

"Human Rights" as Heavenly Duty-- A Mencian Perspective

Chün-chieh Huang*

Outline

- I. People's Human Rights, Rulers' Heavenly Duty
- II. The Homo-Cosmic Continuum
- III. The Empathic Exigency of Human Nature
- IV. Conclusion

*Professor of History, National Taiwan University, Taipei, Taiwan, ROC.

On the theme of human rights, it is eminently important to note that the universal consensus among all thoughtful persons on the value of human persons is eminently more important than their cultural differences on the matter. We all treasure ordinary human persons qua person,¹ and whatever we disagree among ourself on this point are its minor cultural variations. Unfortunately, the reason for writing this paper indicates that we are more interested in cultural differences than in substantial agreement.

But perhaps by bringing out those cultural variations (in Section A) we bring out different aspects of how we treasure ordinary persons. The difference, to put it bluntly here, is this. In the West people harp on the "rights" of ordinary persons over against the powers that be; in China Mencius, who crystallizes and gives a coherent expression to people's sentiment as no one else did, stresses the ineluctable "heavenly duty" of the ruler to treasure ordinary persons as himself, on pain of the ruler's death. Then we explicate the rationale of what all this entails. The rationale is twofold, (in Section B) homo-cosmological, about the nature of the Natural (the "Heaven"), and (in Section C) onto-existential, about the nature of the commonly human. The structure of the Natural ("Heavenly") is homo-cosmic continuum, where what counts is only the responsibility of royal stewardship to keep, protect, and prosper the common human welfare (not human rights). The nature of the existentially human is that innate feeling of empathic alarm and pain toward others' suffering; here the urge to share one's desiderata for common happiness is ineluctable. Both--homo-cosmic continuum, innate sympathy--point inescapably to the ruler's duty to keep and enhance popular welfare, on pain of his own

demise.

I. People's Human Rights, Rulers' Heavenly Duty

Let us first consider the distinctive characteristics of the notion of "human rights," then contrast them with those of the Chinese notion of "heavenly duty."

The notion of "human rights" came late in the history of the West; the notion is peculiarly modern, and distinctively Western. First, the notion of human rights is modern because it was taken seriously and universally accepted (at least as a conscious referent in the international court), only since the 18th century when John Locke clearly formulated them in his Two Treatises of Government (1690) and J. J. Rousseau (1712-78) published his Du Contrat Social, which served as a war cry in the French Revolution, a basis for the Declaration of Independence in the USA, and paved the way for the lists of human rights in the United Nations Charter of Human Rights, Universal Declaration of Human Rights, and the European Declaration on Human Rights, the latter of which forms the legal basis for the European Court of Human Rights.²

Secondly, human rights are distinctively Western. They are frequently invoked to criticize laws and social arrangements. They are aspects of the permanent fight in the West of citizens against the power of the state, and are to be found, in some language or other, as a working part of most legal systems and most political theories in the West. Human rights form the basic legal frame within which all court proceedings are effected. And as mentioned above, two pivotal Declarations in France and the USA which laid the foundations of those two democratic states

are based on this notion of human rights.

The notion of human rights above described has four characteristics. First, it is a legal, legitimate claim of individual persons and people.³ Second, these rights are legally-politically powerful as grounds of grievance. Third, they are often grounds to protest against the powers that be, to reform policies and redress social justice. Thus, fourth, the entire atmosphere in which human rights occur is adversarial, people against the government. Here in this atmosphere of rupture between the ruler and the ruled, people, often individual persons, initiate the legal and political protest against the government. And "human rights" are at the popular center of this fight to initiate, justify, and maintain the fight.

In contrast, the Chinese world has no individual persons, only communal sociality if not solidarity by virtue of homo-cosmic continuum. There is no legitimation of people's protest with their assertion of human rights, only the ruler's (or ruling party's) duties to treasure and care for popular welfare by virtue of the sympathetic exigency of human nature.⁴ Nor is there objective legal manner of protest, only heavenly (innate) sanction, again by virtue of human natural sympathy. Finally, this is because there is no rupture between the ruler and the ruled, no adversarial protestive atmosphere, only homo-cosmic continuum and innate sympathy which together constitute the populist government of familial empathy.

The government more for the people than of them was Mencius' vision which summed up the tradition concerning the matter. Such a populist government consists in at least three characteristics: the people were (a) the most precious, (b) the royal object of the most concern, and (c) the heavenly test to confer the mandate to rule.

(a) "The people are of supreme importance; the alters to the gods of earth and grain come next; last comes the ruler,"⁵ Mencius said radically, pungently.

(b) The people's desires and sentiment should rank as the top concern in governing policy. Any selections, demotions, and executions of state officials should be given out only after consulting popular sentiments concerning the matter.⁶ The state thrives with the pleasures of its people, and perishes when its people hate their rulership so much as to be willing to perish with it.⁷

(c) The mandate to rule the people is given by the Heaven because "Heaven watches with the eyes of its people, listens with the ears of its people,"⁸ Mencius said.

Importantly, Mencius insisted that the above points were not his own invention but a mere rehearsal of tradition from time immemorial, now deeply rooted in the Chinese common sense. Identification of popular eyes with the Heaven's was a quotation from the illustrious Book of History (5A5), sharing royal pleasures with its people was from the Book of poetry (1A2), consultation of popular opinion in state policies was an "established tradition" (1B7), the supreme importance of the people beyond altars and rulers came from the Tso Chuan,⁹; the ancient "King of Wen treated people as if tending invalids" (4B20); the "ancient rulers were praised for acting 'as if they were tending a newborn babe'" (3A5); acting as "parent of the people" "never failed" true rulership (2A5).

Thus we see how the issue is joined and the distinction found. We see social injustice everywhere, both in China and in the West. In the West people initiate the protest, legal and political, in the name of human

rights being infringed upon. The focal point of the fight is the human rights, the inalienable treasure of being human simply by virtue of being human. This is the non-negotiable point in the contract between the people and the state. In Mencius (in China), no protest arise from the people, at least not logically and theoretically, that is, not in terms of framework of the fight. Instead, the duty on the part of the ruler is pressed against the ruler, in the name of the homo-cosmic continuum and the innate human nature of compassion toward human suffering. To forfeit his people (in negligence of his duty within the universe of homo-cosmic continuum) is to forfeit the ruler's own nature, and so his own family and even his own life.

Human rights of the people are people's natural demands to be human. Those popular rights are based on social contract between the two adversarial parties, the ruler against the ruled. Heavenly duty of the ruler (or the government)¹⁰ is toward care, protection and promotion of popular welfare, and is based on human cosmology and human nature. The following pages are devoted to explicating this twofold basis.

II. The Homo-Cosmic Continuum

Protest is possible only toward an adversary opposed to the protester. When two parties are in a continuum, no protest but only duty can be seen. Mencius proposed the view of homo-cosmic continuum apropos of Chinese political structure, and so there is no theoretical room for popular protest qua popular claims and demands for the fulfillment of their exclusive rights placed against their ruling party. For there is no adversary; there is only someone--the ruler--who failed in his duty in the homo-

cosmological continuum, and so he is "a" mere "someone" (i fu) fit to be removed (i.e., killed), said Mencius.¹¹

What is Mencius' homo-cosmic continuum? It is the one "Stream" (ch'i [2A2], liu [7A3]) of ontological dynamism penetrating deep into the secrete recesses of the self, passing through the nitty-gritty of the ethico-political realms, to pervade the utmost reaches of the entire Heaven and earth. Secured in the depths of the self, it historically reaches the Be-All and End-All of the universe, and, furthermore, it requires our personal cultivation and meticulous political implementation for this historical universal outreach.

Thus the continuum is that of three levels of existents, personal, communal, cosmic. Fulfillment of the individuals is the basis of healthy sociopolitics; the wellbeing and welfare of both the individuals and the society have their cosmological basis. The heavenly Decree (t'ien ming) descends and becomes human nature; popular turnings towards and against the powers that be reflect the turnings of that Decree. The individuals, the sociality, and the cosmos interact and symbiotically co-resonate one with another--morally, politically, ecologically. To "know the heart" (chih hsin) of human being leads to "knowing nature" thereof (chih hsing), which in turn is synonymous with "knowing heaven (chih t'ien)."¹² Thus we must "extend" (k'uo ch'ung)¹³ our core of being (our "heart") by cultivating our four "germs" (tuan) of cosmic moral sentiment,¹⁴ to "tread forth our heaven-given body-shape,"¹⁵ thereby to share happiness with all our fellow human beings.¹⁶

The homo-cosmic continuum is thus a continuum of values, personal, moral, political, ecological; it is a continuum of intervolvement, any one

level as the basis-strength, characteristic-content, and growth-enrichment, of the other two. It is an ontological continuum, a value continuum, a growth continuum, concrete, normative, and dynamic, personal, social, and cosmic, deep, minute and vast, existential, historical, and ecological, inter-nascent, agonal, and intervolving.¹⁷

Now, what is important in this scheme is what it does to a person, and what the political system does for it.

First, Mencius' purpose in telling us about all this three fold inter-volved cosmic scheme is to encourage us to grow up to partake of it, to tell us that our being human itself consists in growing up to participate in the enhancement of the scheme. In fact, to participate in it is what it means to grow up being truly human. For, in his words, to become truly human, the "Great Man" (ta jen) or the Sage, is to be filled with the heavenly "Breath" that "floods" the entire universe (hao jan chih ch'i), thereby become at one with the Heaven (t'ien jen ho i). But the crucial point is, and this is what is typical of Confucianism, that this growth into cosmic oneness has to go through the socialization stage, to fulfill the ethico-social-political level of being. There is no Great Man without being moral, and there is no moral man without going through the social intercourse within the politico-communal context.

This brings us to our second point, the importance of politics and the ruler. The socio-political level of this homo-cosmic continuum is commissioned with an indispensable task of managing socio-communal affairs so as to help shape common folks help them grow into truly great cosmic people, for they are the "People of the Heaven" (t'ien min), eager by nature to grow up into moral-cosmic persons. The ruler in this context is

conferred the heavenly duty of caring for them, managing their communal affairs so as to help them grow. The ruler as "people's parent" is a mere steward of this heavenly task. In fact, the ruler is the rulership, the title implies its function; being the ruler is equivalent to (synonymous with) fulfilling the duties of rulership, of this sort. He who neglects the duties of rulership of this sort forfeits his title as "the ruler."

The conclusion is, then, inescapable. The homo-cosmic continuum dictates our human participation therein through our growth, personal, social, and moral, and the ruler is commissioned, qua ruler, the royal heavenly duty of facilitating such human growth by managing well the communal affairs of his common people within his territory. Heavenly duty to the ruler is logically, heavenly, implicated in this homo-cosmic continuum. By the same token, here in this context, the "human rights," in a legal sense, to claim against the government, are nowhere to be seen.

III. The Empathic Exigency of Human Nature

Let us consider the royal heaven-conferred duty of humanistic concern for common popular welfare from another angle, the empathic exigency of human nature which, when violated, violates one's own nature. This is to consider the basis of the ruler's humanistic duty, qua ruler, from the depth of the very human nature itself, thereby negatively to appreciate its exigent stringency, namely, to appreciate that violating this royal duty of humanistic concern that stems from the depths of one's own nature violates oneself.

All this derives from the universe being a homo-cosmic continuum. From this continuum we can see how each of us is ineluctably involved

with (a) others (this is especially for the ruler) and (b) the universe (this is especially for common folks under the ruler's care).

(a) Two stories Mencius gave (one in the face of a ruler) are particularly poignant, touching us to the core. One concerns King Hsüan of Ch'i, not at all known to be any more benevolent a king than others, whose incidental outburst of "let the ox go" on seeing an ox tremblingly led to sacrificial slaughter clues Mencius into noting our innate exigency of human "unbearable heart" at seeing "someone" else suffer (pu jen jen chih hsin). This feeling of exigency of compassion is at the very bottom of our heart, as shown in King Hsüan's spontaneous outburst, Mencius told the King. The second story of Mencius' concerns our inevitable alarm and pity (ts'e yin chih hsin) spontaneously aroused by the scene of a baby innocently about to crawl into a well (2A6). This our heart is universally shared.

What the King need and indeed ought to do is to let this root-compassion expand throughout his political management of popular affairs (1A7), to implement the "politics of unbearable humane" heart (pu jen jen chih cheng) (2A6). To expand on our unbearable exigency of compassionate heart is as easy, no, inevitable, as the gushing of the spring, the spread of the rising fire, resulting in an unstoppable popularity of his government; not to do so shall reduce the ruler to sheer inability to keep his own parents, much less his people (2A6). The ruler's heaven-conferred duty to tend his people is inescapable because it is founded on nothing less than the depths of the ruler's very heart; to affront it is to destroy the ruler himself.

(b) Why do we universally have this universal concerns for others?

Because, Mencius seems to say, we are all involved with the fields and the mountains, the entire Nature. This is the intent and sentiment of that vast, pungent, beautiful story of the Ox Mount (6A8):¹⁸

There was a time when the trees were luxuriant on the Ox Mountain, but as it is on the outskirts of a great metropolis, the trees are constantly looped by axes. Is it any wonder that they are no longer fine? With the respite they get in the day and in the night, and the moistening by the rain and dew, there is certainly no lack of new shoots coming out, but then the cattle and sheep come to graze upon the mountain. That is why it is as bald as it is. People, seeing only its baldness, tend to think that it never had any trees. But can this possibly be the nature of a mountain?

Can what is in man be completely lacking in moral inclinations? A man's letting go of his true heart is like the case of the trees and the axes. When the trees are lopped day after day, is it any wonder that they are no longer fine? If, in spite of the respite a man gets, in the day and in the night and of the effect of the morning air on him, scarcely any of his likes and dislikes resembles those of other men, it is because what he does in the course of the day once again dissipates what he has gained. If this dissipation happens repeatedly, then the influence of the air in the night will no longer be able to preserve what was originally in him, and when that happens, the man is not far removed from an

animal. Others, seeing his resemblance to an animal, will be led to think that he never had any native endowment. But can that be what a man is genuinely like?

Hence, given the right nourishment there is nothing that will not grow, while deprived of it there is nothing that will not wither away. Confucius said, "Hold on to it and it will remain; let go of it and it will disappear. One never knows the time it comes or goes, neither does one know the direction." It is perhaps to the heart this refers.

Parallelism in the story clearly indicates ecological vastness inside ("the heart") an individual human being. The individual person is an inviolable (potential) Great Man, with the value equal in weight to the entire society and the entire universe, and the entire universe is, in turn, equal in the inviolable integrity of personhood. Since common folks are a community of such cosmically precious individuals, politics is a heaven-conferred duty inexorable and inalienable to the ruler.

All this is thanks to the intervolvement of homo-cosmic continuum. The Trinity of the cosmos (san ts'ai)--Heaven, Man, Earth--is no rhetoric; it is crucially spearheaded by "Man" who "enhances the Tao" (hung tao, Analects, 15/29) of the universe, not the other way around. And all this redounds to the gravity of the ruler's duty to "tend the people" (pao min, 1A7), that is, manage with care, considerateness, and solicitude the common folks' popular welfare, as described with touching details in the Mencius.¹⁹

Since the ruler's people are "heavenly people,"²⁰ his duty is

"heavenly duty," as inescapable as his own life and his own family. Mencius goes so far as to quote from the ancient Classic of History that the "Heaven watches with its people's eyes, listens with its people's ears,"²¹ on how the ruler manages the people's affairs, either treating them as "his own babies" in his bosom,²² or as mere "grass and dirt" to be exploited to satisfy his own selfish desires.²³ If the latter, he neglects his heaven-conferred duty of compassionate treatment of his own people. He neglects the duty to his own peril.²⁴

IV. Conclusion

There are in Mencius no legal or political claims of "human rights" laid by the people against the ruler or government. For there is no rupture in China between the people and their rulers. On the contrary, by stressing the homo-cosmic continuum Mencius repeatedly exhorts and warns the rulers about their inescapable inexorable heaven-conferred "duty" to treasure, feel for, care for, and enhance his people's communal welfare, on pain of the ruler's own demise--familial, existential. This is because the ruler's caring duty crucially bears on the enhancement of the homo-cosmic continuum that pervades throughout the Heaven and earth, and binds all of us human persons innately one to another--at the core of our unbearably compassionate hearts.

Therefore, although in the Chinese world we can find no human rights, the Chinese people do share and resonate with the sentiment at the base of human rights, that the common people are not going to be pushed around at will, exploited as tools and pawns for selfish political advantage of any ruler or government. To this supreme value of human person

as the end in itself, the Chinese people add a homo-cosmic rationale, that the common people are innately, ineluctably involved with the very basic structure of the universe.

Human individuals are an essential spearhead to enhance the fields and mountains, our cosmic environment in which we live and have our being. To fail in the ruler's heavenly "duty" to place people's affairs and welfare at the top of his political priority, is to violate this vast homo-ecological interconnection in casual exploitation of human integrity, thereby violates the violator's own dignity, integrity, and life.

An eminently important final note must be made here. The above seemingly remote academic discussion about Mencius (c371-289 BC) has an alarming piercing relevance to today's world. The value of human persons qua person is as precious as the "newborn baby" (3A5), and as fragile.

It is a sad comment on the world today that the universal consensus on "human rights" (synonymous with the supreme value of common folks) is matched only by an equally universal negligence thereof; just ask ourselves which nation is implementing what Mencius proposed. This worldwide political hypocrisy--paying ideological lip service to "human rights"--manifests itself in worldwide brutalities toward common folks, as documented repeatedly by the Amnesty International. Mencius' scathing words of warning apply to all of us, especially to our political hypocrisy worldwide.

Thousands of years of dictatorial brutality in China have formed in us a habit that dies hard, as dramatically demonstrated in the recent Tien-anmen massacre which, we must remember, still continues in more subtle,

clandestine, and varied forms.²⁵ We can acknowledge that the PRC government is at least honest in not hiding their practices. It is to be congratulated that this government is now publicly announcing that it is learning from the Confucian teachings. One only wishes that they do really learn especially from Mencius on what the above pages described, and that without today's hypocrisy worldwide.

Note

- 1 That the Chinese people particularly treasure being human is seen, among others, in the staggering frequency in which the words jen (the human, the person) and jen (the human, written differently) are used everywhere, whether independently as those words alone or as cognates; just to open any Chinese dictionary will convince us of this fact. This is so much of a distinction of being a Chinese that Wing-tsit Chan began his A Source Book of Chinese Philosophy with characterizing Chinese philosophy as a "humanism," pure and simple, that is in harmony with nature.
- 2 This notion came very late into China, in the early 20th century. Rousseau's Social Contract was translated into Chinese in 1903 and published in Chiao-yü Shih-chieh as "Min-yüeh T'ung-i," and later published through Ta-t'ung Shu-chüin Shanghai. Discussions concerning human rights among the Chinese intellectuals began during the early part of the 20th century, and culminated in Jen Ch'üan Lun-chi by Hu Shih, et. al., published by Hsin-yüeh Shu-chüin Shanghai, January, 1930.
- 3 Human rights are furthermore natural rights in that they are innate, inalienable, and indefeasible. Unfortunately, however, this aspect of human rights are not well developed in the West; at most "natural" rights mean that when they are infringed upon and persons are used as

beasts and tools to serve someone else's purposes, the onus is on that "someone else" to justify infringement. See Stanley I. Benn, "Rights," in Paul Edwards, ed., The Encyclopedia of Philosophy, N. Y.: The Free Press, 1976, VI:197-198. Incidentally, I suspect that the term "legitimation" in vogue today among the sociologists and made much of in Hok-lam Chan's Legitimation in Imperial China: Discussions under the Jurchen-Chin Dynasty (1115-1234), Seattle and London: University of Washington Press, 1994, may well have come from this Western legal context connected with human rights. If one still insists to use this term in the Chinese context, one must use "cosmic legitimation" to shed its narrowly human and legalistic connotation.

- 4 All popular protests and revolutions in Chinese political history were couched in terms of executing for heaven the heavenly task of redressing injustice, that is, removing the so-called "ruler" who had failed in his heaven-conferred duty of rulership and, in Mencius' words, now became a mere "someone" (fu) (Mencius, 1B8).
- 5 Mencius, 7B14.
- 6 Mencius, 1B7.
- 7 Mencius, 1A2.
- 8 Mencius, 5A5.
- 9 Huan kung, Year 6, Chuang Kung, Year 32, Hsi Kung, Year 19.
- 10 One may be tempted to call this ruler's obligation the "divine rights of the people" in China, in contrast to the divine rights of kings in the West, were it not for the fact that the former phrase smacks of as much oppression as the latter, and is as unsavory. If one still wants to use this revealing phrase, one must append an important note that the Western "divine right of kings" imposes duties and obligations on the ruled people, while the Chinese "divine right of the people" does not belong to the people but to the Heaven to warn the ruler.
- 11 Mencius, 1B8.
- 12 Cf. Mencius, 2A2.

- 13 On this "extension" see my "Populist Government of Familial Empathy in Mencius," unpublished.
- 14 Mencius, 2A6.
- 15 Mencius, 7A38.
- 16 Mencius, 1A7. See further on all this my Meng Hsüeh Ssu-hsiang Shih Lun (A treatise on Mencius scholarship in the history of ideas), Taipei: Tung-ta T'u-shu Kung ssu, 1991.
- 17 For further details and various implications of this continuum, see Chün-chieh Huang & Kuang ming Wu, "Homo-Cosmic Continuum: Normativity and Its Difficulties in Ancient China," in Chun-chieh Huang and Erich Zürcher, eds., Norms and the State in China, Leiden: E. J. Brill, 1993, pp. 1-25. See also Ikeda Tomohisa, "Chugoku Kodai no Tenjin Sokanron (Heaven-human inter-relation in ancient China)," in Mizoguchi Yuzo, et al., eds., Sekai Zo no Keisei (Formation of world images), Tokyo: Tokyo Daigaku Shuppankai, 1994, pp. 9-75.
- 18 D. C. Lau's translation (Mencius, Hong Kong: The Chinese University Press, 1979, 1984, II:231-232) quoted here, although accurate both in content and in sentiment, somehow loses the pungent parsimony of the compact original Chinese version.
- 19 E.g., 1A3, 1A7, et passim.
- 20 Mencius, 5A7, 5B1.
- 21 Mencius, 5A5.
- 22 Mencius, 3A5.
- 23 Mencius, 4B3.
- 24 Mencius, 1A7, 4A3.
- 25 As is painfully, revealingly, and painstakingly shown in Wm. Theodore de Bary, "The New Confucianism in Beijing," in The American Scholar, Vol. 64, No. 2, Spring 1995, pp. 175-189.

儒家的人權觀 ——古典孟子學的觀點

黃俊傑*

摘 要

儒學傳統在現代世界，所遭遇的重大挑戰之一就是：儒學傳統中是否有類似近代西方的「人權」(Human rights) 的概念？如果有的話，這種儒家式的「人權」概念，如何展開論述？這些問題不僅牽涉到儒家思想的本質，而且也涉及儒學在現代世界中的定位問題，值得我們深入思考。

這篇論文寫作的主旨，在於論述：儒家文化中不但不缺乏類似近代西方的「人權」概念，而且儒家式的「人權」概念並非如近代西方之將個人與群體視為對立之敵體，而是在其博厚高明的宇宙論與人性論基礎之上，在「個人」與「群體」之間以及在「人文世界」與「自然世界」之間建立連繫性關係，較之西方式的「人權」概念更具有高度與廣度。

* 國立台灣大學歷史系教授