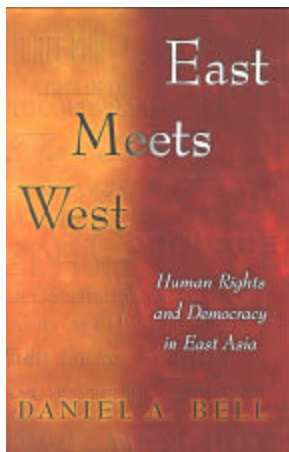


## Opening the Dichotomy of Universalism and Relativism

By Chih-yu Shih

**A review of Negotiating Culture and Human Rights edited by Linda S. Bell, Andrew J. Nathan and Ilan Peleg. New York: Columbia University Press, 2001. 428 pp.**



and

**East Meets West: Human Rights and Democracy in East Asia by Daniel A. Bell. Princeton: Princeton University Press, 2000. 369 pp.**

### Searching for Possibilities

The debate between human rights universalists and cultural relativists has continued into the 21<sup>st</sup> century. Many writers today have acknowledged that universalism is the product of European history. As a result, the center of the current debate veers away from the argument over whether or not human rights are universal rights in actuality. What concerns a good number of thinkers today is whether or not human rights “should be” universal.<sup>1</sup> Human rights universalism has always been challenged on the ground that it represents a form of cultural imperialism or hegemony. Having such origins, it denies communitarian values, especially of the so-called non-Western societies. In response, universalists often accuse relativists of providing excuses for legitimizing political suppression. The problem with this kind of exchange is that all sides tend to arbitrate the correct form of human existence. Unfortunately, the uncompromising stance of both parties only shifts the argument away from the fundamental issue—whether the forms of human existence and their meanings are decidable.

<sup>1</sup> See, for example, Peter Van Ness (ed.), Debating Human Rights (London: Routledge, 1999); Michael Jacobson and Ole Brunn (eds.), Human Rights and Asian Values (Richmond, Surrey: Curzon, 2000).

In the following discussion, I will put forth the view that neither universalism nor relativism is sufficient in coping with the increasing variety of the human ontologies. What scholars have overlooked is the role of human agency, which enables a person to shift among, mix, and/or transcend universalist and relativist claims. However, as long as a universalist or a relativist does not try to lock a person into specific identities and roles, their advocacy can be entirely legitimate. In other words, the views on human relationships from both schools can remain more or less valid if discursive mechanisms are available to allow individuals to move out of these value systems and accept, mix and/or create others. The goal of this article is to reinterpret the texts of the two books under review: Linda S. Bell, et al. Negotiating Culture and Human Rights, and Daniel A. Bell's East Meets West: Human Rights and Democracy in East Asia. Hopefully, this effort can help to preserve the discursive possibility of any person moving out of any specific meaning system. When moving out is possible, a meaning system is safe from becoming cultural hegemony. Since both works take China as an example, I will use China as the case in point.

### **Bear Pawn or Fish**

Human rights universalism and scientific behavioralism are epistemologically related. Social scientists (economists, in particular) assume that there is a system of preferences, which determines human behavior. Yet, this internal system is not subject to study and, therefore, should not be subject to external control. The genesis of preference (or hypothesis about preference) is what Karl Popper called the “cloudy” stage.<sup>2</sup> Behaviorists call it the “black box.” Behind this shared epistemology is an individualist ontology that recognizes each individual as having a freedom of choice that cannot be violated. In contrast to this individualistic ontology, cultural relativists believe that the meanings of human existence must be derived from relationships among individuals. This means that preferences must first reflect the identity of the individual in society. To assert a form of individual being that is above the society to which he or she belongs is to destroy the society through which the individual identifies her/himself.

The classic Chinese analogy of “choosing between bear pawn and fish” is useful to help illustrate this different conceptualization of human nature. In this analogy, it is said that Mencius once declared his love for both bear pawn and fish. If forced to choose between the two, he would have gone for bear pawn. To explain Mencius' choice, a behavioralist might look to his social and economic status, the geographical location of his residence, the price of each food, and so forth. Mencius would have been treated as an individual just like anyone else. A relativist, in contrast, might ask what social function Mencius' choice could have fulfilled and how his behavior could have reproduced extant social relationships, as well as Mencius' own identity thus derived. It is meaningless to read freedom into such a choice. To a cultural relativist, the notion of freedom itself is a statement of identity.

The example above shows that the approaches of both schools can be meaningful. However, I am concerned (just like universalists and relativists would be) that some sort of cultural hegemony may rise to dominate human belief. Universalists are against any form of totalitarianism that denies

---

<sup>2</sup>Quoted in Rom Harré, The Philosophies of Science (London: Oxford University Press, 1972), p. 50.

individuals of their rights to private preference. Relativists are against imperialism, since it denies local communities of their collectivistic values. I argue that neither universalism nor relativism is sufficient because they both risk the rigidity that a potentially cultural hegemony, such as liberalism or Confucianism, always displays. A disciple of such hegemony would try to fix the meaning of a choice/preference. This would kill Mencius' agency. For instance, could Mencius have decided not to choose bear pawn? Was it scientifically or socially necessary for Mencius to act in definite ways? Is it possible that under the exact same circumstance, he might have made a different choice?

What I am looking for is not why Mencius chose what he did or what structures dictate his preference. I am interested in what he could have chosen but did not: to find out what and where fishes are. This approach assumes that what happened is not what "must" happen, either structurally or culturally. To find other possibilities that could have happened (but did not) is tantamount to refuting the necessity of what happened. Under this approach, any explanation of choice universalists or relativists can provide will not be sufficient, because the specific explanation they provide may mean little to those abiding by different forms of human existence. One may call this the epistemology of contingency. Human agency is responsible for creating contingency. Both universalists and relativists risk overlooking the role of human agency when lost in their single-minded pursuit for a sole meaning of human choice. Thus, they mistakenly and indirectly lock the form of human existence into individualistic or collectivistic ontologies. On the other hand, I do not deny that both cultural relativism and scientific individualism can provide meaningful explanation, contingent upon the specific form of human existence. In the case of Mencius' choice, this would require one not only to look for reasons as to why Mencius had chosen bear pawn, but also what alternatives he might have chosen or will possibly be choosing.

When speaking of human rights, one is also making assumptions about the "correct" form of human existence.<sup>3</sup> Debates about human rights universalism are about the forms of existence— free individuals having preferences, role performers abiding by communitarian rituals, postmodern gamers living on deconstruction, hybrid postcolonials exempted from self-consistency, and so on. Human agency can be recognized as legitimate only when the forms of human existence are multiple and fluid. This is "human rights" at the ontological level, a definition disengaged from specific forms of ontology. It is therefore the human right of any person, who is, for example, a Confucianist, to oppose liberalism and remain Confucianist in the future. Similarly, it is also the human right of a Confucianist not to abide by Confucianism and to enter the discursive environment of liberalism. Moreover, it is the human right of a Confucianist to mix Confucianism and liberalism in ways never envisioned before. Finally, it is the human right of a previous Confucianist to return to Confucianism.

I am not a nihilist, as I want to preserve the legitimacy of both Confucianism and liberalism. Nihilism as a thought is nonetheless legitimate. This is not because it is an expression of individual freedom of thought, but because it preserves a form of human existence that is not allowed in other "forms" of ontologies. Multiple and fluid ontologies recognize alternate forms of existence, many of which may not be conceivable today. Examples might include slaves and women in the past who are customarily denied citizenship; queers and androgyny of today that are denied marriage rights;

---

<sup>3</sup> For a detailed discussion on the centrality of narratives with historical depth in forming bases for judgment, see Alasdair MacIntyre, *After Virtue* (Notre: Notre Dame University Press, 1984).

cyborgs and genetically engineered individuals being denied of rights unforeseeable today, and so on. If one believes that cultures influence but do not determine human beings, then no philosophers, freedom fighters or patriots can arbitrate the type of human rights that must be enjoyed by human beings. Multiple and fluid human ontologies appreciate those human rights informed with indeterminable contents. Once individuals as human beings can be free from being locked into single meaning systems, they will be left totally responsible for their own forms of existence.<sup>4</sup> The notion of human rights is accordingly a matter of self-responsibility, as opposed to that of preference. They are neither natural, nor culturally determined.

In the following discussion, I will read the two books under review by introducing how each writer may contribute to the opening of the dichotomy of human rights universalism and cultural relativism. Authors in the volume edited by Linda Bell et al. approach the debate from a philosophical perspective, while Daniel Bell's book approaches it institutionally. I may deliberately over-read at times. Over-reading is intended to finding new possibilities, as well as to demonstrate human agency.

### **Universalism beyond Western Values**

Let us first take the example of the Tiananmen Massacre in China. Anyone who watched CNN on June 4<sup>th</sup>, 1989 would at least hesitate before promoting cultural relativism, if not wishing the complete and immediate democratization of Chinese politics. Relativists may respond by saying that Confucianism contains elements ready to denounce such a massacre. In other words, there is a Confucian remedy to oppression. Indeed Daniel A. Bell's East Meets West consistently and persuasively reminds readers that respectful solutions are always extant in the local culture. However, the relativist approach is confronted by two problems: First, is the objection to political oppression, if alive in Confucianism, a universal value nonetheless so that some form of universalism is ontologically presumed? Second, who should be included in the application of a declared local culture and who should not?

To the first question, Michael G. Barnhart's answer (Bell et al. Ch. 2) is happily "yes," for he argues that relativism is not about morality and anything moral must be universal. The fact that no such universal moral claim is recognized as universal today cannot deny that a moral principle must be universal. This statement is not against any specific relative values, all of which are potential sources of universal morality. To the second question, Kenneth E. Morris's intriguing formula (Bell et. al. Ch. 3) is worth noting. According to him, a universal right to reciprocity must apply in a world full of relative values in order to allow people with different values to accept one another. Without reciprocity, relativism would not hold. The clarity of relative scope is thus less important than universal reciprocity.

Both answers implicitly acknowledge that Western values are not the same as universal values. Their universalism is thus a universalism beyond Western values, not a universalism within Western values. If universalism were within Western values, the mission of countering relativism would be

---

<sup>4</sup>For more on this, see Daniel Warner, "Search for Responsibility/Community in International Relations," in D. Campbell and M. J. Shapiro (eds.), Moral Spaces (Minneapolis: University of Minnesota Press, 1999), pp. 1-28.

about searching for common strings that are shared between Western values and other seemingly relative value systems. As long as one relies on Western values to provide standards of comparison among cultures, Western values are inadvertently universalized. This Western universalistic claim paradoxically contributes to relativism. In the case of China, for example, Xu Xiaoqun (Bell et al. Ch. 8) finds that the imperialist invasion of China that forced China to encounter the Western rights conceptions almost certainly disallowed them from becoming a viable value in China today. Similar concerns lead Dmitry Shlapentokh (Bell et al. Ch. 10) to question human rights universalism. Although Farhat Haq (Bell et al. Ch. 9) is more sanguine on the making of new Islamic tradition into a human rights-friendly culture, she is nonetheless skeptical about women being included in the making of that new tradition.

For Morris, unlike in the universalism within Western values, there is no need to anatomize Confucianism or Islam. Morris's relativism presupposes the universal right of a person to abide by certain relative values. Universalism of this sort, which is beyond any relative values, including Western values, can ironically justify relativism. The justification arises not from the confirmation of the morality of any particular relative values. Rather, it comes from the right of others living in different value systems not to abide by those values. This right to reciprocal acceptance is implied in the right to abide by relativism. Morris's universalism beyond Western values is thus very different from Barnhart's. Morris's does not worry about the universalization of Confucianism, Islam, or Christianity, thus ontologically maintaining possibilities of anyone moving from one system to another. Barnhart, on the contrary, would like to see dialogues among systems, leading to moral universalism. For Barnhart, any relativism is ultimately morally disputable. Relative values should be either broadened into universal values or assimilated into universal values based on other relative strings that are made into universal values.

Universalism beyond Western values is open-ended. Morris's is ontologically open-ended, while Barnhart is epistemologically open-ended but ontologically closed for a universalism of specific contents, which should be determined in the future through dialogue. Morris's universalism can accept (Western) individualism without challenging (non-Western) collectivist rights conception. The right to reciprocity should thus include the right to choose a system that denies human rights universalism. Barnhart's generosity is of a different kind. In his search for universal moral principles, the process of the search is more important than the end result. For him, the search through dialogues among different value systems serves as a check on the morality of any specific relativist claim. Even though Barnhart seems to shoot for universal morality, he is practically open to the coexistence of relativist claims before such universal morality comes into being.

### **Moving Out as a Right**

Accordingly, the universalism beyond Western values recognizes the right of anyone to stay with a relative value system. This right to receive reciprocal recognition implies the universal right to move out of that same system. This is because any relativist claim must also face the similar claim of a lesser scope from within, so that all relative cultures must be composed of relative sub-cultures,

which, in turn are composed of relative sub-sub-cultures, and so on, and so forth.<sup>5</sup> Individuals inevitably are also ontological sources of relativism and have the right to stay with individually relative values. The individually relative values that are relative to relative values of their community allude to the right to move out of the relative value system of the community. Not granting the individual the right to move out of the said scope of the community, the relative claim of the community would be applying, albeit in a lesser scope, the logic of universalism that supports the universal claim of the relative Western values and denies the right to reciprocity. Interestingly, the ontological possibility for any individual to move out of any specific relativist system demonstrates and preserves the relative claim of the community.

Moving out as a legitimate discretionary right enables individuals to subscribe to contradictive values as situations and times vary. A person in one situation at one time is therefore relative to him/herself in another situation at another time. The familiar contrast between universalism and relativism is completely dissolved at the ontological level since access to any different value system is always open. Self-consistency no longer defines a person's ontological being. Moving out implies moving in. The right to move in further implies the right to move back. Facing the environmental destruction caused by the historiography of modernization, Jennifer R. Goodman (Bell et al. Ch. 14) shows how relevant this right to move back to some form of naturalism is to today's environmental consciousness. The right to reciprocity thus leads to the right to fluidity in subscribing to any relative value. Of course, the ontological possibilities to move back and forth do not require individuals to actualize these possibilities available to them. Not to move is a choice usually made at the level of community. Being aware of the choice, the person, not the community, is responsible for the choice between staying and moving out.

Both Morris and Barnhart respect relative values. However, this respect is not an advocacy of relativism. Although their foci are quite different—with Morris on reciprocity and Barnhart on morality—they share a critical approach to relativism that is essentially different from the universalistic critique. The universalistic critique denies relativism altogether, while the two authors base their criticism on relativism. For Barnhart, morality applied universally must not take a position against relative values. He encourages dialogues that test and prepare the universality of relative values. These dialogues may very well use Habermasian communication theory, which calls for genuine sympathy for others.<sup>6</sup> Similarly, Morris's advocacy for the right to reciprocal recognition presupposes the legitimacy of relative values. The innovative approaches of these scholars deconstruct the dichotomy of universalism versus relativism.

Universalism in either Morris's or Barnhart's formation thus preserves all relative value systems by opposing universalistic claims made single-mindedly by disciples of these systems, including Western human rights advocates. To be legitimate, the Western values of individualist human rights can only be relative. Andrew Nathan (Bell et al. Ch. 13), in particular, makes this point clear. To legitimately spread Western human rights conceptions is therefore not to oppose the relativist claim based upon cultures and histories that do not support them, but to acknowledge the right of anyone not to accept them, which implies the right of any individual to move out of his/her relative value

---

<sup>5</sup> Hence, Joseph Chan argues that there is no such a thing as "Asian Values" in his "Thick and Think Accounts of Human Rights," in Jacobson and Brunn (eds.), ch. 3.

<sup>6</sup> See Jürgen Habermas, *Moral Consciousness and Communicative Action* (Cambridge: Polity Press, 1990).

systems. By recognizing that Western universalism is relative at best, and that “Westerners” can legitimately move out to accept non-Western systems that deny individualist human rights, Western universalism can also be a legitimate value system opening to non-Western individuals.

In brief, the issue is no longer universalism versus relativism. It is not a matter of universalism because all universal claims are relative. Nor is it a matter of relativism because all relative individuals do not have to self-fixate on specific relative claims. One can interestingly be promoting both universal and relative values at the same time. To the extent that everyone can ontologically freely move within any specific value system, these value systems are universally legitimate and universally applicable. To the extent that everyone can ontologically freely stay with any specific value systems and not move out, these value systems are relative.

This is not exactly what Andrew Nathan suggests, namely, to temper universalism by recognizing that all social facts are local. Nathan is worried that denial of universalism would deprive area studies of intelligibility in making sensible cross-cultural comparisons. He believes that some universal theoretical frame sensitive to local contexts, motivations, values and meanings is essential to knowledge building. While Nathan questions the validity of universalism, he does not problematize universal knowledge. That is to say, he does not justify why it is necessary to have a universal explanation of local facts. If one can move in and out of local conditions, social facts falling outside of one’s own initial “locality” can still be intelligible. Why, then, should one bother with a universal explanation? Is not the quest for a universal explanation itself culturally derived? Nathan’s approach is therefore an attempt to manage, not to transcend, the dichotomy of universalism and relativism.

### **Opening Relativism**

Once transcending the scheme of universalism versus relativism, the issue becomes one of opening all universal as well as relative claims. This means exposure of all universal claims to the historical contingencies of their becoming seemingly universal and to the differential impacts these claims have had on different people in the world. Opening is particularly important in coping with the governments’ monopoly over rights discourses, as Sharon K. Hom (Bell et al. Ch. 7) asserts, although opening should not be restricted to the governments’ words and deeds. In this regard, historic analyses of the Renaissance, Reformation, Westphalia Treaty, Industrial Revolution, colonialism, and so on, are critical. Similarly, any relativist claim such as Confucianism must be subject to equal scrutiny to show how the Confucian worldview has become the heavenly order to have a differential impact upon individual Chinese differently. In brief, the purpose of the study is to show that no value system is universal or relative by nature. Legitimacy of anyone to move in and out of any value system is preserved by scrutiny of this sort, as is the legitimacy of the value system itself.

Steven J. Hood’s argument (Bell et al. Ch. 4) not to search for traits of values in Confucianism or Islam that can be of use for spreading Western human rights can be understood in a different light now. According to Hood, it would be fruitless to try to demonstrate how Confucianism and Islam can be made into respecting Western human rights. The hope for promoting human rights relies on conscious cultural learning, which he believes can be successful. What is potentially problematic in his theme is that he confines his analysis to the level of a priori “culture,” and hence denies the

possibility of ontological freedom. If one understands Hood in the most relativist (or the individually-based) sense, his yearning for cultural learning could have explosive potential for emancipation, which relies on the indeterminacy of one's form as well as meaning of existence ontologically. In other words, when cultural learning can enable one to internalize human rights values, the possibility of one to stay in or move out of the newly assimilated system on a case-by-case basis must be stressed for the realization of emancipation.

In the above discussion, individual responsibility replaces particular values to become the focus of concern. Although it should be the right of the individual whether to stay with a relative system or not, often the person has little choice due to historical and cultural restrictions every society imposes upon its members. Individuals gain a sense of responsibility when learning from different cultures, which provide the schema to move out. The action of moving out in specific situations is thus conscious and choice-enacted, unlike the initial (not natural) position that one grows into as a child, which does not involve a choice. Once one takes such a position of responsibility, relativism is superficial. Cultural learning that forces one into a position of choice not only justifies one's decision to stay with the initially non-Western values, but also legitimizes one's decision to move into human rights thought as one deems proper in certain situations. Indeterminate meanings of ontological existence open closed relative systems and thus come around to justify their existence as well as continuing evolution.<sup>7</sup>

Hood's analysis could create wide-open possibilities if his is not a cultural learning en masse or a cultural learning that has a set direction. Cultural encounters unavoidably incur mutual adaptation, which can mean enhanced mutual appreciation or exacerbated mutual despising. No specific result can be anticipated of cultural learning if each individual is ontologically responsible for the result of the learning. On the contrary, if there is a normative direction to take at the societal level, then individuals are denied the legitimacy of making their own combination, the contents of which shall never be fixed before a concrete situation calls for action. The expectation of cultural transformation at the societal level leads to the false confrontation between universalism and relativism. One should be more cautious than Michael A. Dowdle (Bell et al. Ch. 5) who is strategically shrewd when advocating a defense of the Bangkok Declaration in order to breed an acceptance of the possibility of universal justice. He is obviously less, if not at all, concerned with the contents of the Declaration than the drafters are. Philosophically, he does not go beyond the cliché of searching for local elements that favor universalistic human rights conceptions. In this type of strategic concession, Dowdle's universalistic individuals are not really freely self-responsible—they are expected to eventually accept and fix on a position either determined by Western teachers, or according to his opponents, by Confucian or Islamic rulers.

### **Testimony of Human Agency**

In history, the conceptual capacity of local residents anywhere to move by situations is vividly alive. Postcolonial, as well as feminist, writers demonstrate through textual analysis the widespread phenomenon of hybridity or androgyny, whereas the mix of self-roles demands a different approach

---

<sup>7</sup> For further discussion, see Simon Critchley, *The Ethics of Deconstruction* (Oxford: Blackwell, 1992).



to human relationships. Tomas N. Santos (Bell et al. Ch. 12) demonstrates indirectly that even those discursive analyses showing how human agency is lost can be powerfully subversive to dominant hegemony. By reading deep sorrow and unhappiness into a text that found these feelings inexpressible, Santos adroitly extricates and expands the wound inflicted upon the people during the Cultural Revolution and shows where the protest has registered itself.

In Lucinda Joy Peach's critique of contemporary women lacking rights consciousness and Ilan Peleg's critique of ethnic democracy, however, an unstated acceptance of end-of-history syndrome emerges. It is not that their criticism is wrong, but that they have uncritically adopted a Western universalistic standard in their criticism of the unfair treatment of the subaltern. Peach criticizes modern political values of being falsely universal, and only patriarchal (i.e. relative). Ironically, their pessimistic analysis seems to prove that patriarchal domination is unfortunately universal. In addition, Peach's women should strive for those rights enjoyed by male counterparts. Equality under patriarchy seems more important than development of certain feminist rights conceptions. As a result, Peach's exposure of the false universalism of patriarchal values becomes a universalistic call to fairly and equally accept women as recipients of the same values.

Pessimism is particularly strong in Farhat Haq's studies of women's status in Islamic societies. While Haq believes that Islam is not so rigidly relativistic that adaptation to human rights is unlikely, she is completely pessimistic about the potential that women's status can be improved along. Haq's reason is very vague, giving the sense that this pessimism is almost automatic and intuitive. Again, her pessimism implicitly acknowledges the desirability of human rights as conceived in Western universalistic formation and is thus uncritical to the patriarchal characteristics of it. Reading Haq makes one wonder whether it is also a duty for human right advocates to allow (specify, create, or pretend for) subaltern women some discursive capacity to voice their differences, instead of assuming that there is no voice, or their voice is necessarily a yearning for the same patriarchal values.

In contrast to Haq or Peach, Linda S. Bell (Bell et al. Ch. 1) struggles to read agency into the Chinese peasant women she studies. Assuming that there is an agency somewhere in the subaltern women's adaptation to patriarchal norms is a philosophical starting point that differentiates interpretive schools from neo-Marxists, most of whom denounce that petty gains by the ruled classes have any significant meaning. Linda S. Bell could benefit from a neo-Marxist analysis to the extent that she would acknowledge the misfortune of those peasant women who can only compete for the kind of reward upon which patriarchal reform in China depends for legitimacy. That is to say, the agency Bell celebrates simultaneously reproduces patriarchal market norms. She is overly sanguine about women's agency. She could advance her search for signs of agency in areas that are potentially rich in terms of the possibility of resistance. Similar effort should apply to biological men who can benefit from the opening of the patriarchy, which fixates them on rigid roles and identities.

It is no longer sufficient to simply criticize patriarchy or colonialism (as well as imperialism) for not allowing fair opportunities to the female/colonial subjects. It is also the notion of "fair opportunities" that must be contested. Is it a normatively undisputable solution to build, say, China into an equally strong country abiding by the model of state in Western Europe or North America? Similarly, is it effective problem-solving to equally train women into the mainstream liberal democracy to compete with males? Women as well as the postcolonial writers have maintained their own agency, embedded in forms ever changing and evolving, in worshipping, interpreting,

reinterpreting, practicing, resisting and/or renovating liberalism. There is never an a priori requirement that they must be self-consistent in a liberalistic sense. It has been a matter of common sense for many feminist and postcolonial authors that contingencies must be taken into account whenever making a decision on interactive relations. It is practically incorrect to manage their lives by holding on to one clear value system that prevails only in the discursively patriarchal public forum.

Consciously or not, fluidity and human feelings are perhaps more relevant norms for ordinary people. Feminists have been telling persuasive stories of how women have historically been caught between inconsistent role-demands and identities.<sup>8</sup> There is no such human necessity as is in the myth of the patriarchal academic world to reconcile seemingly incompatible values. Postcolonial subjects similarly live between multiple identities and apply different values depending on the situations.<sup>9</sup> Both postcolonial and feminist writers point to the hypocrisy of the patriarchal world where dominant forces pretend consistency in its human rights universalism. Moving among values logically incompatible, women and the postcolonial critics have adopted for themselves a much less conceptual barricade and are therefore potentially more ready for making cultural adaptation in difficult situations.

Globalization has created a world of constant and large-scaled cultural encountering. Managers of global resources, who are typically engrossed in universal liberalism, have been learning, too. They first learn how to adapt global products to local symbols for marketing purposes, and then begin to enjoy local ways of life. Gradually, practitioners of universal liberalism are accustomed to “relativizing” their lives. This does not change the cruel fact that the dominant few continue to dominate the world and do so more effectively with the ability to act locally,<sup>10</sup> sometimes even with a local mind set. What is interesting is the increasing ability to adapt to relative claims and, henceforth, temper universalism by those who, in accordance with universal liberal values, benefit most from universal liberalism.

The local, especially the postcolonial, are capable of patronizing the global managers of both peace maintenance and profit distribution with a universal human rights and liberal rhetoric. Likewise, governments that engage in internal oppression are able to enlist the politically correct language to sooth US leaders. Some cleverly appeal to anti-terrorism and cooperate with the US government in the aftermath of the jihad attack on New York and Washington on September 11th, 2001. The cooperation is carried out in the name of freedom. More significantly are those cases where cooperation is not hypocritical, but sincere. In the case of the Tiananmen Massacre, students of the pro-democracy movement (who truly believed in liberal democracy) fought one another before and after the killing (both inside and outside of the sheltering United States and France) for leadership, fame, and money with the least liberal (not necessarily morally bad, though) means one can think of.

---

<sup>8</sup> See, for example, Cass R. Sunstein (ed.), *Feminism and Political Theory* (Chicago: Chicago University Press, 1990); V. Spike Peterson and Sisson Runyan, *Global Gender Issues* (Boulder: Westview, 1993).

<sup>9</sup> See, for example, Russell Arben Fox, “Confucianism and Communitarianism in a Liberal Democratic World,” in F. Dallmayr (ed.), *Border Crossing* (New York: Lexington, 1999), pp. 185-211; Homi K. Bhabha, “The World and the Home,” *Social Text* 31-32 (Summer 1993): 141-153.

<sup>10</sup> For a full account of this kind of criticism, see Arif Dirlik, “The Postcolonial Aura,” in A. McClintock, A. Mufti and E. Shohat (eds.), *Dangerous Liaisons* (Minneapolis: University of Minnesota Press, 1997), pp. 501-528.

## Opening Institutional Possibilities

Whether fluidity in applying norms is commendable is a matter of cultural perspective. Daniel Bell is most creative when introducing a system of examination in selecting a House of Scholars in the modern (or postmodern) world of China. Together with some democratic mechanism, such as voting, a system of virtual democracy replaces the typical democracy of limited government. In Bell's design, virtual democracy does not celebrate limited government. This is because the rulers are virtual, not self-centered. From the constitutionalist point of view, however, this virtual democracy could actually risk despotism, nepotism, or pork barrel politics, for it would fail the test of the interest-driven nature of human beings. But, one never knows in advance. It is possible that one can appeal to liberalism during the deregulation of a monopoly market, but appeal to Confucianism during an economic downturn to solicit governmental protection. It is equally possible that one can apply Confucianism in gaining budgeted government projects by appealing to special human networking, but use liberalism when negotiating with subcontractors at the lower end.

Bell's exploration is nonetheless worth a deeper reflection. To gain from both democratic participation and Confucian wisdom, Bell suggests a two-house design with the members of the lower house elected by popular votes and the members of the upper house selected by national examination. Technical difficulties aside, this proposal represents an attempt to reconcile the logically irreconcilable, namely, a Confucianism that assumes moral supremacy of political leadership and a liberalism that assumes the evil nature of the government. Under Confucianism, people grant discretionary power on decision-making to the top leaders who have the highest moral status. On the contrary, liberal constitutionalism advocates limited government. It is hard to envision an institutional design that combines the moral supremacy of the government with the necessary evil of the government.

The Constitution of 1947 adopted by the Republic of China before its ruling Kuomintang fled to Taiwan deserves attention, especially regarding the need for moral leadership within the rationality of limited government. The separation of power demanded by the Constitution of 1947 is among personnel, policy and arbitration, rather than administration, legislation and justice. Accordingly, the President nominates the leader of the majority party in the legislature to be the premier. However, no cabinet members may be legislators at the same time. The Premier does not have the power to dissolve the legislature; however, he does not have to resign even if his/her major policies fail to pass the legislature. Clearly, the dispute over policies between the executive and the legislature cannot be resolved by changing the composition of a leadership that is in disagreement. They are not expected to be in disagreement in the first place, though, because one ruling party should direct both functions. This guarantees that political struggle will not be carried out through personal attacks, allowing the preservation of the moral image of the leadership.

A national assembly, which only meets once every six years, elects the President according to the constitution, unless in between there are constitutional amendments awaiting approval. The election of the President is separated from any personnel changes in the cabinet or the legislature. The President is not given power of policy or personnel, but the power to mediate the confrontation among government branches, primarily the executive and the legislature. The President has the power to approve the executive veto over legislation before the veto is legal, a power that allows the President to decide for her/himself if she/he wants to mediate. Precisely because the President is

not involved in policy-making as well as personnel changes, she/he is above politics and has the highest nominal moral status.

The popularly elected legislature and the indirectly elected Premier together make policies. Their interaction is where democracy and dirty politics take place. On the other hand, the President's high moral power satisfies the desire for a moral leadership. The Constitution of 1947 is not a typical cabinet system because it grants the arbitration power to the President and separates the executive and the legislature. It is not a typical Presidential system, either, because it guarantees that the Premier belongs to the majority party in the legislature.

Both the Constitution of 1947 and Bell's creative two-house design recognize the psycho-cultural need among the Chinese populace to rely on moral leadership. At the same time, they both sneak some limited government element into the constitutional arrangement. Two relative values meet and mix. Confucianism continues but is no longer the same Confucianism; similarly liberal democracy is exported but is never the same liberal democracy. Both innovations demonstrate possibilities that cannot easily be anticipated in advance until the drafters—through brainstorming of some sort collectively or dialectically—grasp a clue amidst personal stakes, political tradeoffs, imported values and cultural needs. Agency hides behind coincidence and contingency. It was unfortunate that the civil war in China ended the Constitution of 1947. The Kuomintang literally froze it with martial law and the Provisional Clauses upon arriving in Taiwan.

### **Human Rights as Self-Responsibilities**

Both books under review seem to agree that universalism is a product of relative history and relativism hosts a universalistic logic within the said communitarian boundaries. In short, the dichotomy is false. It should be clear that neither universalism nor relativism is a fact, nor are they about morality, nor can they justify themselves as human nature. Therefore, individuals must be recognized through self-responsibility in moving in and out of relative value systems. This responsibility is viable only if it is possible for individuals to be aware of the legitimate alternatives to their value systems. No value system in itself reminds its members of the necessity of opening up its monopoly over their thought. An action of moving out of a certain value system is a confirmation of the responsibility of those who stay with it because they are not denied the possibility of moving out. Rights, in this sense, are rights to constantly shifting, combining, opening and creating positions and identities. Derived from them is the right to stay put. Rights of this sort are ontological rights to existence in different forms, not rights to individuality through exercising preference.

It may be the case that the Tiananmen Massacre is wrong not because it violated individualist human rights or Confucian benevolence, but because it denied all forms of existence, closed possibilities and arbitrated the undecidable, which harbored opportunities for emancipation and humanity.

---

*Chih-yu Shih is National Chair Professor (2001-2004) at National Taiwan University. His newest publication, Negotiating Ethnicity in China: Citizenship as a Response to the State, is forthcoming later this year from Routledge.*

© 2002, Center On Rights Development.