. On the other hand, I also will argue that there are universal constraints on morality rooted in the human condition and human nature, and that these constraints push Confucianism and rights-centered moralities closer together through the recognition of the interdependence of rights and community. To lay the groundwork for this argument, let me re-introduce the ways in which I have distinguished Confucianism from rights-centered moralities.

## II. COMMUNITY-CENTERED AND RIGHTS-CENTERED MORALITIES

In previous work, I have characterized Confucianism as a virtue-centered morality with the core value of a common good at its center. This common good consists in a shared life as defined by a network of roles specifying the contribution of each member to the sustenance of that life. This

communally oriented morality contrasts with a rights-centered morality, which gives no comparable emphasis to a common good. Rather it emphasizes what each individual, qua individual, is entitled to claim from other members. Rights-centered moralities spring from a recognition of the moral worth of individuals independently of their roles in community.

It now seems necessary to qualify my original distinction in several ways. First, I need to distinguish at least in theory between virtue-centered and community-centered moralities. I originally identified the two types because they have been historically linked through the concept of a virtue as a quality needed by members to contribute to the common good of community. However, it now seems to me at least theoretically possible that virtues can become uncoupled from a common good and be deemed desirable qualities on some basis other than their necessity for a shared life.<sup>9</sup> Having said this, let me stipulate that my focus shall be on community-centered moralities in which the concept of virtue *is* associated with the qualities necessary for sustaining the common good of a shared life.

Second, I now want to emphasize that my conception of a rights-centered morality includes a conception of the characteristic ground for the recognition of individual rights, as well as a generic conception of rights. We may think of the individual's moral rights as that to which the individual is legitimately entitled to claim against others as her moral entitlement. But a rights-centered morality typically assumes as a basis for such entitlements that the individual has substantial domain of morally legitimate personal interests that may conflict with the goal of promoting public or collective goods. Rights constitute constraints or limits on the extent that individual personal interests may be sacrificed for the sake of public or collective goods. Let me call this kind of ground for the recognition of rights "the autonomy ground." I do not want to claim that this is the only ground for rights recognized in the modern Western democratic tradition, but I do think it is probably the most recognized ground in that tradition and that it is the predominant ground in terms of its widespread acceptance and the degree of importance attached to it.

Third, I want to identify another possible ground for the recognition of rights that may exist alongside the autonomy ground. Rights may be recognized on the basis of their necessity for promoting the common good. Community-centered moralities, I shall argue, can and should recognize this sort of "communal ground" for rights. Rights-centered and community-centered moralities, then, need not differ because one

recognizes rights while the other does not. They must differ in the sort of basis they offer for the recognition of rights.

### III. THE COMMUNAL GROUND FOR RIGHTS

Seung-hwan Lee has argued<sup>10</sup> that the Confucian virtues do involve rights, if rights are conceived as enabling persons to make justified claims against others whose duty it is to fulfill them. This is in effect what I want to call the "generic" conception of rights, and Lee goes on to point out that in Mencius in particular there is a conception of rights in this sense. The Mencian virtue of righteousness (*yi*) involves "dutifulness in discharging of one's obligation, rightfulness in respecting other's due, and righteousness in recognizing the limit of one's own desert."<sup>11</sup> In the case of rites and propriety (*li*), Lee points out that the rules governing duties between people standing in the cardinal relationships, such as father and son, can be conceived as rules specifying correlative rights and duties.

But Lee warns us not to equate the rights found in Confucianism with the type of "individualistic" rights found in Western traditions. And one major reason for his warning is that "the Confucian ideal of a communitarian society in which good of the community always precedes individual good tends to devalue individualistic assertion of one's rights against the common good."<sup>12</sup> This is connected, Lee argues, with the Confucian conception of the human being as a relational being. In terms of my framework, Lee is according a communal ground to the generic conception of rights, not an autonomy ground.

So conceived, Confucian rights do not seem to offer much aid and comfort to those Chinese intellectuals and reformers who see a need for rights of dissent, of free speech, and of the democratic election of leaders in a multiparty political system. Lee seems to conclude as much, arguing that Chinese society needs a dose of Western individualism in order to counter an "excessive emphasis on the collectivist conception of the common good," in the name of which "people's assertions of basic rights and freedom have been neglected."<sup>13</sup> However, I think the turn to an autonomy ground for rights may be premature. We need to see what rights a communal ground can yield.

Roetz, for example, calls for a "nonregressive appropriation of tradition" that "combines the interpretation and adaptation" of the Confucian heritage with "the modern demands for democracy and change."<sup>14</sup> He points to themes in the Confucian canon that seem especially relevant to

rights to dissent and freedom of speech. Consider the following passage from the *Zidao* (*The Way of the Son*), chapter 29 of the *Xunzi*.

Zigong said, "If a son follows the order of the father, this is already filial piety. And if a subject follows the order of the ruler, this is already loyalty. But what is the answer of my teacher?"

Confucius said, "What a mean man you are! You do not know that in antiquity, if there were four frank ministers in a state with ten thousand war-chariots, its territory was never diminished. If there were three frank ministers in a state with a thousand war-chariots, that state was never endangered. And if there were two frank subordinates in a clan with one hundred war-chariots, its ancestral temple was never destroyed. If a father has a frank son, he will not do anything that contradicts propriety. If a scholar has a frank friend, he will not do anything unjust. *How, then, could a son be filial if he follows the order of his father? And how could a subject be loyal if he follows the order of the ruler? One can only speak official piety and loyalty after one has examined the reasons why they follow the order.*"<sup>5</sup>

The implication of this passage is that one has a duty to speak frankly when the violation of propriety and justice is in question, even if it is the ruler who is about to violate them. The basis for such a duty to speak is the sort of communal ground I have been describing. It is in the interests of having a community that realizes propriety and justice that a minister or a son speaks out. It might be thought that the duty to speak frankly implies as a necessary correlate the right to speak. After all, if one has a duty to speak, should one be allowed to speak and in fact be protected from interference through force and coercion?

It is important to recognize the ways in which Xunzi's argument has a more limited scope than we might assume. For one thing, Xunzi would not have thought the duty to frank speech applied to *daughters* in relation to their fathers, nor is it clear that he meant the duty to frankly speak to one's king to apply to everyone in the empire below the rank of minister. Xunzi's duty does not correspond to a modern, liberal democratic right to free speech held by all citizens. Furthermore, it is at least logically possible that the duty to speak as Xunzi conceived was not even associated with *anyright* to speak. As I indicated previously, one could begin to make an argument for a right to speak only if relevant others have a duty to let one speak. But the fact that a minister or a son may have a duty to speak frankly does not necessarily imply that a king or a father has a general duty to let him.<sup>16</sup> Indeed, if one keeps in mind Xunzi's abiding and deep concern for political and moral order and the way that order is under constant threat from an anarchic and self-serving human nature, one could imagine him holding that the king or father may have a duty to

punish **the minister or son for** speaking out if it threatens the political and moral **order within the** kingdom or the family. This duty to punish may hold **even if the** minister or son has spoken truly and appropriately.

There is another ground for blocking the inference of a *general* right to speak from Xunzi's argument. This argument is consistent with the possibility that a minister or son has a general *prima facie* duty to follow orders from his king or father *without* questioning them in frank speech. Xunzi may have been saying that such a duty can be overridden, say, if it is needed to correct some especially grave error in these orders. On this interpretation, the duty to speak would be one that arises on specific and relatively infrequent occasions. Under these assumptions, there could not be a general right to speech corresponding to the duty to speak, since such a duty would arise only under specific and infrequent circumstances.<sup>17</sup>

So I do not mean to suggest that one finds in the Chinese classical tradition anything like a full-blown argument for a right to free speech. What I do mean to suggest is that we do have the *germ* of an argument in the idea that the common good is sustained by recognition of a duty to speak. The full-blown argument requires further substantial claims that are broadly empirical and that are, I shall argue, consistent with a communal ground for the right. Some of the issues involve criticism of traditional hierarchies that accord more powers and privileges to ministers and sons than to other subordinates and daughters. I have made such arguments elsewhere so I will not do so here. I do want to address here the issues of whether one can have a duty to speak without others having a duty to let one speak and whether there really is a good argument for a general *prima facie* duty to obey the orders of political authorities without frank questioning. I intend to dispute that the common good is actually promoted by failing to recognize a duty to let others speak or by limiting the duty to dissent to especially grave and infrequent occasions.

Let me start with an argument Allen Buchanan gives in the context of the contemporary Western debate between communitarian and rights-centered theorists. As a theorist who bases rights on the autonomy ground, Buchanan addresses communitarians on their own ground when he writes that

individual rights can play a valuable role even in societies in which there is unanimous agreement as to what the common good is and a universal commitment to pursuing it. For even in such a society there could be serious, indeed violent, disagreements either about how the common good is to be specified concretely and in detail or about the proper means and strategies for achieving it. Individual

rights, especially rights of political participation, freedom of expression, and association can serve to contain and channel such disagreements and to preserve community in spite of their presence.<sup>18</sup>

It seems to me pretty plausible that the sort of disagreements Buchanan mentions are a regular and constant feature of human societies, and that therefore the "need to protect and allow for the peaceful transformations of communities"<sup>19</sup> requires regular and institutionalized channels for dissent, not simply the occasional recognition of a duty to frank speech in specific and infrequent circumstances. Such regularized channels of dissent would require the recognition of duties to let others speak and more positively to protect them in speech from threat and coercion by others. It is to allow those who would speak to publicly hold others to this duty to allow and to protect their speech, something that is involved in being able to claim something as one's right. Once we have such duties, I think we are pretty close to something like a modern democratic right to speak.

Indeed, a communal grounding for a right to speech could be made within a contextualist and postmodernist interpretation of Confucianism, provided that such an interpretation still leaves room for criticism of the tradition. Hall and Ames, well known for their postmodernist interpretation of Confucius and for their vigorous defense of him, nevertheless observe that "The most serious failings of Confucius's philosophy are due to the provincialism and parochialism that seem inevitably to result from the institutionalization of his thinking." This parochialism, they charge, retards "cross-cultural communication" and fosters abuses that cross the "fine line that keeps social order beginning at home separate from nepotism, personal loyalties from special privilege, deference to excellence from elitism, appropriate respect from graft," and, finally, "appropriate deference to the tradition and a cultural dogmatism that has too frequently been in the interests of particular groups."<sup>20</sup> In the spirit of such criticism, one could argue that an appropriate remedy for these failings is recognition and vigorous protection of rights to free speech and dissent.

The argument thus far weighs in favor of recognizing various duties to allow and to protect dissenting speech. Implicit in this argument is an assumption worth making explicit: dissenting speech will not be heard often enough to serve the common good if it is not allowed and protected from interference. This assumption may appear trivially true, but if so, it is so only to us. As I indicated earlier, Xunzi probably recognized a

duty to frank speech while denying a duty to allow it. He was theoretically consistent, but in practice, I want to argue, inconsistent.

The recognition that speech and dissent must be publicly recognized and protected in order for it to serve its function in promoting the common good is a lesson that some Chinese thinkers learned from Chinese history. Andrew Nathan has identified a succession of Chinese intellectuals in the early part of the twentieth century who argued for democratic rights on the ground that China's problems in modernizing stemmed from the "systematic overconcentration of power" and its abuse. At the same time, Nathan points out that these intellectuals very rarely put forward a line of reasoning central to the Western democratic tradition: "that the individual's interests are separate from the group's, that certain of them are so basic as to have the status of 'rights,' and that democracy is first of all a system that protects these rights."<sup>21</sup> Implicit in this characterization of Chinese democratic thought, I claim, is a communal grounding for rights of speech and dissent.

To give another example of this sort of grounding in the Chinese tradition, seven eminent intellectuals led by the historian Xu Liangying recently protested a series of arrests of dissidents by connecting human rights with modernization:

To talk about modernization without mentioning human rights is like climbing a tree to catch a fish. Two hundred and five years ago, the French Declaration of the Rights of Man stated clearly that being ignorant, neglectful and disdainful of human rights is the sole cause of the general public's misfortunes and corruption in government. China's history and reality have verified that longstanding truth.<sup>82</sup>

If one could make the case for substantial rights to free speech and dissent in this way, as I believe one can, what are the implications for the debate between universalism and postmodernist contextualism? It suggests to me that there are human tendencies that span very different cultures, tendencies that render community-centered moralities subject to certain kinds of liabilities. These liabilities need not be judged in Western terms, and not specifically in terms of a moral perspective that places a premium on the value of individual autonomy. Rather, the liabilities are failures to realize the ideal of the common good itself. If, as Buchanan suggests, communitarian traditions frequently give rise to serious and even violent disagreements over questions as to how concretely to realize a common good, democratic rights may be necessary to ensure the peaceful resolution of such disagreements. If, as Hall and Ames suggest, and as many generations of Chinese intellectuals and reformers have



concluded, centralized authority unchecked by dissenting voices from below tends toward abuse of power, nepotism, and isolation and ignorance of what those below really do need, democratic rights may be part of the required remedy, if not the entire remedy.

Having roughly outlined the case for the possibility of communally grounded democratic rights, let me note that a communal grounding is different from a utilitarian grounding for rights, though both groundings are consequentialist in character. A utilitarian grounding of rights would make the case for their utility, where the sum total of utility is a function of the welfare of individuals. For most utilitarians, anyway, the character of the relations between individuals does not in itself necessarily count as part of the total good to be promoted.<sup>23</sup> But it is precisely the character of the relations between individuals that is the primary focus of community-centered moralities. Underlying this focus is a normative and descriptive conception of the person as constituted by her relationships to others and whose good is constituted by relationships that fulfill a moral ideal of appropriate respect and mutual concern. A community-centered morality must, of course, concern itself with some of the same goods with which utilitarianism is concerned. Both Mencius and Xunzi, for example, knew full well that their moral ideals of community could not begin to be fulfilled without a minimal level of material security for the people. And that has remained a preoccupation for Confucians up to the present. But a community-centered morality locates the importance of individual welfare within the larger context of a common good. In fact, the individual's good and the common good are inextricably linked.

#### IV. THE DIFFERENT OUTCOMES OF THE COMMUNITY AND AUTONOMY GROUNDS

Having noted the possibility of providing a communal ground for rights, however, we must note what such a ground does not provide. The scope of rights grounded in community will not be the same as the scope of rights grounded in autonomy. As Buchanan notes, if one were to justify individual rights only by reference to the moral requirement of autonomy, one might justify a "rather broad, virtually unrestricted right to freedom of expression." If, however, we allow the value of community "independent weight as a factor in determining the scope of the right of freedom of expression, we might find that only a more restricted right of freedom of expression can be justified." Therefore, concludes Buchanan, "In the justification of individual rights, the traditional liberal and the

I rights-minded] communitarian may travel the same path for some time, but eventually the path may fork and they may be forced to part company."<sup>24</sup>

Indeed, it might be that the rights-minded communitarian and the traditional liberal will part sooner rather than later, and quite dramatically, depending on what the communitarian perceives as necessary for the common good. Nathan's historical study of Chinese conceptions of democracy reveals the fragility of rights when seen solely as instrumental to collective goods such as prosperity and modernization. Time and again, rights championed as necessary for the common good have been suspended or curtailed because of fear of chaos and national weakness.

Such an observation will lead to the conclusion that a significant difference between community-centered and rights-centered moralities remains, even if both kinds of moralities are constrained by the need for rights to dissenting speech. On the one hand, human nature and the human condition place common constraints on what could count as an adequate morality. Human beings in power tend often enough to abuse that power or to confuse the personal interests served by their exercise of power with the ethical interests of their communities, and therefore need to be checked through the protected use of dissenting speech. Even if a morality provides no autonomy ground for rights to dissenting speech, it must provide for some version of those rights. However, significant moral differences are consistent with such common constraints. Not only do the two types of morality endorse democratic rights for different reasons, the scope of the rights endorsed and their relative immunity to being overridden by other considerations may differ significantly.

#### V. WORRIES ABOUT THE COMMUNAL GROUND FOR RIGHTS

However, a worry arises from reflection on the ways in which communally grounded rights within the Chinese tradition have easily given way to fear of chaos and national weakness. The concept of communally grounded rights may be too weak an instrument for combating the liabilities of community-centered traditions. Especially instructive in this regard is Nathan's account of the way that the Communist Party, from Mao onward, moved toward the idea of free speech and dissent, only to withdraw support for it when it threatened to undermine the equation between the interests of the party and those of the people.<sup>25</sup>

This worry may remind us of the familiar charge against consequentialist groundings of rights: that they provide an uncertain and inconstant grounding for them.<sup>26</sup> In one sense, of course, the community-centered moralist must admit this charge. As noted previously, rights with a communal grounding will never be as wide in scope or as secure from being overridden by other moral considerations as they would be with an autonomy grounding. From the perspective of the community-centered moralist, this is how it should be. But such a moralist still has reason to worry because she may wonder whether *the common good* is harmed when rights to speech and dissent are as insecure as they have been in the Chinese tradition.

The recognition of rights by itself will be ineffectual when the decision to override them for the sake of the common good is in the hands of a class that is motivated to identify its interests, and not necessarily morally legitimate ones, with the common good. But to say that the real problem may be an overcentralization of power is not to say what should take its place. The facile answer is to propose a transplanting of Western democratic machinery and to suppose that will take care of the problem. A real solution to the insecure grounding of rights within communal traditions, I suggest, must look to the character of civil society and not solely to democratic machinery.

William de Bary has recently identified two reasons for the failure of Confucianism to be more influential than it has been in its native country: first, an inability to realize its ideal of education for all people which would infuse a unified national consciousness, and second, a failure to mobilize the people as a politically active body, capable of supporting its initiatives and proposed reforms. The second failure, suggests de Bary, was linked to the lack of an infrastructure of politically effective associations that could serve as channels of communication and influence between the family and local forms of community on the one hand, and the ruling elite on the other.<sup>27</sup> A major concern of some democratic theorists in this country is the possible disappearance or eroding authority of precisely such an intermediate infrastructure. These theorists see Tocqueville as prescient about the dangers of an atomistic individualism that leaves citizens isolated, pursuing their purely private interests, and quite ineffective in making their voices heard in the political sphere because their voices are single. Now I am uncertain as to whether our intermediate institutions have gotten weaker or fewer, as these theorists worry, or whether these institutions have always been as sporadically effective as they seem to be

now. In either case, I believe there is justifiable concern. The common element of concern in both scenarios is that there is not enough community (whether it is less community than in the past or not) to support effective democracy.

## VI. THE INTERDEPENDENCE OF RIGHTS AND COMMUNITY

A common problem for both the Chinese and American democratic traditions, I suggest, is that they have not possessed enough community, at least enough community at levels above the family and local community. The problem for the American tradition goes beyond alienation from the political process for average citizens. Consider Tocqueville's definition of individualism as a "calm and considered feeling which disposes each citizen to isolate himself from the mass of his fellows and withdraw into the circle of family and friends," such that "with this little society formed to his taste he gladly leaves the greater society to look after itself." Such people, Tocqueville observed, form "the habit of thinking of themselves in isolation and imagine that their whole destiny is in their hands." They come to "forget their ancestors" and also their descendants, as well as isolating themselves from their contemporaries. "Each man is forever thrown back on himself alone, and there is danger that he may be shut up in the solitude of his own heart."<sup>28</sup>

Tocqueville's warning about isolation from our contemporaries and our descendants is reflected in the persistent and large inequalities of income and wealth in this country and in a shamefully high proportion of our children who are growing up in poverty; most importantly, it is reflected in the national inability or unwillingness to address these problems. And this brings me to the other side of the coin: if community-centered moralities should move closer to rights-centered moralities, at least in recognizing some of the most fundamental democratic rights, so too must rights-centered moralities recognize the indispensability of community for the realization of democratic values of self-governance and social justice. That is why I suggested at the beginning of this essay that rights and community are interdependent.

The lesson, to return to the issue of universalism versus postmodern contextualism with which I began, is that adequate moral traditions need both community and rights. Rights-centered traditions require a range of viable communities to nurture effective moral agency (a requirement of which Confucianism is well aware) and to make for the effective use of democratic machinery. They require viable communities to foster the

sense of common project and fellowship that in turn promotes real and effective concern for meaningful equality among all citizens. Community-centered traditions need rights for the moral renewal of community and their peaceful transformation through the many disagreements it will experience over the common good. These necessities are grounded in our human nature. This is the sense in which I side with the universalists. However, this does not mean that rights and community must have precisely the same content across traditions, nor does it mean that they have to be given the same emphasis and the same rationale. This is the sense in which I side with the postmodernists.

#### VII. A FURTHER COMPLICATION

Rights-centered theorists have resisted appeals for community because they resist the ideal of a shared vision of a common good. I believe that they are right to do so if this ideal involves the impossible ideal of unanimity of belief about what the common good is, but I also believe that it is an error to reject community as a necessary moral ideal. The sort of community needed by both kinds of tradition must accommodate considerably more diversity of views on the common good than is commonly recognized by the more simplistic forms of communitarianism. Such forms typically envision their ideal communities as centered on some shared and unambiguous conception of the common good. Yet if we look at actual communities, even those with strong traditions of belief in a common good, we find continual disagreement and conflict over the common good. In part, this is the result of the complex nature of the common good. It is not one good, but an array of goods. These goods can be mutually supporting but also in tension with one another.

We can see this clearly in the Confucian tradition. If filial piety and brotherly respect are the root of *ren* or comprehensive moral virtue,<sup>29</sup> it also may conflict with other aspects of moral virtue, such as our concern for others outside the family. If loyalty to family nurtures a respect for authority not based on coercion, and if this respect is absolutely necessary for the cultivation of public virtue,<sup>30</sup> it may also encourage a partiality for one's own that is damaging to public virtue. Confucian ethics, as Hall and Ames have observed, is liable to continuous disagreement as to when the line between a rightful loyalty to family has crossed the line into nepotism and special privilege. And lest we take this as an occasion for condescending condemnation of Confucianism, let us recall that from different parts of the political spectrum in this country there has arisen

a regret for the passing of the big city political machines. Back then, "taking care of one's own" was at least taking care of *someone well*, and the average person on the street could feel capable of real influence on political decision making.

My point then is not to condemn Confucianism for this difficulty but to take it as indicative of the tensions between the goods that make up the complex whole called the common good. Or to take another issue that very much bears on present-day China: the provision of material security for all may be necessary for the moral flourishing of Chinese society, as Mencius and Xunzi rightly observed, but at the same time the necessary means for development and modernization in the future can have enormously destructive effects on the moral quality of a society in the present. I have in mind the extremely coercive one-child policy and the growing gap that modernization and a measure of capitalism have produced between an impoverished countryside and some relatively affluent classes in cities.

Because the common good is a complex whole including a plurality of goods and within which these different goods may come into conflict, there always will be some disagreement over which goods are included and the most reasonable way to deal with conflicts between the goods that are included. The vision of a society united around a shared and unambiguous vision of a common good is dangerously simplistic and, moreover, ignores bases for community other than such a shared conception of the common good. Actual communities are based not only on some degree of agreement in moral belief but also on a shared history, often of struggle and internal conflict, ties of affection or loyalty, or on a limited set of common goals that may be educational, artistic, political, or economic in nature.

Given the inevitability of serious disagreement within all kinds of moral traditions that have any degree of complexity, a particular sort of ethical value becomes especially important for the stability and integrity of these traditions and societies. Let me call this value "accommodation."<sup>31</sup> To have this value involves commitment to supporting noncoercive and constructive relations with others even though they have ethical beliefs that conflict with one's own. Why is this value important? From the standpoint of the integrity and stability of a society, this value is important given the regularity of occurrence of serious ethical disagreement. If such disagreement always threatened to become the source of schism, no society could survive for very long without brutal repression.

To conclude, both rights-centered and community-centered traditions need a conception of community that is not based on an unattainable ideal of a shared vision of the common good. This new conception must accept significant diversity and disagreement and must maintain community in spite of that disagreement - not only through the recognition of rights but also through acceptance of the value of accommodation. To accept this value is to seek to find creative ways for conflicting sides within a community to stay within a community and yet not yield entirely to the other. If democratic virtues are needed here, it is not so much the ability to insist on one's rights, but the creative ability to negotiate, to give and to take, to create solutions that fully satisfy neither side in a conflict but that allow both sides to "save face."

This value has a basis in the Confucian tradition. Consider Antonio Cua's interpretation of the Confucian virtue of *ren*. This virtue, he says, involves an attitude toward human conflicts as subjects of "arbitration" rather than "adjudication." Arbitration is an attempted resolution of disputes oriented toward the reconciliation of the contending parties. The arbitrator is "concerned with repairing the rupture of human relationship rather than with deciding the rights or wrongs of the parties" [which is adjudication] and accordingly attempts to shape "the expectations of the contending parties along the line of mutual concern, to get them to appreciate one another as interacting members in a community."<sup>32</sup> Now I think Cua's interpretation underemphasizes real themes of "adjudication" to be found in Confucius, Mencius, and Xunzi,<sup>33</sup> but it does capture a theme of accommodation and reconciliation in Confucianism<sup>34</sup> that could have received greater emphasis than it did in the tradition as it actually evolved.

Unfortunately, the way in which Confucianism became institutionalized resulted in a deemphasis of this theme and in a corresponding greater emphasis on agreement in conception of the common good. For example, Nathan identifies a crucial assumption running throughout the advocacy of democratic rights by Chinese intellectuals. The assumption is that such rights would tap the energies of the people, check abuses of the ruling elite, further development, and *produce harmony in the sense of all sharing the same ideals*,<sup>35</sup> It is this last element of the assumption that is fatal.

Nathan unfortunately tends to draw the wrong lesson from his observation. He equates this aversion to disagreement with the assumption that the legitimate personal interests of the individual must ultimately

harmonize with the common good.<sup>36</sup> This is a natural assumption for a Westerner to make: to deemphasize the legitimacy of disagreement and conflict is to deemphasize the legitimacy of conflicts between individuals and their communities. But conflict and disagreement can come from differences over conceptions of the common good. And because the common good of a complex society will include the goods of different communities contained within that society, there will be conflict between the goods and the communities. Mozi had a better insight into the source of disagreement and conflict in community-centered traditions: he recognized that much conflict can arise from people's *social* identities, from their identifications with family that lead to conflict with other families, from their identifications with their states that lead to conflict with other states.<sup>37</sup>

I believe there is sufficient plasticity in human nature so that people in community-centered traditions have to a greater degree relational identities. I believe that a life lived in accordance with such an identity can have great satisfactions. It of course can have deep frustrations, as do lives lived in accordance with identities that are much less relational in nature. The problem with Confucianism has not lain in its claim that a life shared and lived in relation with others is a morally flourishing life. The problem has lain in its assumption that the different aspects of a person's social identity, which correspond to the different goods that go into the common good, can all somehow be subsumed and ordered under some grand harmonizing principle. Here, perhaps, we might have wished not only that institutionalized Confucianism had taken rights more seriously, but also for a greater synthesis of Confucianism and Daoism, and more specifically, Zhuangzi's appreciation for difference and the multiplicity of perspectives.<sup>38</sup>

#### Notes

1. Heiner Roetz, *Confucian Ethics of the Axial Age: A Reconstruction under the Aspect of the Breakthrough toward Postconventional Thinking* (Albany: State University of New York Press, 1993), p. 2.
2. Roetz here refers to Henry Rosemont, Jr., "Kierkegaard and Confucius: On Finding the Way," *Philosophy East and West*, vol. 36 (1986), pp. 208-9.
3. The reference here is to Herbert Fingarette, *Confucius: The Secular as Sacred* (New York: Harper, 1972), p. 69.
4. The reference here is to David Hall and Roger Ames, *Thinking Through Confucius* (Albany: State University of New York Press, 1987), pp. 73, 43.
5. Fingarette, op. cit., p. 72.
6. Roetz, op. cit., p. 2.