

ISSUE 118 FEBRUARY / MARCH 2017

UK £3.75 USA \$7.99 CANADA \$8.99

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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 demonized 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 right 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 – *ji tong ya jiang*, 鸡同鸭讲.

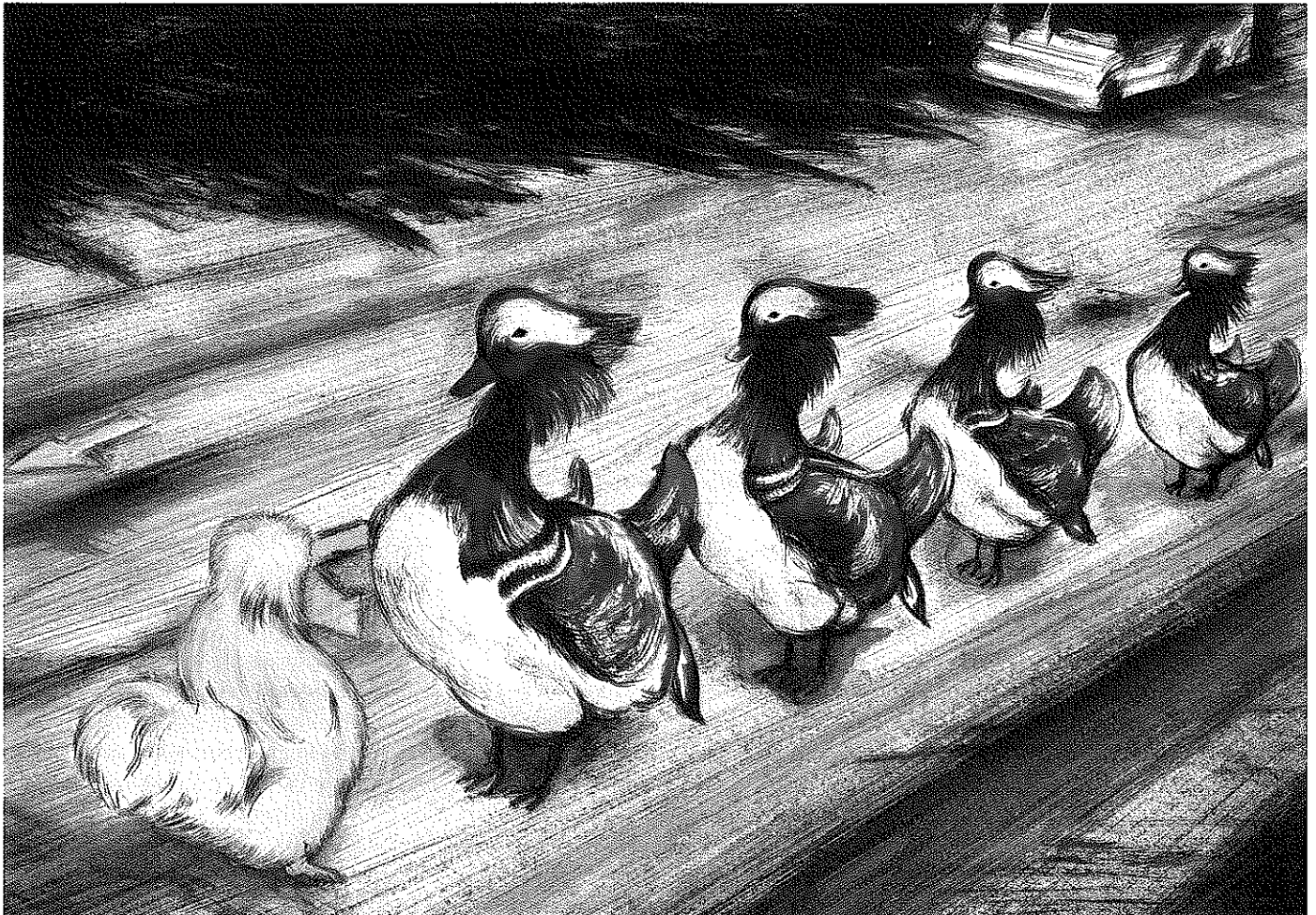
Three Ways to Think About Human Rights in China

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 notwithstanding 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 – *l'éducation peut tout*, as Helvétius 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



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this can lead to undesirable complications. One of the great appeals of human rights philosophy is its alleged 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 remind the Chinese, and us, of the beliefs we share.

The premise of Micheline R. Ishay'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, among other stops visiting Hammurabi's Code in 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 overlapping ethical consensus between 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 closer scrutiny and general support. Yet the suspicion remains that one can always find what one wants in the history of ideas if only one looks hard enough and is not afraid to be flexible in one's interpretations. Retrospective readings in the history of political thought have turned Plato into a champion of democracy (as suggested by James Kastely) and Aristotle into a liberal (as recommended by Martha Nussbaum); so why can't Confucius be read as a proto-human rights advocate? These readings are as misleading as they are appealing. The truth is that human rights as we understand them in the West today do not exist in historical Chinese culture. No amount of soul searching or philosophical investigation will uncover the notion of human rights in the great Chinese philosophical traditions.

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 shoehorning 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 terminology 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 unsaid.

The Universality of Human Rights

Universality is arguably human rights' greatest asset. What was put forward by the United Nations General Assembly on 10 December 1948 was not just a Declaration of Human Rights, but the *Universal* Declaration of Human Rights. And the universality we attach to human rights is not merely a description based on the fact that this Declaration tried to be as geographically inclusive as was feasible at the time. Instead, universality speaks to a normative quality: that is, their foundational moral nature is what implies that human rights have universal application.

But in what sense are human rights truly universal?

When it comes to promoting universality, the West doesn't

have a good track record. Enlightened Westerners, including many philosophers, have a tendency to remain in their conceptual comfort zone, albeit being modestly aware of the limitations of their (sometimes non-existent) knowledge of Chinese or other intellectual traditions. The truth is that modern Western conceptions of universal values are fundamentally culturally specific, just as modern Western geographical terminology is fundamentally Eurocentric. 'East' and 'West', not to mention the exotically-named 'Far East', reveal more than may first appear, since they place Europe as the geometrical point of reference for the world. But Westerners may not be surprised to find out that the country they call 'China' is known to its inhabitants and in the Sinosphere as 'Zhongguo', 中国 – literally 'the Central Kingdom'. Perhaps before interrogating China for neglecting human rights, we should ask ourselves what we in the West have been neglecting about China.

The point is not to endorse a naïve cultural relativism, but to question the idea of 'universality' underpinning human rights concepts and other 'universal' moral values. In both the Chinese and Western intellectual traditions the idea of 'universality' itself is not problematic. However, 'moral universalism' is a typical Western approach, just as relativism reflects the Chinese spirit as exemplified in Daoism. But even if the idea of human rights does refer to something universal (through, for example, the Kantian idea of reason as the foundation for morality), this idea has to be concretized into particular activities within specific contexts. In other words, even if what is denoted by the English term 'human rights' refers to an idea applicable to all human beings despite differences in race, gender, cultural background, religion, etc, this does not in the least indicate that all the practical applications of this idea must be completely identical.

A Linguistic Turn

In the West we may draw strength from the fact that because China is a signatory to the UN Universal Declaration of Human Rights it is legally bound under international law to uphold and respect human rights. However, we are engulfed by uncertainty whenever international laws concerning human rights are violated by China, and the best response we can muster is to apply diplomatic pressure (whatever that is) on the culprit state.

Part of the problem concerns the language of human rights. There is a hermeneutic fallacy in the legal argument – in other words, a fallacy concerning interpretation. That is, although it is not wrong to assume that there is only one Universal Declaration of Human Rights, dating back to 1948, it is incorrect to assume that all the signatories signed an identical document. This Universal Declaration exists only via various interpretations, including being translated into many different languages: the Universal Declaration of Human Rights is the most translated document in the world. It requires a gargantuan leap of faith, and a good dose of ingenuity, to assume that all those translations say precisely the same thing.

For just one example, a subtle difference between the official English and Chinese versions of the Universal Declaration

reveals a much greater schism. The majority of the thirty articles in the English version of the Declaration refer to 'everyone' and 'no one', while the Chinese translation conveys all such expressions with the phrase 'ren-ren', '人人' – literally, 'man and man'. This linguistic nuance is significant, since it means that the two languages convey the meaning of 'universality' in metaphysically distinct ways.

The difference lies in 'being universal for everyone' in contrast to 'being universal for all'. Although both formulations endorse a sense of universality, the English version ('everyone') stresses its universal application to the singular person, while the Chinese version ('all') is imbued with a sense of the community as a whole (that is, of the whole human race). The phrase 'ren-ren', 'man and man', consisting of two human beings, incorporates the idea of social relationship, thus the ideas of community and cooperation. 'Ren-ren' also merges the senses of

'one' and 'all' together. The subtextual implication of the language of the Chinese version suggests that there will be no individual without a community. From this linguistic insight, we can infer that the inalienable *ren-quan* – 人权, the Chinese translation of 'human rights' – is predicated on the assumption of a functioning community. Hence in the Chinese version of the Declaration, the community has to be acknowledged in any *ren-quan* conversation. This invariably clashes with Western assumptions regarding the individualistic foundations of the idea of human rights.

This linguistic understanding can help Western readers better comprehend the violations of human rights in China, from the imprisonment of protestors to the contempt for freedom of speech, in terms of an appeal to social stability. In the last analysis, in China, what is considered good for the community is paramount. This also explains why the Chinese economic success that has pulled millions out of poverty is presented in China as working towards protecting human rights, even if this success has been achieved at the expense of individual human rights violations in some local cases.

The Confucian virtue of filial piety also undermines the individualistic idea of 'self-ownership', since one's body (roughly, one's physical existence) is given by the parents and nourished by the family; therefore, self-preservation is not a matter of self-interest, but rather is an obligation to take care of the family 'property'. Moreover, Confucian ethics transforms the 'person' or 'self' talked about in the West, the abstract moral being or individualistic moral agent, into various concrete social roles or relationship within specific contexts. In fact, the idea of the 'self' is derogatory in China, due to its close association with the 'private' and 'self-interest'. Daoism, despite being very different from Confucianism, also demotes the idea of 'self', but in a more metaphysical fashion: the idea of 'myself' is considered a limitation or boundary which ought to be abandoned in order to reunite with heaven and earth, and in the process gain true freedom, or so-called *xiaoyao you* ('carefree wandering'). Chinese Buddhism generally holds that the idea of a self (Sanskrit *atman*, or *wo* in Chinese) and of external things (*dharmas* or *fa*) are both



erroneous beliefs, and that the ultimate 'awakening' of life lies in recognising the emptiness of the self and the world. Even from this cursory overview of the main traditions in Chinese philosophy, we can see that none of these schools can provide the necessary ethical or metaphysical grounding for human rights as we understand them in the West. We should not be surprised therefore if a quick and simple transplantation of this idea from Europe to China proves difficult, or even impossible.

Which Declaration of Human Rights did China sign? Can one be sure that the Chinese people – not only government officials, but also ordinary citizens – understand 'human rights' exactly as we do in the West? The fundamental conflict does not lie in whether or not individual rights are or are not worth protecting in China, but the fact that Chinese culture may not have the conceptual apparatus, or need, to distinguish the 'community' from the 'individual'. Rightly or wrongly, this lacuna manifests itself in the priority of the former over the latter.

The problem of untranslatability and the danger of unwarranted faith in univocal terminology in cross-cultural studies have long been exposed by comparative philosophers. Some of the solutions put forward include finding metaphorical links between different conceptual schemes (Karl Potter) or working on analogies as a tool of investigation (G.E.R. Lloyd). Another promising line of inquiry is provided by hermeneutics, according to which translation and interpretation cannot be separated.

Conclusion

Fortunately, that the concept of human rights doesn't easily translate into Chinese is not as serious an obstacle as it may at first seem. If the intention behind promoting human rights is to protect people from unnecessary suffering and to advocate their well-being, then there is no lack of equivalents in the Chinese intellectual tradition. For instance, the primary meaning of the fundamental Confucian notion, the cardinal virtue as Confucius himself defines it, '*ai ren*', '爱人', is 'to love and care for people' (*Analect*s, 12.22; the point is reaffirmed in the *Mencius*, 4b28).

The linguistic, ultimately conceptual, asymmetry between English and Chinese regarding the Universal Declaration of Human Rights urges us to be more cautious in dealing with universal values. It is not a question of rejecting universality or universal ideas as timeless truths; but of acknowledging that any such truth has to be told by someone within a context, and crucially, from a particular perspective, and in a particular language. Perhaps the best way to understand and promote human rights in China is therefore to give up on the term 'human rights', to let go of certain Western theoretical frameworks, and instead work towards equivalent goals with the terms and ideas that the rich Chinese philosophical traditions have to offer. From there, through more empathetic and constructive conversation, an intellectual mechanism may grow which allows both conceptual convergences and the preservation of cultural identities, while fostering political cooperation between China and the West. Political and comparative philosophers in China and in the West have a key role to play in bringing about this paradigm shift.

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