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Introduction

IN JUNE OF 1993, His Excellency Mr. Liu Huaqiu, head of the Chinese delegation, made the following statement in the course of his remarks to the United Nations World Conference on Human Rights in Vienna:

The concept of human rights is a product of historical development. It is closely associated with specific social, political, and economic conditions and the specific history, culture, and values of a particular country. Different historical development stages have different human rights requirements. Countries at different development stages or with different historical traditions and cultural backgrounds also have different understanding and practice of human rights. Thus, one should not and cannot think of the human rights standard and model of certain countries as the only proper ones and demand all countries to comply with them. [Liu Huaqiu 1995, p. 214]

This statement contains two claims: first, that countries can have different concepts of human rights, and second, that we ought not demand that countries comply with human rights concepts different from their own. The principal goal of this book is to assess these two claims.

It is important that we know what to make of these two claims, for reasons that range from the immediate and practical to the broadly theoretical. Assessment of the two claims should influence activists and international lawyers, both within China and without. It should shape the activities of organizations that seek to transcend national boundaries, like the United Nations; if Liu is correct, the hope for global moral consensus expressed by the Universal Declaration of Human Rights may seem naive or even imperialist. Especially since the end of the cold war,

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China has come to occupy a distinctive place in Western self-identities. Western media pay so much attention to China in part because it is seen as presenting an alternative, or a competitor, to ourselves.¹ Assessing Liu's claims will thus also tell us something about how to understand ourselves. Are we in the West better, or just different? Or is the matter more complicated than this simple dichotomy admits?

Of course it is more complicated. I will challenge the very notion that we can talk about "China's concept" of human rights: In the first place, people rather than countries have concepts; in the second, people often diverge in their uses of concepts, even people who are citizens of a single country. Rather than reject Liu's ideas out of hand, I will recast his claims in more careful terms. I will ask what concepts are, how they are related to communities, and how we use them to communicate. Instead of a stark choice between "different" and "better," I will develop a nuanced account of moral pluralism that recognizes the variety of ways in which we can be different from one another, the different perspectives from which we can claim to be better, and the dynamic nature of our moralities. When situated in the concrete context of debates over human rights, these abstract issues take on an immediacy that makes clear their importance not just to philosophers but also to students of cross-cultural issues quite generally.

Assessing Liu's claims will also take me rather deeply into the history of Chinese philosophy. While a common caricature portrays Chinese thought as static, I believe that all philosophical discourses are both non-monolithic and dynamic: People disagree and debate, and things change. This perspective enables me to see how certain strands of the Confucian tradition paved the way for rights discourse in China; throughout its history, in fact, Chinese rights discourse should be understood as an ongoing creative achievement, rather than a reaction to or misunderstanding of Western ideas and institutions. Only by looking at key moments in this history can we decide what to make of claims about the distinctiveness of Chinese concepts of human rights.

In the end, I do more than just assess Liu's twin claims. I am not a disinterested spectator in these matters; none of us are. I seek to act on my conclusions by engaging with contemporary Chinese rights theorists. Human rights discourses both East and West are dynamic and contested processes. By making more explicit both similarities and differences, and by judging which concepts to embrace based on the best standards I can

¹ See [Madsen 1995] for an enlightening account of U.S. views of China, and of ourselves.

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find, I aim to cooperate in the development of a broader, transnational consensus.

Some of these matters, both philosophical and sinological, may seem rather distant from the issue of contemporary human rights practice. I firmly believe in their interconnection and have tried to write a book that makes these relationships clear. Many philosophers have studied little about China; many sinologists have had little contact with philosophy. I have not assumed my audience to be learned in either field, therefore, but have written about philosophy and about China in ways that should be accessible to educated readers who know little about either.

This chapter's goal is to help orient these various readers in three different ways. I begin with a historical sketch that clarifies the scope of Chinese rights discourse. I then turn to a discussion of themes from recent scholarship related to human rights in China. I am building on what I take to be the strengths of current research by other scholars, and reacting to what I see as the weaknesses; this review thus explains why the book takes the precise shape that it does. The last part of this Introduction summarizes the rest of the book and gives an initial formulation of my conclusions.

1.1 RECENT HISTORY

The word “*quanli*,”² which has come to be the standard Chinese translation for “rights,” was first used in that sense in the mid-1860s, when the missionary W. A. P. Martin employed it in his translation of Henry Wheaton's *Elements of International Law*. “*Quanli*” and related terms were used thereafter by missionaries, and gradually by Chinese intellectuals, to mean a range of things related to “rights,” though I will argue in later chapters that the correspondence between *quanli* and rights is quite loose, especially in the early years of what I will nonetheless call “Chinese rights discourse.” Both theoretical investigation and practical advocacy of *quanli* picked up pace at the beginning of the twentieth century. Throughout its first three decades, rights and human rights (*renquan*) were frequent topics in moral and political essays, various

² I use double quotes when I refer to a word rather than the concept expressed by that word. I italicize romanized words or concepts. “*Quanli*” is pronounced “chwan-lee.” Chinese characters corresponding to all romanized words can be found in the Glossary.

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rights were articulated in the earliest Chinese constitutions, and still more rights were claimed by intellectuals frustrated with one or another aspect of their government's policies.³

Writings on rights continued only sporadically after the early 1930s, thanks first to nearly twenty years of warfare, and then to a communist ideology that was not particularly friendly to rights-talk.⁴ The past two decades, however, have been crowded with theoretical discussion and practical action both for and against human rights in China. The winter of 1978–9 witnessed the Democracy Wall movement in China, in which activists like Wei Jingsheng argued for the importance of human rights. That movement lasted for about six months before its central participants were arrested.⁵ From the 1970s on, human rights played a significant role in United States foreign policy rhetoric, first focusing on the Soviet Union and then on China. In the United Nations, renewed attention was paid to the Universal Declaration of Human Rights, originally adopted in 1948, and to the two international covenants, promulgated in the late 1960s, that fleshed out its details.

In 1989 another popular movement advocating democracy and human rights arose in China, this time centering on Tiananmen Square. The brutal suppression of this movement led to sharp international condemnation of China. Partly in response, the Chinese government issued its first white paper on human rights.⁶ This document rebutted various criticisms of China and argued against international meddling with the internal affairs of sovereign countries; nonetheless, it represented a new beginning for the discussion of human rights within China. Whereas many of the writings on human rights produced in China throughout the 1990s adhered very closely to the positions outlined in the white paper, some Chinese academics pushed considerably further, engaging in substantive debate with the theories of their more doctrinaire Chinese colleagues and also the theories of Western scholars.⁷

Another trend of the 1990s took shape during international meetings leading up to the 1993 United Nations World Conference on Human

³ For translations of key articles in Chinese rights discourse from this period to the present, see [Angle & Svensson 2001].

⁴ For detailed discussion of the rights-related discussions that did continue in this period, see [Svensson 1996, ch. 8].

⁵ See [Seymour 1980] for discussion and translation of key documents.

⁶ See [Information Council 1991].

⁷ [Baehr et al. 1996] contains translations of a number of excellent recent papers. [Kent 1999, ch. 5] and [Weatherley 1999, ch. 6] contain helpful discussions of this period.

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Rights. Leaders of some Asian nations, perhaps feeling a new confidence and sense of autonomy, argued that the United Nations' understanding of human rights was based too rigidly on the foundation of the Western liberal tradition. They called for more flexibility in the interpretation of human rights so that room could be found for what have come to be called "Asian values."⁸ While the notion that all Asians share some particular set of values has been widely and justly criticized, and the motives of some of these Asian leaders (in calling for greater deference to authority, for instance) questioned, some scholars both East and West have urged that we do need to reconsider how human rights mesh with, or are interpreted within, different cultural traditions.⁹

Conflicts surrounding human rights and China seem unlikely to disappear soon. On the positive side, there is continuing dialogue of various sorts. China continues to participate in international discussions of human rights and recently signed the International Covenant on Civil and Political Rights.¹⁰ Academic discussion of rights and human rights within China also continues, both in international conferences and in publications. On the other hand, China continues to act in ways that appear to contravene most understandings of human rights, a recent example (as of this writing) being its suppression of the Falun Gong religious movement. As a result, China continues to be criticized by Chinese dissidents abroad, by human rights non-governmental organizations like Amnesty International, and by Western governments. I hope that the work of scholars like myself can contribute to better understanding and improved dialogue, and in the end to a greater consensus on the meaning and content of human rights.

1.2 CURRENT APPROACHES: INSIGHTS AND LIMITATIONS

I now want to look more closely at a series of approaches to human rights that can be discerned in recent scholarship on the subject. I have two goals in this section: first, to try to make clear some of my intellectual debts; second, to show why I think this book is needed.

⁸ For primary documents and scholarly analysis, see [Tang 1995].

⁹ See [de Bary 1998, ch. 1] and several of the essays collected in [Bauer & Bell 1999] for astute discussion of the notion of Asian values. [Dowdle 2001] offers a sympathetic reading of the central document of Asian values advocates, the Bangkok Declaration.

¹⁰ [Kent 1999] is a detailed study of China's participation in the international human rights dialogue.

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[More information](#)*Introduction***1.2.1 Pluralism**

A central issue in this book is to clarify the sense in which we can say that moralities are plural. It is widely accepted that the norms by which people regulate their lives differ, but it is hotly disputed whether more than one of these moralities can be legitimate or true or equally valid. One author whom I have found particularly helpful on these matters is Alasdair MacIntyre, who has written widely on moral traditions and on the difficulties of comparing such traditions. Two of his main claims are particularly relevant to my concerns. First, he argues that the conceptual differences between competing moral traditions can be so great that the traditions are rendered “incommensurable,” which basically means that words from the moral language of one culture cannot be translated into words of another culture’s moral language. MacIntyre’s second claim is that genuine moral traditions can, at least sometimes, be compared and assessed through a process of comparative internal criticism. It is possible for adherents of one perspective to learn a second perspective from the inside, as a second first language, and then to see that this other perspective can solve problems or answer questions that their original perspective cannot.¹¹

I have learned a great deal from MacIntyre about the importance of traditions, communities, and local standards of rationality in making up a full-fledged morality. Each of these will be discussed below as I develop my own account of what is involved in moral pluralism and what we can do about it. MacIntyre’s specific account of these matters, though, is problematic, for two major reasons. First, I find his notion of incommensurability to be too blunt an instrument for dealing with the complexity and ambiguity of real cross-cultural moral conflicts. It is very difficult to refine incommensurability into a precise notion; even when this is done, it remains questionable whether the requirements for such a dramatic conceptual gulf are ever really fulfilled.¹² I prefer to think of incommensurability as the limiting case of conceptual differences, and to see all the interesting cases as falling somewhere short of this extreme.

¹¹ Each of these claims is made in more than one place, but for the first, see especially [MacIntyre 1991], and for the second [MacIntyre 1988].

¹² Fulfilled, that is, by real people speaking natural languages; it is easy to show that artificial languages can be incommensurable.

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The second problem I have with MacIntyre's account is that his theoretical understanding of traditions is too static. As I will elaborate below, even when his historical studies reveal important dynamism, his theoretical account has no real role for the dynamic, mutually influencing nature of traditions, and yet it is in such dynamism, I believe, that the real opportunities for community formation and consensus-building lie. MacIntyre's stress on internal criticism – on seeing the strengths and weaknesses of other traditions from the inside – is important, but we are never comparing two unchanging entities.

The other theorist whose views I want to mention here is Richard Rorty. To say that Rorty is a pluralist is not to say that he believes in no one set of values. Rorty is deeply committed to liberal values, but he sees these values as his through the contingencies of history rather than through the necessities of Reason. Rorty writes that

moral philosophy takes the form of an answer to the question “Who are ‘we’, how did we come to be what we are, and what might we become?” rather than an answer to the question “What rules should dictate my actions?” In other words, moral philosophy takes the form of historical narration and utopian speculation rather than a search for general principles. [1989, p. 60]

As will become apparent below, I am sympathetic to Rorty's emphasis on seeing moralities as historically grounded, contingent sets of values. His stress on morality being intimately linked to self-definition (who “we” are) is also insightful. Rorty's approach has two severe limitations, however. First, his rejection of “general principles” is easily taken too far, so that one is left with nothing more to say about why one holds one's values than “they are mine.” It is crucial to see that this is mistaken: We always have standards for moral judgment to which we can appeal – even if we can articulate them only imperfectly – and we usually take these standards to apply not just to us, but to everyone. Moral discussions with others can push us toward refining or generalizing both our standards and our morals in ways that Rorty seems to miss.

A second problem with Rorty's account is his implication that “we” are unanimous in our commitments and univocal in our meanings. I have already suggested that the moral discourses of communities typically are much more complex, and so we need a subtler account of the relation between communities and morality. To sum up, then, this look at MacIntyre and Rorty has suggested that a satisfactory account will have to

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allow for a continuum of conceptual differences, for dynamic and interactive moral traditions, for values and standards that push us toward a wider consensus, and for an understanding of “us” that acknowledges internal differences.

1.2.2 Universalism

Many who have written on human rights believe that human rights are universal. Here I want to canvass three reasons that have been given for this tenet.

Natural Rights. The idea of natural rights has a long history in European thought, and it also played an important role in early American political thinking. In early contexts, natural rights were widely accepted to be the result of God’s will. Today, few would accept that grounding for natural rights, however, and alternative attempts to say what rights humans have because of their “natures” are fraught with difficulties. Human nature is now understood to be quite plastic, our needs and values heavily influenced by the cultures within which we mature.¹³ Without the premises that belief in a particular understanding of God made available, contemporary accounts of natural rights can seem forced or arbitrary. Grounding human rights on a specific account of human nature, therefore, can leave the door open for others, particularly those from other cultures, to reject one’s account as parochial – or even simply as incoherent.¹⁴

This is not to say that justifying human rights as natural rights has no attraction. If the problematic link between nature and culture is either refuted or ignored, natural rights can seem firmer than any competing foundation for human rights. They are equally applicable to all humans, regardless of nationality. Natural rights can thus appear to be the best basis for criticism of the human rights practices of other groups – after all, we all are human, and if human rights accrue to us simply by virtue of our human nature, then surely they are universal.

¹³ This understanding of human nature is well-grounded in contemporary biological theory. The best contemporary correlate for human nature is the human phenotype, which results from the way human genotypes are expressed in particular environments. Since culture is part of our environments, it is thus built into our phenotypes – into our natures.

¹⁴ This point has been made by many; for a recent statement, see [Brown 1999].

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International Law. A second justification for the universal application of human rights standards is the international legal consensus that has developed since World War II, as represented in United Nations documents like the Universal Declaration of Human Rights (UDHR), which was passed by the United Nations General Assembly in 1948. In addition to the UDHR and its attendant covenants, the international human rights regime is made up of numerous regional and bilateral treaties and declarations, as well as a variety of international legal institutions and their respective bodies of case law.¹⁵

Despite the real successes these documents represent, there are several reasons for thinking that international proclamations like these are not ideal bases for human rights discourse – or at the very least, that they cannot stand alone. We would be mistaken to think that because these documents have been signed by so many countries, there now exists a genuine legal or moral consensus in the world. The UDHR itself is not a legally binding document. The covenants and similar treaties are legally binding, but they have no more institutionalization, particularity, or enforceability than other aspects of international law. They can easily seem more like statements of aspirations or ideals than genuine legal documents. Partly because of this, and because signing these agreements can be seen as a route toward becoming a full-fledged participant in the developed world's trading regimes, it can be both easy and attractive for a nation to sign these agreements without really agreeing to them. As Ann Kent has recently put it, China's approach to the United Nations human rights regime appears to be "more instrumental than normative" [1999, p. 230]. Finally, we must remember that the documents' provisions always require interpretation, and this allows for a wide range of disagreement to be masked. In short, the consensus these documents represent may be more apparent than real – and to the extent it is a consensus, it is a quasi-legal, indirectly coerced consensus.

To say that the UDHR, the covenants, and so on are not ideal is certainly not to deny that they are tremendous accomplishments. Nor do I want to deny that they can and should have important roles in the future of international human rights discourse. They offer excellent starting points for discussion, especially in light of the fact that often-heard

¹⁵ The covenants are the *International Covenant on Economic, Social, and Cultural Rights* and the *International Covenant on Civil and Political Rights*, both from 1966; China is now a signatory to both. One good source of these and related documents is [Blaustein et al. 1987]; see also the web site of the United Nations High Commissioner for Human Rights: (<http://www.unhchr.ch/data.htm>).

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charges about their completely Western origin are exaggerations.¹⁶ Working from these documents can help us to build a more genuine moral consensus on human rights issues.

A Changing World. Modernity has brought with it many things, among them the techniques and ideologies of control that have made the modern state possible, as well as the changes wrought upon traditional social structures by the international market economy. These same technological and economic changes have brought people around the globe closer together: We can both see one another more easily (thanks to television, movies, and the Internet) and influence one another more often (thanks to global markets, multinational corporations, and the ease of travel).

Some scholars have seen these changes as grounding universal human rights. Jack Donnelly, for instance, has argued that traditional, duty-based moral structures are no longer adequate to protect human dignity from the powerful forces of the modern state and economy; only observance of human rights can accomplish this. Since the modern state can be found in nations around the world, all nations need to respect human rights. He says this without glorifying the modern state. It may be an evil, but it is here, and the only protection against it is universal recognition of human rights [Donnelly 1989, pp. 60, 65, 199].

Mary Midgely has seized on another aspect of modernity – the way in which it has brought people closer together – to urge that we embrace our new neighbors with a broadened moral vision. She says that “the sheer increase in the number of humans, . . . the wide diffusion of information about them, and . . . the dramatic increase in our own technological power” have made possible an “immense enlargement of our moral scene” [Midgely 1999, p. 161]. Midgely believes that the widespread acceptance of human rights by peoples around the world, despite uncertainties that academics have about their meaning and scope, follows from enlargement of the moral scene: People have found talk of human rights useful for dealing with modern moral questions. She acknowledges that there remain some conceptual puzzles about rights and human rights, but encourages academics to take their lead from the public and deal constructively with these problems in ways that will not undermine our continuing abilities to speak and judge in terms of human rights [ibid., p. 173].

¹⁶ See [Twiss 1999], [Morsink 1999], and, most accessibly [Glendon 2001].