Talking about Human Rights
Hens, Ducks, & Human Rights In China

Vittorio Bufacchi & Xiao Ouyang discuss some philosophical & linguistic difficulties.

China has long been a soft target for Western human rights activists. Mao Zedong’s Cultural Revolution between 1966 and 1976, was attacked at the time and is still denounced today for the innumerable violations of fundamental human rights that then occurred. In 1989 the Western media reported how the pro-democracy protest in Tiananmen Square was allegedly crushed by tanks of the Chinese army, with great but unknown human costs. And Western political leaders rarely miss an opportunity to raise human rights concerns with Chinese counterparts during rounds of diplomatic talks. But as illustrated by the 2016 meeting between President Obama and President Xi Jinping during the G20 summit in Hangzhou, these talks continually fail to generate consensus on the question of human rights, despite productive agreements being reached on many other issues. It is as if the Western language of human rights is untranslatable or unintelligible to the Chinese; or as the Chinese proverb says, it’s a case of a hen talking to a duck – 千言万语，对牛弹琴.

Three Ways to Think About Human Rights in China
How to make human rights discourse intelligible and constructive in China is a serious challenge not only for international lawyers and heads of state, but also for human rights philosophers. Different philosophical approaches to solving this conundrum have been put forward over the years, albeit with scarce results, at least so far.

One approach is to accept that ‘human rights’ is fundamentally a Western concept, but now disregarding its origin, one that has universal validity and appeal.

The idea here is for the West to unapologetically stick to its philosophical guns and hope that through a mix of globalization and intercultural education the Chinese authorities and people will one day see the light and embrace the human rights project. If education can do all – *Philosophum en gentem*, as Herakleitos famously claimed in 1772 – imagine what human rights education could achieve in China.

That human rights as we understand them in the West are essentially a Western construct cannot be denied. Yet accepting

Internet Access Rights?
Could a legal human right to internet access be justified in this way? The interest in having internet access is certainly grounded in more basic interests, and some of those interests are the sort that ground natural rights; for example, the interests in freedom of expression and freedom of association. The internet is now perhaps the most important platform for the expression of opinions and the spread of information, and provides a multitude of opportunities for a wide variety of forms of association. It might be argued that without internet access people can still enjoy the freedom to express themselves and to associate, assuming that they can still gather in public places, publish their opinions in newspapers, and so on. However, the rights to freedom of expression and freedom of association do not require merely that right-holders have at least some opportunity to express themselves and to associate. Rather, they are fulfilled only to the extent that people have adequate opportunities to express themselves and to associate. To arbitrarily prevent people from publishing their opinions in all but one little-read newspaper would constitute a violation of their right to freedom of expression despite their retaining some opportunity to express themselves. Likewise, to arbitrarily prevent people from joining all but one association, organization, party, or club would be a violation of their right to freedom of association, despite their retaining some opportunity to associate with others. Exactly what constitute adequate opportunity and ability to exercise one’s freedom of expression and association is an important and difficult question; but in view of the tremendous importance of the internet it seems reasonable to hold that to prevent someone from accessing the internet is to deprive her of adequate opportunities to express her freedom of expression and association. It looks as though a legal human right to internet access might therefore be derivable from the more basic natural rights to freedom of expression and freedom of association, in the same way that a legal human right to nationality can be derived from the more basic natural right to freedom of movement.

However, there is an important difference between nationality and the internet. It is impractical to have international laws that constantly need to be updated. As such, legal human rights not only need to be of great importance now, but also for the foreseeable future. So the lightning-fast pace of technological progress makes the internet, and consequently a legal right to it, much more precarious. The fact that there is no natural right to internet access does not preclude the possibility that there ought to be a legal human right to it, since internet access is nowadays incredibly important for the fulfillment of other human rights. But given the likelihood of the internet becoming obsolete in the near or distant future, I’m inclined to think that access to it doesn’t quite warrant the status of an international human right.

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Human Rights

this can lead to undesirable complications. One of the great appeals of human rights is its universality, but presented under a Western banner, the universality of human rights can transform into thinly-veiled cultural imperialism, and the noble goal of promoting human rights into a stick used to beat non-Western cultures. We will return to the question of universality below.

A second strategy is to suggest that human rights are, and always have been, part of Chinese culture, and all that needs doing is to retrieve the Chinese, and to digest us, which we share. The premise of Michelle R. Ishaq’s anthology The Human Rights Reader (2007) is to provide an historical journey through the idea of human rights in both secular and religious traditions, of both East and West, from the ancient Babylon; the Hebrew Bible; the Hindu, Islamic, and Buddhist rights traditions; and of course Confucianism. The core intuition explored here is that human rights represents the overarching ethics across the different cultural, religious, and philosophical traditions.

This approach is both attractive and instructive. The apparent convergence of different traditions in the history of ideas undoubtedly demands scrutiny and general support. Yet the suspicion remains that one can always find what one wants to find in the history of ideas if one only looks hard enough and is not afraid to be flexible in one’s interpretations. Retrospective readings in the history of political thought might have turned Plato into a champion of democracy (as suggested by James Kantebe and Aristotle into a liberal (as recommended by Martha Nussbaum)), so why can’t Confucius be read as a proto-human rights advocate? (This reasoning, of course, is appropriately upside-down: the truth is that human rights are an idea that cut across all the great philosophical and religious traditions of the East and West. The history of human rights is to understand what a person is and a state or society is in a particular society.

That is why we think a new, radical method needs to be developed when engaging with China on human rights, which can be considered a synthesis between the two positions just highlighted. So instead of shoe-horning a Western concept into a Chinese context, or searching for elusive human rights ideas where they never existed, we suggest that the key lies in a linguistic turn: the way forward is to abandon the Western terminologies of human rights, and appeal instead to aspects of Chinese philosophy that can perform a similar role, although the term ‘human rights’ is never used. As the Daoist would say, sometimes it’s best to leave things unaided.

The University of Human Rights

Universality is arguably human rights’ greatest asset. What was put forward by the Universal Declaration of Human Rights on 10 December 1948 was not just a Declaration of Human Rights, but the Universal Declaration of Human Rights. And the universality to which human rights is not merely a description based on the facts, but as a value of its own, as an intrinsic part of human nature. Universality is not only a moral imperative, but also a practical requisite, as it is often necessary to work towards the betterment of human rights in other parts of the world. The Universal Declaration of Human Rights is not just a legal instrument, but a powerful symbol of the universal nature of human rights.

The Universal Declaration is not a legal document, but a moral and ethical declaration. It is not only a declaration of rights, but also a declaration of duties. It is not only a statement of what is right, but also a statement of what is wrong. It is not just a list of rights, but also a list of responsibilities. It is not just a document of the United Nations, but also a document of humanity.

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