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# Normative Agency and Cross-Cultural Human Rights in East Asia

*Daniel P. Corrigan* | ORCID: 0000-0003-3247-9725

Department of Philosophy, Iowa State University, Ames, Iowa, US  
*dpcorr@iastate.edu*

*Bradford Cokelet*

Department of Philosophy, University of Kansas, Lawrence, Kansas, US  
*bradcoket@ku.edu*

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## Abstract

According to James Griffin (2008) human rights should be grounded in an account of human dignity, based on “normative agency” – the human capacity to choose and pursue a conception of a worthwhile life. In this paper we take up Griffin’s insight that key legitimate human rights are designed to respect and protect this basic capacity, but reject his assumption that normative agency should always and everywhere be understood in a Western way. We argue that “normative agency” is an indeterminate concept that can be differently understood in different cultural contexts and that thinking about human rights in East Asia should be guided by a Griffin-style approach coupled with an account of normative agency with East Asian characteristics. In developing this idea, we contrast our account with recent, moralized conceptions of Confucian dignity and respond to Griffin’s tacit worries about how to concretely implement views like ours in institutional practice.

## Keywords

human rights – agency – dignity – Confucian – James Griffin

## Introduction

Debate about human rights has persisted since the drafting and adoption of the Universal Declaration of Human Rights (UDHR) in 1948. The UDHR, along with subsequent international human rights treaties such as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, recognize *human dignity* as the basis of human rights. However, dignity is basically an indeterminate, controversial placeholder in these documents; the precise meaning or nature of dignity was left unsettled. It is relayed by Jacques Maritain that at a UNESCO meeting about human rights, someone expressed surprise that people from such different cultural backgrounds could agree on a list of human rights. In response to this surprise, a member of the UNESCO National Commissions remarked, “Yes ... we agree about the rights but on condition that no one asks us why” (UNESCO, 1973). In other words, while there was agreement on a list of human rights, abstractly or indeterminately described, there was not agreement on the precise grounds or foundation of the rights. With the rise of globalization, as different cultures were brought into closer contact and interaction, this lack of agreement has become more apparent and pressing. Debates arose about which rights to have on the list, how to understand those rights, and how to weigh them. Because there is no standing agreement about the ground of rights, these disagreements have been hard to settle.

James Griffin has sought to remedy this problem and resolve disagreement about human rights by articulating a substantive conception of human dignity. He argues this enables us to identify a definitive list of human rights, bring determinacy to the content of those rights, and determine how conflicts between rights should be resolved. Griffin’s specific suggestion is that human dignity is grounded in *normative agency*, understood as the ability to determine and pursue a conception of a worthwhile life. In this paper, we consider Griffin’s account of human dignity understood as normative agency in cross-cultural context, with a specific focus on East Asian culture. Like other critics of Griffin, we maintain that normative agency is only one of several grounds for universal human rights, but that Griffin is right that normative agency is one vital and particularly important basis. However, we further argue that normative agency will be understood or conceptualized differently in different cultures, and that for this reason a universal account of human rights grounded in the value of normative agency can be tailored to fit socio-cultural differences that loom large in the era of globalization. Finally, to clarify and support our proposal we respond to some objections to our view and discuss how it harmonizes with concrete aspects of current human rights practices.

## Griffin's Theory of Human Rights

Griffin (2008) contends that the term “human rights” suffers from indeterminacy. This indeterminacy arises from disagreement about criteria for appropriate use of the term. However, the term is not entirely indeterminate. We have some criteria for determining the correct use of this term, namely an Enlightenment notion that “a human right is a right that we have simply in virtue of being human” (Griffin, 2008, p. 16). This rather thin criterion was not so problematic in the 17th and 18th centuries when there was more widespread (Western) agreement on examples of these rights, which focused on civil and political rights against autocratic rulers. But by the 20th century, agreement on examples was lost in the face of proliferating rights claims, including such purported rights as welfare rights, a right to peace, and the right to residence within one’s state, among other examples. And, of course, disagreement was also bound to arise with the efforts to create a global human rights system in the aftermath of World War II, bringing human rights more directly into dialogue with non-Western cultures.

Griffin suggests there are two approaches most likely to gain greater agreement on not merely a list of human rights, but also the criteria or justification for human rights, which can help us to resolve disputes about the content of rights, priorities among rights, etc. The first approach involves the continued spread of largely Western-inspired human rights discourse, which has taken place over the past 60 years. At the heart of this view is the idea that individual normative agency – the human ability to freely determine and pursue a personal conception of the worthwhile life – is of especially high value and deserves protection. In fact, claims Griffin, this idea constitutes such a deep aspect of the moral point of view, we can reasonably expect it to continue spreading beyond the Western world. The other approach, famously explored by Charles Taylor in his “Conditions on an Unforced Consensus on Human Rights” (1999), involves finding independent and different justificatory ideas for human rights in non-Western cultures. This would mean looking for bases other than individual normative agency, such as the values of responsibility, interpersonal respect and harmony, or moral agency.<sup>1</sup> For example, Taylor discusses how one might justify some human rights based on Buddhist views and, more recently, various Confucian philosophers have appealed to the dignity that humans have due to their potential to develop

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<sup>1</sup> It is worth noting that neither of these approaches involves the Rawlsian idea of public reason or a ‘political conception’ of justice, but instead both appeal to substantive values of comprehensive moral views.

moral (sagely) agency to ground rights. While Griffin acknowledges that this sort of “overlapping consensus”<sup>2</sup> approach is designed to assuage worries about human rights being contentiously ethnocentric, he argues the first approach is actually the better one.

One reason Griffin favors the normative agency-based approach is that it connects to the past and ongoing institutions or practices of human rights. Griffin’s idea is that to rectify the indeterminacy of the term “human rights,” we should look to this “human rights tradition,” which dates back to the natural rights tradition of the late Middle Ages and Renaissance. On Griffin’s telling, this tradition does not dictate one particular account of human rights, but does embody a kind of overall spirit that his account is designed to articulate and clarify. This particular account focuses on our “distinctively *human* existence,” our status as human beings, and our capacity to be self-determining agents (Griffin, 2008, p. 32). Griffin call this human status our “personhood” (2008, p. 33), and our capacity to be agents “normative agency” (2008, p. 45). Human rights provide protection of this status and capacity.

However, in the case of many human rights, mere appeal to our status as persons will still leave rights too indeterminate. So, we need a second ground for human rights to fully determine the content and corresponding obligation of many rights. Griffin calls the second ground “practicalities,” which refers to “empirical information about ... human nature and human societies, prominently about the limits of human understanding and motivation” (2008, p. 38). Practicalities are not tied to any particular time or place, but are universal factors that help us determine the content and obligations of rights that all people have simply in virtue of being human.

According to Griffin, these two grounds can bring an appropriate level of determinacy to the concept “human rights.” Personhood establishes the existence condition of a human right by showing that a particular right will protect an essential feature of normative agency, while practicalities determine the content of the right by showing the practical considerations that must be taken into account (Griffin, 2008, p. 44). We need to further elaborate on each of these grounds to understand how Griffin’s theory is supposed to provide a determinate account of human rights.

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2 Taylor uses this term to describe his approach and mentions John Rawls’s idea of an “overlapping consensus.” However, there is an important difference between Taylor and Rawls in terms of how they develop this approach. Taylor construes the overlapping consensus approach as one that appeals to local philosophical, moral, or religious views, what Rawls calls “comprehensive doctrines.” By contrast, Rawls construes the overlapping consensus approach as one that appeals to a “political doctrine,” which is merely a political view that stands independent of any particular comprehensive doctrine.

As discussed above, our status as persons is rooted in our capacity for “normative agency,” which Griffin defines as the “capacity to choose and to pursue our conception of a worthwhile life” (2008, p. 44). The capacity for normative agency does not require anything as sophisticated as having a life plan or living an “examined life.” Rather, Griffin explains, “Anyone who has the capacity to identify the good, whatever the extent of the capacity and whatever its source, has what I mean by ‘a conception of a worthwhile life’; they have ideas, some of them reliable, about what makes a life better or worse” (2008, p. 46). This capacity appears in degrees as one develops from a child to an adult, but does not come in degrees once someone has attained the basic threshold for the capacity. Hence, people will not have human rights in different degrees.

There are three aspects of normative agency:

To be an agent, in the fullest sense of which we are capable, one must (first) choose one’s path through life – that is not be dominated or controlled by someone or something else (call it ‘autonomy’). And (second) one’s choice must be real; one must have at least a certain minimum education and information. And having chosen, one must be able to act; that is, one must have at least the minimum provision of resources and capabilities that it takes (call this ‘minimum provision’). And none of this is any good if someone then blocks one; so (third) others must not forcibly stop one from pursuing what one sees as a worthwhile life (call this ‘liberty’). (Griffin, 2008, p. 33)

To summarize, autonomy involves our ability to form a conception of a worthwhile life, liberty consists in being free to pursue our conception of a worthwhile life, and minimum provision consists in various kinds of support required for a normative agent to pursue his or her conception of a worthwhile life and to have a reasonable chance of succeeding in that aim. These three aspects of normative agency – autonomy, liberty, and minimum provision – constitute the three basic human rights. More specific human rights can be derived by applying the three basic rights to particular circumstances.

Since these rights can be interpreted in more or less expansive ways, their limits must be determined by taking into account the second ground of human rights, practicalities. Recall that practicalities involve “limits of human understanding and motivation.” In elaborating on these factors, Griffin points out that we have limited ability to make “large-scale calculation about what maximizes good outcomes” and we have “deep commitments to particular persons, causes, careers, and institutions” (2008, p. 103). These practicalities limit our knowledge about how to advance the good, as well as our will to

(impartially) do so. Among other things, Griffin believes the implication of this is that we do not have an obligation to contribute until our marginal loss equals the marginal gain of those in need, and that we are substantially entitled to honor our own commitments and interests. Thus, there is a limit to the obligations that human rights can demand of us. When it comes to human rights with obligations that must be assigned to particular agents, such as the obligations to fulfill welfare rights, Griffin argues that ability is one key factor in identifying the appropriate duty-bearers. In general, those with greater ability (e.g., agents with resources) will have greater obligation than those with lesser ability. However, the practicalities mentioned above show that these obligations cannot require agents to make themselves only as well-off as though in need, nor to undermine an agent's personal commitments and interests.

Since we will later suggest that autonomy can be differently understood or concretely specified in different cultural contexts, it is important to more thoroughly examine Griffin's conception of this particular aspect of normative agency and the basic human rights to which it gives rise. He traces the origins of the concept of autonomy to the late Middle Ages, when ethics began to transform in light of evolving views about the relation between God and humans. Specifically, this involved rejecting the idea that there is an unbridgeable gulf of knowledge and power between God and humans, in favor of the view that humans are made in the image of God. The new view held that humans are creators, like God, but in the more limited sense of creating ourselves and our relations with the world around us. This new view yielded a more egalitarian conception of human beings and our capacities. We have a more elevated status, because we are in some ways created like God, and we are equal, because all are equally created in God's image. The ethical implication of this new view was to transform our role from one of obeying God-given law to one of complying with self-given law. By the 18th century, this view had led to the development of an ethics without God. The concept of autonomy that it yields is one of self-decision. Autonomous decisions are ones that "result from exercising one's capacity to distinguish true values from false, good reasons from bad – in short, the decisions of a normative agent" (Griffin, 2008, p. 150).

Griffin believes it is important to clearly distinguish autonomy from liberty, as these are two separate things that are sometimes conflated. The basic distinction is between deciding for oneself versus acting on one's decision. Griffin elucidates this distinction by pointing out that autonomy and liberty have different enemies. The enemies of autonomy are things such as indoctrination, brainwashing, domination, manipulation, conformity, conventionality, and false consciousness, whereas the enemies of liberty are things such as compulsion,

constraint, and impoverishment of life options. A person can be autonomous but not at liberty, for example when having the ability to deliberate and choose one's values, but not free to pursue those values. A person can also be at liberty but not autonomous, for example when uncritically accepting conventional social values and free to pursue those values.

While some express concern that autonomy is rooted in fragmented individualism and poses a threat to social solidarity, Griffin argues that this concern is merely a reservation about autonomy being an unconditional good, rather than a doubt about whether autonomy is a good at all. The value of autonomy arises from its being a constituent of normative agency or the dignity of a human person. Ultimately, Griffin suggests, we can only make it clear what autonomy is, and then expect that others will see its value.

As discussed above, Griffin defines autonomy as the ability to assess options and form a conception of a worthwhile life. In some sense, he minimizes what constitutes a "conception of a worthwhile life" by denying that it requires "a map of the whole of a good life" and suggesting instead that it will generally be "piecemeal and incomplete ideas about what makes life better or worse" (Griffin, 2008, p. 149). While people will choose different lists of things that make life go well, the lists will nevertheless tend to have a common core, for example "accomplishing something with one's life, deep personal relations, understanding certain moral and metaphysical matters, and living autonomously and at liberty" (Griffin, 2008, p. 151). If autonomy is a valuable ability, then nothing will count as an accomplishment unless it results from one's own choice, and personal relationships will count as valuable only if they are based on recognition of the other person's value. Furthermore, understanding is something that must be autonomous and one cannot live autonomously without having autonomy.

In terms of the human right to autonomy, Griffin argues that this right must be limited to decisions about what life to pursue. Therefore, deferring to others about decisions regarding one's life will result in a loss of autonomy, whereas deferring to decisions about other sorts of matters will not be relevant to autonomy. Of course, exaggerating the importance of autonomy can undermine justified deference to authority or trust in others. According to Griffin, the demandingness of the relevant standard for autonomy will fall somewhere between the concept of "informed consent" in medical ethics, which is too low, and a conception of autonomy that requires appreciation of the weight of *all* relevant reasons and decision that is not influenced by *anything but* those reasons, which is too high.

We can determine the appropriate mean between these two conceptions by recognizing that identifying human interests involves a commonly attained

sort of rational self-determination: “registering a value or disvalue and then taking action appropriate to it” (Griffin, 2008, p. 155). Since this notion of autonomy involves forming a conception of a worthwhile life, it will operate at a relatively general level and it is a capacity that is particular to humans, because we do not know of any other species that has it. It will require complex thought and language, which at a minimum involves the language of harms and benefits and the weighing of various values against each other to arrive at an overall judgment. Griffin suggests we can summarize the relevant notion of autonomy as follows: “a capacity to recognize good-making features of human life, both prudential and moral, which can lead to appropriate motivation and action” (2008, p. 156). With this, admittedly underspecified, conception, he believes, we have both identified the relevant capacity that grounds human dignity, while also properly constraining what constitutes the capacity so that it does not become overly expansive and impractical.

### Inheriting and Improving on Griffin's Account

Griffin's account of human rights is appealing because it points to a normative foundation that had a role to play in the historical development of human rights and that can be taken to justify and guide improvements and extensions of human rights discourse and practice. But there are two main objections to Griffin that we need to take into account as we build on his promising ideas. First, many philosophers working on human rights in a broadly Western philosophic and legal context argue that Griffin's single foundational basis for human rights – human dignity as normative agency – cannot ground the full list of legitimate human rights (Liao, 2010; Nickel, 2007; Tasioulas, 2010). These pluralists can grant that normative agency is central to the history of human rights discourse and that it provides a basis for some central rights, but they think we need to adopt a pluralist account of the grounds of human rights in order to accommodate rights that cannot be plausibly grounded in normative agency. Second, some philosophers approaching human rights in a cross-cultural context will argue that Griffin's approach is problematically ethnocentric. In effect, he *does* argue that non-Westerners should adopt foreign, Western ideas about normative agency to guide their thinking about human rights. This might seem problematic, and critics will contend that instead of importing foreign values, philosophers thinking about rights in different social-cultural contexts should find local or native values to ground thinking about human dignity and the human rights that are needed to protect that. For example, Confucian philosophers have recently been arguing for a conception of human



dignity that is based on moral agency as the Confucian tradition understands that, and they could argue that this approach is superior to Griffin's because it provides a local ground for human rights – an understanding of human dignity that is grounded in native philosophic and cultural resources.

When it comes to the first, pluralist objection, we are basically sympathetic. We are not confident that *all* legitimate human rights can be grounded in respect for or protection of human dignity, where this is understood as normative agency. As S. Matthew Liao (2009), building on John Tasioulas (2002), argues, we may need to appeal to basic human needs such as freedom from pain in addition to normative agency in order to account for all the vital rights listed in the UDHR. But the fact that we may, for example, have to appeal to the need to be free from pain to fully ground the right against being tortured does not belie the promise of Griffin's strategy to ground many central human rights in the value of normative agency. So, our view is that while the valid list of universal human rights (including most if not all rights in the UDHR) are grounded in a pluralistic list of objective human interests or needs, normative agency is a key item on this list – arguably the item that best captures the central spirit of the historical human rights practice and that grounds the most rights.

This response to the first objection, however, makes the second objection even more pressing. Griffin's account articulates a core value that looms large in the history of human rights practice, but that value has its origin in Western philosophy, law, and politics. In a globalized, cross-cultural context, it can seem objectionably ethnocentric to ground human rights on a value that will look like a foreign import or imposition to some people in non-Western cultures. And philosophers who favor a Taylor-inspired overlapping consensus approach will argue that their views are better than a Griffin-inspired pluralist view on just this point.

Griffin himself squarely faces this objection and bites the ethnocentrism bullet. He admits that his way of thinking about normative agency and the rights it grounds is parochial to Western culture and politics. He simply suggests that once these ideas are exported to other cultures, they will gain acceptance and that to some extent this is already happening due to globalization and the spread of capitalism and Western culture. He would also presumably doubt that we can ground human rights without appeal to normative agency. As suggested by our discussion of pluralism above, many if not most Western philosophers working on human rights would agree with this last line of response. They would grant that something like Griffin's normative agency is one *essential* ground of the core human rights listed in the UDHR. By extension, these philosophers would worry that a Taylor-inspired overlapping consensus approach, which supports only rights that do not depend on culturally specific

values such as normative agency as Griffin understands it, will leave us with a revisionary and rather anemic list of rights. From this perspective, Griffin's response to the ethnocentrism worry may look like the best available option: It can seem that ethnocentrism is the price we must pay for a theory of human rights that fits the historical practice and justifies the core rights recognized by the vast majority of the current global community.

Happily, we think there is a way to avoid this conclusion. We agree with Griffin that normative agency is one essential basis for human rights, both because of its role in the historical practice and because of its power to ground many universal rights recognized by the global community. But we also agree with Taylor that human rights theorists can and should assuage worries about ethnocentrism by re-immersing themselves in local traditions in order to tailor their ways of thinking about the grounds for common human rights.<sup>3</sup> Griffin, it seems, did not see a way to put these two thoughts together. But there is an option here that both Griffin and non-Western philosophers who aim to build an account of human rights without appeal to the value of normative agency miss.

As we have seen, Griffin's account of normative agency is fairly indeterminate, and he appeals to what he calls "practicalities" to flesh out his account of the human rights that protect normative agency. Our basic idea is that philosophers and political thinkers in different cultural contexts can draw on native ideas and empirical information about local cultures to generate different, more determinate accounts of normative agency and what rights would protect it in different cultural contexts. On this *specification-relative view*, Griffin is right to point to normative agency as the key, culturally universal interest that legitimate human rights protect and respect, but he goes wrong in thinking that only the Western conception of normative agency will do. In fact, we can and should do better by recognizing that different philosophers and cultures can develop different legitimate views about what normative agency is and about the rights that enable people to realize their potential to exercise such agency in their lives. All can then agree on the basic foundational values that ground human rights, while tailoring the interpretation and weighting of such rights to different cultures and traditions.

Our first claim is that individual normative agency is indeed an essential basis for human rights and that attempts to do without it do not look promising. To better illustrate the grounding power of normative agency and the kinds of problems that are likely to crop up if non-Western thinkers aim to do without it (pursuing the Taylor-inspired overlapping consensus approach), we can

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3 We thank an anonymous reviewer for suggesting that we discuss Taylor's approach.

usefully compare Griffin's account with the recent Confucian accounts of dignity previously mentioned. These Confucian theorists point to virtuous, sagely agency instead of normative agency as a basis for human dignity and rights, and there are two primary variants of the Confucian sagely agency view. Sungmoon Kim (2023) refers to these competing accounts as "dignity as achievement" and "dignity as potential." The "dignity as achievement" account is advocated by Confucian virtue ethicists who view dignity as something that is achieved through a long process of moral development and self-cultivation. On this account, dignity is possessed by those who have cultivated a virtuous, sagely character, and perhaps to a lesser extent by those who are attempting to develop such a character. This view of human dignity suggests an ethical hierarchy, and therefore a social hierarchy, based on the degree of dignity that different people have achieved. The "dignity as potential" account, commonly inspired by Mencius, is rooted in the claim that all people have "moral spouts," or an innate set of potentials to develop sagely virtues unique to human beings. Roughly speaking, if humans have a nature that inspires them toward human, moral goodness, then all people have dignity in virtue of this sagely potential, even if not all of them have achieved ideal self-cultivation.

Despite the differences between these Confucian theorists, they are at a more general level all adopting an approach that differs remarkably from Griffin's approach. Simply put, they focus on the dignity that humans have due to *sagely moral agency*, while Griffin focuses on our *normative agency*. The latter, as Griffin understands it, involves the "capacity to choose and to pursue our conception of a worthwhile life," and while being more like a Confucian sage may form a part of some people's conception of a worthwhile life, it is only one of the many things that come into play when people reflect on how to live a worthwhile life. There are even some philosophers, such as the Daoist critics of Confucianism, who adopt a conception of a worthwhile life that will not be better furthered or realized if one actualizes one's potential to become more like a Confucian sage. Moreover, the ability to form and act on a conception of a worthwhile life is distinct from the ability to track what morality or Confucian righteousness requires or to live up to that standard – having the ability and liberty to exercise one form of agency does not entail having the ability and liberty to exercise the other form. For example, a woman who is denied the right to work and pursue her dream of becoming an artist might still be able to freely exercise robust sagely moral agency as a stay-at-home mother, community member, and wife, despite being robbed of the liberty to pursue some goods that would greatly contribute to the worth of her life by her lights.

As this discussion suggests, we doubt that the human rights that are central to actual practice can be grounded in the value of Confucian virtuous agency,<sup>4</sup> and we think this brings out the strength of Griffin's view, which focuses on normative agency in the broad sense. One example of a human right that can be grounded by normative agency, but not by Confucian dignity, is the right to education. Griffin emphasizes that there is a minimalist character to human rights, so the right to education will be an entitlement only to the level of education necessary to become a normative agent, not to a level necessary for flourishing (2008, p. 53). The right will be an entitlement to "basic education," because that is what is "necessary for the general run of people" to achieve the threshold of normative agency (Griffin, 2014, pp. 224–225). However, Confucian dignity, or sagely moral agency, will not be able to ground such a right. One does not need formal education, not even basic formal education, to develop the capacity for and exercise moral agency. Other examples include rights to creative activity and work (for women, for example) on the grounds that they facilitate autonomy or liberty for most people, but we could not say the same if we focused on virtuous Confucian agency instead.

Having argued that normative agency is plausibly taken as an essential value for thinking about human rights, we want to turn to our specification-relative approach to that value. Unlike Griffin, who considers only a Western approach to thinking about that value and the practicalities that will guide thinking about the rights that best respect and protect it, we think there is space for cultural sensitivity and variation in our thinking about normative agency and the rights that are grounded in it. Griffin helps us out by distinguishing between three aspects of normative agency that human rights are built to protect or respect – autonomy, liberty, and minimum provision – but even these aspects are underexplored in Griffin's work. To make these aspects of the fundamental value in Griffin's theory more concrete, we need to recognize and accept that they may be specified in different ways depending on the background cultural and social factors that are relevant. For example, we hold that autonomy, liberty, and minimum provision can reasonably be interpreted in different ways in East Asian, European, and African contexts and that these different specifications need to be clarified in order to develop an adequate cross-cultural account of human rights. So, while Griffin is right to point to normative agency as a key interest that legitimate human rights protect and

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4 Some writing about Confucian dignity associates it with the potential for moral agency, but the Confucian account of virtuous agency is broader than modern Western conceptions of moral agency or moral virtue. For an in-depth discussion of how Confucian virtuous agency extends beyond modern moral agency, and how it compares with Western virtue ethical views, see Cokelet (2016). Thanks to a reviewer for encouraging us to emphasize this point.

respect, we need to go beyond him by digging into the details and recognizing that different philosophers and cultures have different legitimate views about what normative agency is and on the rights that enable people to realize their potential to exercise such agency in their lives.

To illustrate what we have in mind, we want to now offer some speculative comments on how Asian philosophers and political scientists might take up our suggestion and develop a conception of *normative agency with East Asian characteristics*. Griffin in effect proceeds as if there are universal empirical and normative facts about the nature of normative agency, but he does not defend this view or even spell out its content concretely. And given empirical psychological and sociological information about how different East Asian and Western cultures and psychologies tend to be, we think that it makes more sense to accept a specification-relative view on normative agency. By extension, we think that the scope and weight of human rights may justifiably differ from cultural context to cultural context because while all of these rights (usually) protect and respect the human interest in normative agency, the contours of such agency (and what will protect or enable its free exercise) will vary depending on the social-cultural context.

To clarify what we have in mind, consider again Griffin's basic idea that normative agency involves people forming and acting in the light of their personal conceptions of a worthwhile life. Notice that this idea is very indeterminate and that to make it more concrete we need to consider specific empirical facts about what ordinary people in some culture or society tend to need in order to develop and exercise this capacity, and empirical facts about the conceptions of a worthwhile life that people in a given culture or society tend to adopt. Given empirical work suggesting that East Asian cultures are more relational, communal, and familial than Western ones, our hypothesis is that both people's conceptions of a worthwhile life and the factors that will help ensure development of the capacity to exercise normative agency will differ from those that we find in Western cultures that are more individualist and more focused on autonomy.<sup>5</sup> When it comes to conceptions of a worthwhile life, we might expect ordinary people in Eastern cultures to prioritize good family relationships and other forms of social harmony in ways that Westerners in more individualistic cultures may not. And when it comes to psychological development, impediments to close family relations might undercut the

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5 We think that empirically based anthropological work on "individualization" processes in contemporary China and other East Asian countries supports our speculative claims in this paragraph, but we also recognize that this is an issue that deserves fuller treatment elsewhere. For relevant empirically-based work see Yan (2009, 2018, 2021).

development of normative agency in East Asian cultures in ways that they do not in Western individualist cultures (perhaps because in the latter cultures there are more common non-familial mechanisms in place to facilitate the development of normative agency or because different conceptions of the worthwhile life require different forms of agency).

The specification-relative view that we favor calls for us to attend to these sorts of empirical differences and to then develop accounts of normative agency that fit different social-cultural contexts, and this would presumably be best done by theorists who draw from various philosophic traditions. We might expect, for example, that to clearly thematize normative agency in East Asian contexts, philosophers should draw on the views of human nature, agency, and the worthwhile life that are embedded in Confucian, Daoist, Buddhist, and other traditions. To illustrate what we have in mind, here are some ideas about the East Asian philosophies that could help us to develop an account of normative agency with East Asian characteristics:

- i. **Autonomy:** Griffin describes this as the ability to assess options and form a conception of a worthwhile life and he mentions brainwashing and blind deference as impediments to autonomy. This is presumably a view that philosophers in various East Asian traditions could accept, but it is worth noting, first, that in the Confucian tradition mentorship, ritual practice, and deference to tradition are pictured as essential enablers of effective, reflective agency. Of course, Confucians are mainly concerned with the development of sagely, moral agency, but it seems plausible that many of their points about what enables and hinders the development of moral agency would generalize to the development of normative agency (see Stalnaker, (2019)). So, it seems plausible to think that an East Asian account of the development of normative agency might leave more space for education into and guidance by a tradition than prominent Western accounts do. Second, as Tao Jiang's recent interpretation of Zhuangzi has emphasized, Daoist philosophy might be a vital source for theorizing normative agency in an East Asian context. Jiang (2012, 2021) refers to Zhuangzi as the "sole theorist of personal freedom" in the ancient Chinese canon, and he certainly seems to have something like normative agency in mind when he writes about personal freedom. More generally, philosophers working on Zhuangzi might help us to understand better the kinds of normative agency that human rights are meant to protect and respect and also to explore worries about how Confucian attempts to promote moral agency might actually hinder the development of normative agency. Finally, scholars such as Leigh Jenco (2021) and Pauline Lee (2000) have recently written about how moral

or evaluative pluralism and the value of women's lives were recognized and reflected in the work of Ming literati writing in the wake of Wang Yang-ming's intuitionist neo-Confucianism. Like Zhuangzi, some of these thinkers point to forms of normative agency that go beyond, and perhaps conflict with, the demands of Confucian moral agency. Others might be read as expanding the Confucian approach to recognize the value of individual normative agency. In both cases, these post-classical Chinese thinkers appear to be another "native" East Asian source that philosophers can draw on as they develop a contemporary account of normative agency with East Asian characteristics.

- ii. **Minimum Provision and Liberty:** When it comes to the minimum provision that people require to be able to develop and exercise normative agency, Confucianism seems to imply that having the ability to enjoy and contribute to various family roles is of paramount importance. This is because of the importance that Confucians assign to role excellence in their accounts of a worthwhile life (Kim, 2020). Presumably this could be partially based on empirical assumptions about how secure and supportive families facilitate the development of healthy autonomous powers. Empirical assumptions about many or most people in (some) East Asian cultures having communal values and social or relational self-conceptions would also seem to entail that to have liberty to act on their conceptions of what makes life worthwhile, people may need protections that help them to enjoy good family and other relationships. Some scholars such as Erin Cline (2015, 2020) have already explored related cross-cultural philosophic issues and questions about the empirical "practicalities" that are taken to facilitate the development of virtues and moral agency in broadly Western and Confucian cultures, and this work could presumably inform and guide analogous work on questions about what facilitates the development of normative agency and its free exercise.

These are just some initial speculative comments that point to a domain in need of more theorization. As mentioned previously, as far as we know, contemporary East Asian philosophers and philosophers working in East Asian traditions have not systematically tackled questions about how to conceive of personal normative agency and its aspects in an East Asian context and then considered how the result could augment and build on Griffin's influential and appealing theory of human rights. Our main suggestion in this paper is that this is an important and feasible task.

Finally, we want to point out some concrete implications that specification relativism might have for human rights. Imagine that we develop an account of

normative agency with East Asian characteristics. This would be a Confucian-, Daoist-, and Buddhist-influenced account of the typical factors that are needed for people in East Asian cultures to develop and exercise their capacities to formulate and pursue a conception of a worthwhile life. We have speculated that this account would give relational and familial factors more importance than do Western accounts of normative agency, both when it comes to the factors that enable normative agency and to factors that loom large in typical conceptions of the worthwhile life. If so, we should expect that in East Asian contexts the value of normative agency will ground human rights that protect vital relational and familial factors for ordinary people, but that the same may not be true in more individualized cultural contexts. One specific example here is the right to periodic holidays with pay. This right is included in the UDHR, but has often been criticized by Western human rights theorists as ungrounded. For example, Griffin asserts “The Universal Declaration of 1948 ... blunders at one point in asserting a right to periodic holidays with pay” (2008, p. 16), arguing that “Article 24 plausibly announces that there is ‘a right to rest and leisure,’ but then implausibly includes in it ‘periodic holidays with pay.’ Although some rest and leisure is necessary for normative agency, paid holidays certainly are not” (Griffin, 2008, p. 186). This criticism may be plausible given a Western, individualist, autonomous conception of normative agency, but once we recognize that an East Asian conception may be importantly different, we can see that in an East Asian context there may well be a sound basis for recognizing a human right to periodic holidays with pay. Assuming that this sort of right protects time with family or other communal relational goods, it can be construed as a right that protects normative agency with East Asian characteristics. Further discussion of specific rights and their weights is a topic for another occasion, but in general it is tempting to think that an East Asian conception of normative agency will ground a list of human rights that are more focused on protecting families and social relationships than the list of human rights that have developed out of a predominantly Western, individualist context.

### Griffin’s Worries about Relativism

We have argued that Griffin’s promising account of human rights identifies a central value – normative agency – that can ground and guide human rights practice. But unlike Griffin, we do not think that this value can or should be understood in purely Western terms. Different cultures and their native philosophies can ground different substantive accounts of the human capacity to “recognize good-making features of worthwhile human life, both prudential



and moral,” and philosophers, political scientists, and others can work to develop different accounts of the practicalities that will determine how the average person in a given cultural context will be able to freely develop and exercise that capacity. And this shows us how we can inherit and build on Griffin’s promising approach to grounding human rights without adopting his explicitly ethnocentric (and perhaps overly optimistic) hope that Western conceptions of normative agency, and what respects and protects it, will simply spread and gain universal acceptance as globalization continues. But even if our proposal is accepted as an appealing one, it is important to note and face the objection that Griffin would likely mount against it.

When discussing more radical relativist approaches to human rights – ones that would reject normative agency and look to other non-Western values to ground human rights – Griffin mentions a worry he would likely have about our account too. He worries about any approach to human rights that relies on culturally relative indigenous values and the relative importance of those values and the way that they ground human rights. Human rights discourse is made possible by agreement on a list of the names of human rights, but it also requires agreement on the content of those rights and how to resolve conflicts between the rights. To reach agreement on the content of rights and the resolution of conflicts between them, we must appeal to the values that ground human rights. In fact, Griffin suggests, due to our current lack of agreement about the values that ground human rights, it is possible human rights discourse has scraped along to this point by merely agreeing on the names of the rights. We will be much better off if we can also agree on the content of the rights and how to resolve conflicts between them, which is what the more ethnocentric approach offers. Griffin thinks that the continued spread of Western-inspired human rights discourse ensures there is one agreed-upon value (normative agency) grounding human rights. Thus, upon reflection, he argues, the more ethnocentric approach is to be preferred.

In a seeming effort to anticipate objections to the more ethnocentric approach, Griffin argues that we overexaggerate cultural differences. Historically there may have been more significant differences between cultures, but we now live in much more cosmopolitan times. Societies change more quickly than outsiders appreciate, and the direction societies take is a mix of local and global influences, which have been facilitated through globalized communications, travel, economic structures, and greater homogenization of our ways of life. As evidence of this, Griffin points to the 1993 Bangkok Declaration, in which a number of Asian nations agreed that “human rights are universal in nature,” while also allowing that “they must be considered in the context of a dynamic and evolving process of international norm-setting,

bearing in mind the significance of national and regional particularities and various historical, cultural, and religious backgrounds” (Bangkok Declaration, 1993, para. 8). While some may worry about qualifying universal human rights by certain “particularities,” Griffin points out that human rights are not absolute and all societies recognize some limitations on them.<sup>6</sup> Thus, this qualification is not something peculiar to the Asian nations that are signatories of the Bangkok Declaration.

Our position conflicts in certain ways with Griffin’s preferred approach for gaining universal agreement on human rights. We have argued that the three aspects of normative agency must be interpreted in light of cultural background and social factors, and that this will lead to different conceptions of the aspects of normative agency. Griffin’s preferred approach for gaining universal agreement on human rights – the continued spread of Western human rights discourse – suggests there is just one conception of normative agency. Thus, Griffin believes that if everyone agrees normative agency is the basis of human rights, then universal agreement about the content of rights and how to resolve conflicts between rights will automatically follow. However, when we take that position in conjunction with Griffin’s approving remarks of the Bangkok Declaration, which holds that human rights must be qualified by particularities (social circumstances, culture, religion, etc.), he seems to allow that certain limits may be placed on universal rights as they are implemented within particular societies. Admittedly, Griffin is not clear about how his remarks on these two aspects fit together, but it seems he will allow some role for culture to influence human rights. If the characterization just provided is correct, Griffin holds that culture operates at a different level of influence than it does in our view. He suggests culture plays a role at the level of *implementation* of human rights, while we have argued that culture plays a role in how the *basis* of human rights (normative agency) is conceptualized.

Since Griffin’s overarching goal is to bring determinacy and clarity to the concept of human rights, which, according to him, crucially involves gaining universal agreement on the basis of human rights, it is perhaps not surprising that he advocates the more ethnocentric approach. However, the view we have developed in this paper suggests Griffin’s goal will not be achieved by merely gaining agreement that normative agency is the basis of human rights. Griffin’s account of normative agency is not particularly robust. It involves the “ability

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6 It is not clear precisely what limitations Griffin has in mind here. However, one example might be derogation clauses in international human rights treaties. A derogation clause allows the state to limit or suspend rights under particular circumstances, such as war or emergency situations. These clauses are intended to enable the state to balance individual rights with its duties to protect the common good.

to develop and pursue a conception of a worthwhile life.” This relatively vague idea will be conceived differently in Western and non-Western cultures. For example, in East Asian cultures protection and respect for women’s ability to freely exercise their capacities for normative agency might be less focused on the right to work and pursue a profession and more focused on the right to fulfill other social and familial roles. As Pauline Lee (2000) argues in her discussion of Li Zhi and John Stuart Mill, the idea that one needs to have a profession and career to lead a worthwhile, meaningful life may be tied up with a parochial Western idea of normative agency and not be shared for example by those in more Confucian-influenced societies. Of course, this may not be true and partially depends on empirical facts about which conceptions of normative agency reflect the values of women in different societies, but it illustrates the kind of variation that can be accommodated on our specification-relative approach to thinking about normative agency and the rights it will ground.

Now, our position might be thought to have problematic implications for the practice of human rights, because if the basis of human rights can be conceptualized differently in different cultures, then universal agreement on human rights remains elusive. However, we do not believe the implications are as problematic as theorists like Griffin assume. Culturally different understandings of human rights can be accommodated by developing regional human rights systems. There are already a number of regional human rights systems in existence, including the European, Inter-American, African, and Association of Southeast Asian Nations (ASEAN) systems, among others. One aim of these systems is to allow for regionally specific conceptions of human rights, which better reflect the particular cultures, values, and circumstances of a given region of the world. For example, the African human rights system is based on the African Charter of Human and Peoples’ Rights, which includes not only individual rights, but also peoples’ rights, which are group rights. The system recognizes a linkage or relationship between individuals and peoples, and hence between the rights of individuals and the rights of groups. This general feature allows for a human rights system that reflects the particular cultural ideals and values found in African nations. While other regional human rights systems, such as the European and Inter-American systems, recognize some types of group rights, the African system includes rights of distinctive groups, which go beyond those found in the other systems, such as the right of peoples to equality, self-determination, and to freely dispose of their wealth and natural resources. We believe that, at least in principle, East Asian societies could also develop a regional human rights system that reflects the cultural ideas and values found in this region. This system could embody a human rights regime based on a conception of normative agency with East Asian characteristics.

Furthermore, our proposal for an East Asian regional human rights system is in keeping with human rights practice. While the United Nations was initially skeptical about regional human rights systems, because such systems were thought to call into question the universality of human rights, this began to change in the 1970s. At one point, the United Nations actually considered creating regional human rights systems itself, but ultimately decided that states have this responsibility. In 1977, the United Nations requested that states not belonging to a regional system “consider agreements with a view to the establishment within their respective regions of suitable machinery for the promotion and protection of human rights” (United Nations, 1977). Perhaps most famously, this issue was debated at the 1993 U.N. World Conference on Human Rights held in Vienna. This conference yielded the Vienna Declaration, which recognized that regional systems “play a fundamental role in protecting and promoting human rights,” the need to provide more resources to strengthen regional systems in cooperation with the U.N., and the need to create regional systems where they do not exist (Vienna Declaration, 1993, sec. 1, para. 37). The United Nations has regularly reiterated its support for regional systems since that time.

It is also true that the Vienna Declaration places emphasis on the universality of human rights, while recognizing that “the significance of national and regional peculiarities and various historical, cultural and religious backgrounds must be borne in mind” (Vienna Declaration, 1993, sec. 1, para. 5). Virtually all regional human rights treaties refer to the UDHR (and often to other global human rights treaties as well), and we do not envision anything different in our proposal for an East Asian system. The UDHR provides an abstract list of human rights that can guide practice, while regional systems tailor the abstract rights in light of the culture, values, and circumstances of a given region. In the same way that Griffin’s theory of dignity as normative agency endorses most of the human rights listed in the UDHR, an East Asian regional system – based on normative agency with East Asian characteristics – can be expected to ground most of the rights listed in the UDHR, while giving those rights a content, scope, and weight determined by that concept.<sup>7</sup>

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7 Our proposal shares similarities with the approach proposed by Jack Donnelly (2013). Donnelly distinguishes between the concept, interpretation, and implementation of human rights. He claims that the UDHR provides the concept of human rights, which involves an abstract, general statement of each right. The general concept of a right must then be interpreted, and interpretations allow for some relativity in terms of defining the precise entitlements and limits of the right. Finally, a further degree of relativism can be introduced at the level of implementation, which involves implementing an interpretation of a right within a specific social, cultural, and institutional context.

## Conclusion

In this paper we have argued that Griffin correctly identifies normative agency as at least one central value that captures the spirit of the human rights tradition and can justify and guide human rights practice. On Griffin's account, normative agency involves three aspects – autonomy, liberty, and minimum provision – that ground three basic human rights, and from which more particular human rights can be derived. However, we argue that Griffin is wrong to think that only a Western conception of normative agency will do. Instead, we advocate specification relativism, which involves developing the three aspects of normative agency, and the rights that it will ground, in light of local culture and values. In the case of East Asian societies, this involves developing a conception of normative agency with East Asian characteristics. This conception of normative agency will differ from the Western conception by drawing on Confucian, Daoist, and other East Asian traditions, and may be based on a more social or relational conception of the self and values that prioritize the family or social harmony. Finally, to assuage worries that our specification-relativist account of normative agency can undermine human rights practice, we point to regional human rights systems, several of which already exist. At least in principle, East Asian societies could develop their own regional human rights system based on normative agency with East Asian characteristics.

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