An excerpt from a long book chapter:

"Confucius, Aristotle, and a New `Right' to Connect China to the West: What Concepts of `Self' and `Right' We Might Have without the Christian Notion of Original Sin?"

In *Self or No-Self? The Debate about Selflessness and the Sense of Self*.

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(Due to the excessive length of the chapter, I have decided to include only

pp. 269-270 and 276-299.)

This chapter is devoted to:

• concepts of "self" and "right" in three civilizations: ancient Greek, medieval Christian, and Confucian
• uses these traditions' common incompatibility with modern liberalism notion of
"right" to explore the commonalities between them, and on that basis try to join
the East with the West in a "right" that could better harmonize the self with
society, right with duty, and negative with positive freedom

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V. The End of the Self

# Confucius, Aristotle, and a New "Right"
## to Connect China to Europe

### What Concepts of "Self" and "Right" We Might Have without the Christian Notion of Original Sin?[1]

Sinkwan Cheng

## Prologue

This essay is excerpted from a longer project entitled "Translation, Concepts of 'Right,' and the Opium Wars: A New Historical Method and a New World History." The project endeavors to find a concept of "right" rooted in both Western and Chinese traditions in order to better connect China to Europe. This I undertake by using Yuan Dehui's 19th-century Chinese translation of Emer de Vattel's "right" – often regarded a mistranslation due to the absence in the classical Chinese culture of a concept of an atomistic self that could ground the modern liberal notion of "right" – to tease out its classical Greek counterpart which is equally incompatible with the modern liberal idea of "right." More importantly, I use the two classical traditions' *common incompatibility* with modern liberal notion of "right" to explore the *commonalities* between them, and examine how two civilizations apart from each other could nonetheless share a similar idea of "self" giving rise to similar notions of "right."

It is my argument that Yuan's translation *li* (理), which looks like a Confucian misinterpretation of Western notions of "right," turns out to be *a return of the repressed—that is, a return of an earlier Western meaning of "right" which has been increasingly repressed since Europe's capitalistic-imperialistic adventures*.[2] By using Yuan's Confucian rendition of "right" to draw out a pre-Christian, pre-capitalist, and pre-expansionist meaning of "right" in the Western tradition, my goal is to join the East with the West in a "right" that could better harmonize the self with society, right with duty, and negative with positive freedom.[3]

[2] Christianity made available a range of ideas and vocabulary that facilitated the subjective turn of "right." This, however, does not mean that Christians necessarily endorse subjective right. More details to follow in "Preliminary Clarifications."

In addition to breaking new grounds in intellectual content, I also seek to do the same with methodology. *I initiate a new kind of adventure in Koselleck's Begriffsgeschichte method by using synchronic semantic changes effected by translation to interrogate the diachronic semantic changes of "right" in the West. By using the "new" semantics that surface in the Chinese translation of "right" to draw out the "old" semantics of "right" in the West, I effect a defamiliarization of the modern liberal concept of "right" via both its synchronic Other (Confucian "right") and its diachronic Other ("right" in the pre-modern West).* In Benjaminian language, my paper uses Chinese translation history to "blast a specific era out of the homogenous course of history" in the semantic history of "right" in the West. Benjamin disrupts the "homogeneous empty time" of mythical linear history via "a tiger's leap into the past." I demonstrate how radical heterogeneity can be introduced by the spatial Other (Chinese translation history) as much as the temporal Other. My method also extends Benjamin by making a tiger's leap into the Other of the past, and into the past of the Other. By using the Confucian notion of "right" to draw out an earlier notion of "right" in the West, I aim at interrogating modern Western "right" with its temporal Other (Aristotle) via the detour of its cultural Other (Confucius), thus inviting readers to understand the meaning of "right" anew. In exploring a "right" common to both China and the West, it is the Greek rather than the Christian tradition to which I turn. This paper gives the rationale for that choice. The notions of original sin and the Fall are non-existent in both ancient Greek and Chinese thoughts.[4] Interestingly, neither tradition developed a concept of subjective right. I seize upon this to formulate the question: what did (and what could) "right" look like without original sin? No scholarship I know of has used the contrast between Christianity on the one hand and classical Chinese and Greek traditions on the other to ask: why did neither of these non-Christian traditions develop a notion of subjective right? How do we go about combining these traditions to explore what kind of concept of "right" could be yielded by a moral ontology unaffected by the Christian doctrine of original sin? How to think of "right" outside the Christian frame of the Fall — a Fall which ushers in fear of the Other and the loss of a trusting and harmonious relationship with other human beings, with nature, and with the cosmos?

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[3] Far from being a mere "Confucian ideology," "harmony" played an important role in ancient Greek thinking also.

[4] Note that original sin is not given a prominent place in the Hebrew Bible. It is mentioned in the Genesis and few references are made to it thereafter. It is Christianity which makes it central to its teaching in order to underscore the indispensable role of Christ to human salvation. During the patristic period, the Fall is stressed in order to highlight Christ's restoration and healing of all humanity. In Protestantism, original sin is made central to stress the utter depravity of humankind and their inability to gain salvation except through the divine grace of Christ the Redeemer.

[Pp.271-275 have been cut to keep this sample publication down to 25 pages.]

*1. From Objective Right to Subjective Right: A Brief Semantic History*

As Ronald Dworkin points out, there are two key moral and political meanings of "right": "rectitude" and "entitlement."[13] "Right as rectitude" concerns "that which is considered proper, correct, or consonant with justice, and related uses," "right as entitlement" that of "a legal right or just claim to do, receive, or possess something."[14] The former refers to "something proper for, or incumbent on, a person to do."[15] The latter, by contrast, "focus[es] on the right-holder and draw[s] the duty-bearer's attention to the right-holder's special title to enjoy her right."[16] In the language popularized by post-late 70s scholarships devoted to the Medieval natural law tradition, "right as rectitude" is "objective right," which is opposed to "subjective right," or "right as entitlement." "Subjective right" has "as [its] focus a particular *subject* (who holds it)" (my italics), in contrast to the first kind of right which designates "an 'objective' standard to be followed or state of affairs to be realized."[17]

   The "right" championed by modern liberalism is "subjective right," in diacritical distinction to which its counterpart in the classical Greek (and Chinese) tradition has been retroactively – and not without a degree of violence – referred to as "objective right."[18] Not surprisingly, Yuan's Confucian rendition of "right" as *li* comes across to twentieth- and twenty-first century scholars as a mistake,[19] since the Confucian *li*, like Aristotle's *to dikaion*, is an example of the

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   [13] R. Dworkin, *Taking Rights Seriously* (Cambridge: Harvard University Press, 1977), xi, 90.
   [14] "right, n.", *OED Online* (September 2016: Oxford University Press), http://www.oed.com/view/Entry/165853?rskey=PCUZLz&result=1&isAdvanced=false, accessed October 21, 2016.
   [15] Ibid.
   [16] J. Donnelly, *Universal Human Rights in Theory and Practice* (Ithaca: Cornell University Press, 2013), 8. Note that the first right designates an *action*, in contrast to the second which is centered on the right-holding *subject*. Not surprisingly, the second kind of right readily yields a fetishized notion of the right-bearing subject and an essentialist concept of right.
   [17] Ibid.
   [18] I prefer the expression "non-subjective" because "objective right" would imply that there already existed a concept of "subjective right" by contradistinction in ancient Athens and pre-modern China. In reality, there is little conceptual distinction between "subjective" and "objective" in classical Chinese. Although classical Greek nouns, adjectives, and pronouns all have a different form according to whether they are the subject or the object of the verb, *obiectiuus* and *subiectiuus* as philosophical terms only came into being in the medieval Latin West. (Interesting, however, that these two terms, like *arsis* and *thesis*, have exchanged meanings in modernity).
   The term "objective" does not exist in Aristotle's writings. He sometimes uses the expression *physei* ("by nature") to refer to what is valid independently of the opinions of particular individuals or groups (that is, "subjective" or conventional opinions). But this is by no means the same as the "subjective" in "subjective right" where "subjective" is linked up with *protestas* and *dominium*.
   [19] The original semantics of right has been missed by existing scholarship on Yuan's rendition. *Li* has been repeatedly taken to be a "mistranslation" by all publications I have read in East Asian Studies, Law, Politics, and Philosophy – even though some scholars perform a

first kind of right, and is not quite compatible with the expectations of most scholars who have in mind "entitlement" when they read Vattel.

What prevailed in Confucian China and ancient Athens was "right" as "moral reason" or a justice pertaining to all. "Right" in the sense of "entitlement," a demand on others, or a claim against others was almost completely foreign to pre-modern China and ancient Greece – even to Aristotle, despite his attention to the individual and the particular. Given the Greek influence (especially Aristotle) on the medieval natural law tradition, the same notion of right dominated a large part of the Middle Ages. Both the Confucian *li* and the early meaning of "right" in Western intellectual history reference what is just and right, justice being the goal of human *action* and is a way of understanding "right" through action.[20] Subjective right is necessarily understood in terms of a quality or faculty or power of individuals – meanings decidedly absent from the expressions "the just," *to dikaion*, or *ius* in the writings of authors from Aristotle and the Roman jurists, to Aquinas and a number of Medieval theologians – as Michel Villey[21] and others scholars have pointed out. Following Aristotle, Aquinas deems the object of justice to be the right action rather than someone's right claim, for which reason law is the "basis" or "expression" of "the just" instead of one's special title to certain goods which others must grant. For the Aristotelians as much as for the Confucians, "right" qualifies an action or a state of affairs and refers to "the objective rightness of the right things"; it is not an individual's possession.[22] This is why Leo Strauss

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subversive reading while others try to give what they deem to be a "charitable" reading. Lydia Liu provides an example of the former. The latter can be illustrated by Rune Svarverud's "The Notions of 'Power' and 'Rights' in Chinese Political Discourse." In this essay, Svarverud expresses his misgivings about W. A. P. Martin's translation of "right" as *quanli* (power and profit), apparently overlooking the fact that claim–right was indeed connected to power and profit in discussions among medieval theologians and jurists of property (*dominia*) and a range of related concepts such as *facultas* and *potestas*. As is demonstrated in this essay, Svarverud's "charitable reading" of *li* is unnecessary, and his perplexity at Martin's translation unwarranted. *Li* is indeed very close to the original meaning of "right" in the West before its subjective turn.

[20] This meaning persists through a large part of the Middle Ages. Annabel Brett underscores that "the primary and theoretically important sense of *iustum* in Aquinas […] remains that of 'just action'" in *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge University Press, 1997), 92.

[21] Michel Villey traces the modern "aberration" of "right" to William of Oakham. Brian Tierney, however, argues that "subjective right" already appears in twelfth-century canonistic discourse. See B. TIERNEY, *The Idea of Natural Rights: Studies on Natural Rights, Natural Law, and Church Law 1150–1625* (Atlanta: Scholars Press, 1997), 13–77. Others who diverge from Villey include P. H. Hering, "*De jure subjective sumpti apud s. Thomas*," 16 *Angelicum* (1939), 295–97; Part III (on *droit* subject) of L. LACHANCE, O. P., *Le concept de droit selon Aristote et S. Thomas* (Montréal, Levesque; Paris: Sirey, 1933), 327 ff.; and J.-M. AUBERT, *Le droit Romain dans l'oeuvre de Saint Thomas* (Paris: Vrin, 1955).

[22] See, for example, H. JAFFA, "Natural Rights," (*International Encyclopedia of the Social Sciences*, 1968), http://www.encyclopedia.com/topic/natural_rights.aspx. Martin Golding also

uses 'right' in the adjectival sense (as in the expression "classic natural right") in order to distinguish it from its modern usage.[23] Mordecai Roshwald goes a step further and argues that the ancients used 'right' only as an adjective,[24] and that the derivation of a noun (for example, the "rights of man") from the ancients' adjectival usage (as in "natural right") was a modern invention. Roshwald even takes the differences between the two kinds of rights to be a divergence between "the use of 'right' as an adjective and as a noun."[25]

By the time of the School of Salamanca if not earlier, a subjective turn had definitely taken place in the semantics of "right."[26] Francisco de Vitoria[27] and Domingo de Soto are often associated with this turn, even though Francisco Suárez's writings make this new meaning even clearer.[28] In *De legibus* (1612), for instance, Suárez declares that the 'true, strict and proper meaning' of *ius* is "a kind of moral power [*facultas*] which every man has, either over his own property or with respect to that which is due to him." The contrast to the usage of the same term by Aquinas and his predecessors could not be clearer. As John Finnis puts it, "Somewhere between the two men we have crossed the watershed."

Particularly worth noting is: despite the fact that the subjective turn could already be found in Ockham or even earlier, it was during the time of the Spanish expansion of trade and territories that subjective right really began to catch on. Subjective right has since then been gaining great momentum

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distinguishes between "what is right" (objective right) and "a right" as possessed by an individual (subjective right), characterizing the ancients and the medievals as espousing "a 'no rights' theory" of justice. See M. GOLDING, "Justice and Rights: A Study in Relationship", in *Justice and Health Care*, ed. E. SHELP (Dordrecht:1981), 27, 31. See also his "The Primacy of Welfare Rights," *Social Philosophy and Policy* 1, no. 2 (1984): 119–36.

[23] L. STRAUSS, *Natural Right and History* (Chicago: University of Chicago Press, 1953), 182–183.

[24] Roshwald's observation about the ancients needs some refinement. Plato and Aristotle (and even the Stoics and Epicurus) sometimes use *diakaiosyne* which is a noun, even though the word means "justice" and not "a right" in the modern sense. Note that in ancient Greek, any adjective can be used as a noun. The ancient Greeks prefer nominalizations of adjectives to abstract nouns – thus, "the good" and "the beautiful" to "goodness" and "beauty."

[25] M. ROSHWALD, "The Concept of Human Rights," *Philosophy and Phenomenological Research* 19, no. 3 (1959): 354–379.

[26] See footnote 21.

[27] Vitoria rhetorically reinscribes Aquinas's objective right as subjective right when he interprets Aquinas's dictum that law is "*aliqualis ratio iuris*" to mean that *ius* is "what is licit by law" (*quod lege licet*), or "that which is licit in accordance with the laws"(*illud quod licitum est per leges*) – that is, a subjective right. See *De justitia* II-II q. 62 a. 1 n. 5.

[28] See Brett and Tierney. See also a number of works by Martti Koskenniemi on this subject, such as "Rights, History, Critique," *Human Rights: Moral or Political?*, ed. A. ETINSON (Oxford: Oxford University Press, 2015); "Empire and International Law: The Real Spanish Contribution", *University of Toronto Law Journal*, 61 (2011): 1–36; and *The Politics of International Law* (Oxford: Hart Publishing, 2011).

with the development of capitalism and imperialism, and has by now become "right proper" along with its success in displacing objective right in popular consciousness. What merits special attention in this drama of semantic colonization is that the *moral overtone which used to be associated with objective right now gets appropriated by subjective right*.

This appropriation was very much facilitated by renaming "objective right" as "duty" – a renaming which removed objective right from the family of right-related terms, so that henceforth it *would become increasingly detached from people's memory and conceptualization of "right."* The moral aura which used to be associated with objective right could thus be seized hold of by subjective right which has by now become "right *toto*" in lay consciousness. The success of the semantic colonization and appropriation as just described is such that, when we invoke our "right" to certain things or to take certain action nowadays, we would be invoking the second meaning of right, yet we would in all likelihood be under the impression that our demands were first and foremost *moral* (and thus with *universal* validity) rather than merely *legal*. In liberal discourse, in other words, an *interest claim (entitlement) now assumes the aura of a moral claim*.

## 2. Subjective Right and the Christian Doctrines of Original Sin and the Fall

A substantial amount of critiques of rights discourse have focused on the complicity of rights with capitalism and imperialism. However, subjective right predated both. It is also significant that right took a subjective turn among the medieval theologians. There were different ways in which Christian doctrines facilitated the rise of subjective right, such as original sin and the Fall, medieval nominalism, medieval voluntarism, and the Christian teachings of personal relationship to God and individual salvation.

I have chosen to focus on original sin and the Fall because of their uniqueness to Christianity. Without the Fall, Christianity might have looked quite similar to other ancient civilizations which espouse an organic view of human community.[29] After all, the Christian God had created the world to be commonly shared. The division of *dominia* (property) according to some scholastics resulted from the Fall. Duns Scotus holds that originally all things were shared in common as per natural law or divine law. However, that precept of the law of nature about having everything in common was revoked after the Fall. Human nature being corrupted and the strong being prone to oppress the weak out of avarice in the post-lapsarian stage, reason dictated the introduction of property as a distinctively human institution. In conformity with natural equity, reason also counselled the expediency of each appropriating possessions for himself/herself.

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[29] Christianity *by and large* limits this organic community to the pre-lapsarian state and, after the Fall, to the family and to Christian brotherhood.

It is important to note that, according to Scotus, the first division of *dominia* happened by some positive law. In other words, according to Scotus, private property is not natural to human beings, but happened by convention as a necessary evil after the Fall. To take Scotus's thoughts a step further, given that *private property is not natural and came about as the result of a historical contingency (that is, the Fall), it would seem that, in a society without the concept of original sin, there would not be any need or even justification for the division of <u>dominia</u>*.

This is precisely the starting point for my investigation into the possibility of a concept of "right" common to both China and the West. China is not the only civilization without a concept of original sin; ancient Greece is the same. A comparative study of the two reveals how *thinking outside the paradigm of the Fall could radically revise our understanding and beliefs about the nature and the "intrinsic value" of the modern Western notions of right. Basically, in the absence of original sin, the "self" would take on a different meaning, and it would bear totally different relations to other "selves," to law, to nature, and even to the universe.* Without the notions of original sin and corrupted human nature, there would be *no Hobbesian fear of the Other, nor would there be the Lockean jealous self-ownership – a possessive individualism extreme enough to justify killing a thief even if s/he has not harmed oneself, nor has s/he ever harbored such intention.*[30] Human beings could *put their trust in human society instead of divine grace for achieving virtue and human flourishing.* Without the idea of original sin or corrupted human nature, they would be more likely to develop an organic view of society based on *relational rather than atomistic selves.* They would be more disposed to envisioning a relationship of *harmony not only between human beings, but also between human beings and nature,*

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[30] In Sec. 18 of the *Second Treatise*, Locke declares it lawful to kill a thief who "has not in the least hurt him, nor declared any design upon his life":

"This makes it Lawful for a Man to *kill a Thief*, who has not in the least hurt him, nor declared any design upon his life, any farther than, by the use of force, so to get him in his power, as to take away his money, or what he pleases, from him; because using force, where he has no right, to get me into his power, let his pretence be what it will, I have no reason to suppose, that he, who would *take away my liberty*, would not, when he had me in his power, take away every thing else. And therefore it is lawful for me to treat him as one who has put *himself into a State of War* with me, i. e. kill him if I can." (my italics)

The prioritization of self-preservation above the preservation of others evolves into the legitimization of the right to kill an *imagined "would-be"* killer. Once it is accepted as lawful to kill anyone under the excuse that "I have no reason to *suppose*, that he, […] would not […] take away every thing else," there is no way to limit pre-emptive strikes of any kind. (my italics) In as much as the Bush administration deemed it lawful to bomb Iraq on behalf of its imagined Iraqi weapons of mass destruction, and the Kennedy-Johnson administration justified the Vietnam war on the basis of its imagined scenario that the Vietcongs would invade the U.S., white supremacists after 9/11 could easily claim attacks on Muslims to be lawful self-defense as per Locke's rights discourse which has dominated American imagination since the founding of the nation.

*and between human beings and the cosmo*s. This is because, without the Fall, nature would not be perceived as wounded as it is deemed to be in Christianity.

Due to the space limit, I will be covering in this chapter only the topic of how, in pre-modern China and ancient Greece which had no concept of "original sin," the concept of "subjective right" also did not exist. The belief in "interrelated selves" – that helping others is helping oneself, harming others is harming oneself – apparently sufficed to encourage kind acts and discourage vices. The belief in "interrelated selves," in turn, could be much better maintained in societies with no presumptions of the innate corruptness and aggressiveness of humankind.

### 3. Right for Aristotle and Confucius, in contrast to Individual-Based Contractual Theory of Justice

Modern liberal right (subjective right) concerns what others owe me, versus duty (objective right) which is about what I owe others.[31] Critics of rights discourse have often connected liberal rights' prioritization of self-interest to capitalism. My paper seeks to take this a step further: liberalism's jealous guardianship of subjective right and its fear of the Other could be traced back to Christianity's belief in the sinful nature of human beings – especially prominent in Protestantism's emphasis on the utter depravity of humankind and their inability to achieve genuine goodness and salvation except through God's infinite grace.

It is not surprising that German thinkers and writers often look upon ancient Athens as the Golden Age, "reminiscent" of the Garden of Eden before the Fall. The longing for an idealized Greece can readily be found in the works of Johann Winckelmann, Friedrich Schiller, Friedrich August Wolff, Wilhelm von Humboldt, and Friedrich Schleiermacher. No less enthusiastic about Greece is Georg Wilhelm Friedrich Hegel who represents ancient Athens as a civilization in "beautiful concord," free from different kinds of alienation plaguing the modern age. To be added to the list also is Friedrich Nietzsche and Martin Heidegger, the latter known for singling out Greek and German as "the only languages fit for philosophizing." Not surprising: indeed, ancient Athens has no concept of original sin and hence appears to those burdened down by it as enjoying the "blessings of the innocent." When we turn to ancient Athens and China, we will indeed see how such "blessings" get articulated in visions about self and society very different from those taken for granted by the Christian West.

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[31] See S. CHENG, "Translation, Power Hierarchy, and the Globalization of the Concept 'Human Rights': Potential Contributions from Confucianism Missed by the UDHR," *The Age of Human Rights Journal* 4 (2015): 5, 18, and 21–22.

*3.1 Relational Selves*[32]

While original sin renders human beings suspicious and alienated from each other and even from themselves, both ancient Greece and pre-modern China harbor organic views of society according to which one member's joy and sorrow is the joy and sorrow of the entire community. Far from being alienated and isolated from each other, human beings exist through one another and the community to which they belong. There is no *independent self*; there are only *interdependent selves*. In fact, the concept of human alienation was so foreign to pre-modern Chinese culture that Chinese historians could even report on the inner thoughts and feelings of the historical figures they record. In Book 43 of *The Grand Historical Records* (史記), for example, Sima Qian reports on Madame Zhao's secret prayer to Heaven when the soldiers searched her chamber for the orphan of Zhao: "If the Zhao family are meant to die out, let my baby cry; if not, let him remain silent." Modern Western readers might find this practice to be a subjective projection of the historian's imagination. But in pre-modern China where there was little conceptual distinction between "subjective" and "objective," and people did not conceive of themselves as bounded within a "self," it was never questioned that historians could access the inner thoughts and emotions of the people they were recording.[33]

Likewise in ancient Athens, people were not born as individuals but as citizens – that is, as members of an organic whole. Indeed, both philosophers' views about the "interrelated selves"[34] were integral parts of their systems of thought. For Confucius, no less than for Aristotle, "it is the universal and the totality which really matters, not the individual as such. Individuals exist for the good of the species."[35] Contrary to Locke, both Aristotle and Confucius explain the parts in terms of the whole – and this *despite* Aristotle's famous rebellion against the Platonic forms in favor of individual entities. Despite the primacy given by Aristotle to individual entities, they "did not 'exist' univocally, for each did so in the manner appropriate to what it was. [...] Any entity exists in the mode proper to its kind – a fact which is presumably related to Aristotle's alternative suggestion that it is species which are *ousiai*, entities, not or not merely the individuals within them (*De Part. An.*

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[32] I deliberately substitute the plural for the conventional singular expression "relational self" in order to further avoid any suggestion of a Cartesian ego as the foundational unit of human relations.

[33] S. Cheng, "The Chinese Xia versus the European Knight: Social, Political, and Philosophical Perspectives," EnterText 6, no. 2 (2006): 70, n. 28.

[34] I deliberately substitute "interrelated selves" for the conventional expression "relational self" in order to avoid any suggestion of grounding human relations in atomistic individuals.

[35] F. Copleston, *A History of Philosophy*, vol. 2: *Medieval Philosophy* (London: Continuum, 2003), 428.

644ª23f)."[36] In striking similarity to Confucian cosmology, Aristotle's "paradigmatic *ousiai* are wholes; the paradigmatic wholes are living entities; living entities exist dynamically in such a way that they are wholes at any point in their existence but that their growth and nature is completed over a period of time." For both philosophers, Nature and Being "can be explained by reference to the universal Whole, which men can mirror."[37]

It is thus not surprising that, for both philosophers, the individual belongs not to himself but to the collective entirety. As Aristotle puts it, a citizen should regard himself as belonging not to himself but to the state: "Neither must we suppose that anyone of the citizens belongs to himself, for they all belong to the state, and are each of them a part of the state, and the care of each part is inseparable from the care of the whole."[38] In contrast to modern liberalism for which the good of others has in itself no valid "right" claim on the individual, but that he should serve others only to the extent that he can connect their interests to his own,[39] Aristotle gives voice to his society's commitment to the priority of the city to the individual. For Aristotle, "he who is unable to live in society, or who has no need because he is sufficient for himself, must be either a beast or a god."[40] This is not a far cry from Confucius who preaches that humanity can only be realized in "co-humanity" (仁) – that is, in one's humane interrelations to others. Copleston's description of Aristotle can be read as an accurate a portrayal of the Confucian worldview: "Individuals exist for the good of the species: it is the species which persists through the succession of individuals; ... man is an item in, a part of, the universe."[41]

The absence of original sin not only enables human beings to be related to each other without fear. It is through that human interrelation, rather than God's grace, that human beings can become virtuous and realize their ideal "human nature" – realize the *telos* of humanity, so to speak. Eternal life is not a matter of *individual* salvation, but of *continuing oneself through the existence of others* (as in the case of sacrificing oneself for others), or living on in the memory of

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[36] S. R. L. CLARK, *Aristotle's Man: Speculations upon Aristotelian Anthropology* (Oxford: Clarendon Press, 1975), 50.

[37] Ibid., ix.

[38] ARISTOTLE, *Politics*, 1337ª28–29 Unless otherwise specified, all references to Aristotle are from the standard English edition of his complete works: ARISTOTLE, *The Complete Works of Aristotle*, revised Oxford translation, ed. J. BARNES (Princeton: Princeton University Press, 1984).

[39] Mary Ann Glendon provides in her *Rights Talk* a list of examples of "the right to negligence" in the liberal tradition, including one's right to ignore those in mortal danger. One striking example she gives is the Yania case which established people's right not to help someone drowning even if a rope is at one's feet for that use. See M. A. GLENDON, *Rights Talk: The Impoverishment of Political Discourse* (New York: Maxwell Macmillan, 1991).

[40] ARISTOTLE, *Politics*, 1253a28–29. See also his *Nicomachean Ethics* 1145ª 20–28.

[41] COPLESTON, *A History of Philosophy*, 428.

*others* through one's contributions to society. The pre-modern Chinese referred often to "three paths to immortality: exemplarity in virtue, in contributions to others' well-being, and in words of wisdom (三不朽：立德、立功、立言)."[42] For this reason, in pre-modern China as much as in ancient Greece and the Roman Republic, honor (that is, living an honorable life) was regarded as more important than life itself – because it was honor that allowed one to live on through others and in others' memories.

This is why the collective plays such a central role in both Aristotelian and Confucian thought. Society must be set above the individual, not only because society provides the necessary support for one's survival, but, above all, because it makes possible the realization of virtue and the good life. Neither Confucius nor Aristotle relies so much as the liberals do on "the illegality of violating my right" to create an orderly society. Rather, acceptance or rejection by society – that is, membership or excommunication from the "immortal" whole on which one depends for both psychic and physical sustenance – is a much more effective way for creating good conduct, and it produces good conduct not just in the sense of restraining evil but above all in promoting virtue. Modern liberals have to turn to law instead, because the egotistic self withdrawn into his/her private space could not care less about others' disapproval or social sanctions – except when such opinions directly impact upon his/her self-interests, as in the case of politicians lobbying for votes.

In short, in the absence of original sin, both Aristotle and Confucius set higher goals for human beings and entrust higher missions to human society. Human society rather than God becomes the basis for realizing "the right" – which for the two classical thinkers mean "virtue" and "human flourishing" – for which reason human society is not just about liberal tolerance, but about citizens actively engaging, supporting, and thriving through one another. Not just life – but a good life – is possible in purely human terms according to the two classical philosophers; and this goal is to be realized through self-cultivation rather than faith.

Given the notion of relational selves in Aristotle and Confucius, it is not surprising that *the Other is always implicated in self-cultivation for both thinkers.* Take, for example, the cultivation of the self through education – through hearkening to the instructions of the wise ones, or by emulating the action of the Other (that is, role models). The experience and wisdom one gains is never lost, since it lives on from one person to another, from one generation to the next through a web of interrelated selves.

In short, *without original sin, human beings do not have to live in fear of each other, and a notion of "interrelated selves" could be much more easily sustained.* Furthermore,

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[42] The saying is being credited by *Zuo Zhuan* (左傳) to Shusun Bao (叔孫豹), a statesman in the Kingdom of Lu (魯國) in the Spring and Autumn period.

that interrelationality rather than a transcendent God suffices to help human beings develop virtue and *eudaimonia*. The reason is straightforward: given that one-*self* is always related to other *selves, helping others means helping oneself, and harming others means harming oneself.* Once the self was detached from other selves, this automatic virtue-promoting and self(ishness)-restraining mechanism of objective right would necessarily be destroyed also. In place of this objective right mechanism built upon a collectively shared predicament, "subjective right" is but a poor substitute – if it could even qualify as a substitute at all.

### 3.2 "Right" based on the Notion of Inter-Related Selves

The concept of "right" in Aristotle and Confucius is part and parcel of their non–lapsarian conviction that human beings are interrelated.[43] Since the goods of one's life and history are inextricably intertwined with others' goods, "right" for both philosophers pertains to the collective good and social norm rather than individual entitlement. In a way, we can say that both ancient Greece and Confucius China emphasize our obligations to *right order* rather than *individual rights.* Stephen Lake's ventriloquy of right order theorists could be appropriated to characterize this classical Athenian and Chinese ethos: "Any rights we have derive from and are conferred by a just social order, not 'inherent within' or 'natural' to the individual."[44] Viewed from this perspective, the so-called 'natural rights' discovered by Hobbes and Locke are rather "'socially conferred' (33), constructs of the modernist mythology of the solitary, pre-social individual and his/her rights."[45]

In other words, modern liberal notion of right encounters strong resistance not only from pre-modern Chinese but also from pre-modern Western ethics and politics. By contrast, it is the pre-modern Chinese and Western concepts

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[43] In Confucianism, this even means that no one should be left alone to helplessness. This is made explicit in Confucius's "Humanity in Grand Togetherness (大同)." *For Confucius, "right" means that* "The aged are assured of provisions till their last days, adults accorded opportunities to apply their talents, and the young given support through maturity. Widows and widowers, the orphaned, the old and childless, as well as the sick and the disabled are all well taken care of. Men given their proper shares and women their homes" ("*Li Yun*"). *Long before there were concepts of social and political rights in the West, Confucius already urged the "right" of taking good care of everyone in society.* It is thus not surprising that Voltaire and some other Enlightenment philosophes such as Montesquieu, Rousseau, and Quesnay drew inspiration from Confucianism to formulate their ideas of "rights" in their struggles against various forms of tyranny – including the tyranny of the church and the tyranny of absolutism. Confucianism emphasizes the well-being of the people as the first duty of the ruler. Putting to good use Confucius's ideas in his formulation of "rights," Voltaire argued that the primary duty of a government is to recognize and secure the rights of its people. See CHENG, "Translation," 14–16.

[44] S. LAKE, "Review of Nicholas Wolterstoff's *Justice: Rights and Wrongs*," *Philosophy in Review* 30, no. 4 (2010): 312–13.

[45] Ibid.

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of "right" which are better able to cross cultural boundaries, and hence it is to these traditions that I turn in my quest for a "right" that would better connect China and Europe.

Given Aristotle and Confucius's ontological prioritization of the whole above the parts, it is not surprising that the notion of individual right is scarcely, if at all, present in either philosopher. R. G. Mulgan's observation on the absence of individual right in Aristotle[46] could serve as an equally apt description of Confucian ethics and politics:

> Like all ancient Greeks, [Aristotle] has little conception of individual or human rights, of obligations which are due to individuals because they are individual human beings . . . . Because the individuals had no inherent rights, there was less sense of conflict between competing claims of individual and state and therefore less sense of sacrifice in depriving individuals of their property or liberties.[47]

Socrates's comparison of the laws of the *polis* to (super-)parents against whom one has no *right* to respond with a blow for a blow provides a good example of non-subjective right in ancient Athens.[48] To understand Socrates' position,

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[46] F. D. Miller argues in his discussion of Aristotle's *Politics* that the Greek philosopher had already used the language of subjective rights. See Ch. 4 of his *Nature, Justice, and Rights in Aristotle's Politics*. I respectfully disagree, for the many reasons I will be elaborating in this essay.

[47] R. G. MULGAN, *Aristotle's Political Theory* (Oxford: Clarendon Press, 1977), 33.

[48] Modern readers often interpret Socrates' refusal to escape his execution as motivated by a "contractual" understanding of his relationship to the *polis*. This reading risks projecting modern individualism onto a society where the citizens and the *polis* are organically rather than contractually related. It also misses the central significance of Socrates's comparison of the laws of the *polis* to (super-)parental authority. Parental–filial relation is decidedly not contractual but ethical; its emphasis is *not* equality (of the parties before the contract) but *unconditional* obligation toward the Other, to the extent that one has no "right" to strike back even if one gets struck by the Other:

> […] since you were brought into the world and nurtured and educated by us, can you deny in the first place that *you are our child and slave, as your fathers were before you*? And if this is true you are *not on equal terms* with us; nor can you think that you have a right to do to us what we are doing to you. Would you have any right to strike or revile or do any other evil to a father or to your master, if you had one, when you have been struck or reviled by him, [51a] or received some other evil at his hands? – you would not say this? And because we think right to destroy you, do you think that you have any right to destroy us in return, and your country as far as in you lies? And will you, O professor of true virtue, say that you are justified in this? Has a philosopher like you failed to discover that *our country is [51b] more to be valued and higher and holier far than mother or father or any ancestor*, and more to be regarded in the eyes of the gods and of men of understanding? also to be soothed, and gently and reverently entreated when angry, even more than a father, and if not persuaded, obeyed? And *when we are punished by her, whether with imprisonment or stripes, the punishment is to be endured in silence; and if she leads us to wounds or death in battle, thither we follow as is right; neither may anyone yield or retreat or leave his rank, but whether in battle or in a court of law, or in any other place, he must do what his city and his country order him*; or [51c] he must change their view of what is just: and *if he may do no violence to his father or mother, much less may he do violence to his country*. (PLATO, *Crito*, transl. B. JOWETT, http://classics.mit.edu/Plato/crito.html; my italics).

it is important to bear in mind that the Greeks understood citizenship not as a possession but as something shared, much like membership in a family. As G. H. Sabine points out, this understanding "had a profound influence upon Greek political philosophy. It meant that the problem as they conceived it was not to gain a man his rights but to ensure him the place to which he was entitled."[49]

### 3.2.1 Non-Subjective Right – Right being Ad Alterum, or Right as Duty

Given Aristotle and Confucius's holistic outlook which subordinates the part to the whole, it is not surprising to find them espousing a non-subjective concept of right.[50] Given that "right" in classical antiquity both East and West references the collective good rather than self-interest, "right" for both civilizations is always toward another (*ad alterum*) and toward the community. In other words, the *primary moral fact for both is <u>duty</u> (<u>what I owe others</u>) and not the individual's <u>right</u>-claims (<u>what others owe me</u>)*. Following Aristotle, Aquinas who offers a paradigmatic formulation of medieval natural law theories hardly ever uses the term *ius naturale* (or *iura naturalia*) in a subjective sense. As Tattay Szilárd and a number of scholars have pointed out, for Aquinas "*ius* is above all an objective concept, a synonym for *iustum*, the object of justice, the primary meaning of which is the just thing or action."[51] Szilárd further elaborates how, when [Aquinas] gives a list of the primary and derivative meanings of *ius* – "the just thing", the law, "the art whereby it is known what is just", the court and the judicial sentence – he omits the subjective sense of the word."[52] Even Jean Buridan (1300–after 1358) who tries to reconcile intellectualism/naturalism with voluntarism inherits the Thomistic usage whereby "the right of the subject has no connotation of latitude or personal choice."[53]

I beg to differ from scholars who argue that "subjective right" could be found in Aristotle, not the least because Aristotelian justice must be other-oriented and must concern "another's good": "justice, alone of the virtues,[54] is

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[49] G. H. Sabine, *A History of Political Theory*, 4th ed., rev. T. L. Thorson (Fort Worth: Dryden Press, 1973), 5.

[50] I put "objective" in parenthesis because classical Chinese (not to mention Confucianism) does not distinguish between "subject" and "object." Nor is there a strong distinction between the two in classical Greek. See footnote 18.

[51] T. Szilárd, *Reason, Will, Freedom: Natural Law and Natural Rights in Later Scholastic Thought* (Ph.D. dissertation, Central European University, 2012), 7.

[52] Ibid., 29.

[53] A. Brett, *Liberty, Right and Nature: Individual Rights in Later Scholastic Thought* (Cambridge: Cambridge University Press, 1997), 101.

[54] This translation is directly adopted from W. D. Ross instead of his rendition as revised by J. O. Urmson in the Barnes edition. The latter renders αρετές as "excellences." "Virtues" is the better translation in this context and hence I revert to Ross's own translation, which is available at http://classics.mit.edu/Aristotle/nicomachaen.5.v.html.

thought to be 'another's good', because it is related to our neighbor; for it does what is advantageous to another, either a ruler or a copartner."[55] The modern liberal belief in justice as *ad se* is simply unthinkable in the Aristotelian (or ancient Greek) system, and remains so for a large part of the Medieval natural law tradition. Aquinas (1225–1274), for example, tries to preserve the principle that right is of its nature between members of a community.[56] In *Quodlibeta* V, Konrad Köllin (1476–1536) raises the rhetorical question: "Have you ever anywhere read that justice properly speaking (of which kind is legal justice) operates with regard to oneself? – Justice is always with regard to another separate from the subject."[57] Even as late as the sixteenth century, Cardinal Cajetan proclaims that "conserving oneself is not properly natural right, because it is not *ad alterum*"[58]

For both Aristotle and Confucius, justice is *ad alterum* and not *ad se*. A major difference, however, exists between the Hellenic and the Chinese thinker regarding the meaning of the "other." As evident from the last quote from *Nicomachean Ethics*, the "other" must be "either a ruler or a copartner." The same point is again made in *Eudemian Ethics*: "justice seems to be a sort of equality and friendship also involves equality, if the saying is not wrong that 'love is equality'."[59] In the language of Annabel Brett, justice for Aristotle can only occur between "equal members of a civil or political society, who alone can properly be called 'others.'"[60] The "other" for Confucius, by contrast, is all embracive – regardless of birth, class origin, and even species. Being compassionate toward *any* other human being is *ren* (仁 humane). Being kind to animals also qualifies as *ren* – a concept which I will explain later in detail.

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[55]  Aristotle, *Nicomachean Ethics*, 1130ᵃ 3–5.

[56]  Note that Cajetan does deem self-conservation as "natural right *secundum quid*." See Brett, *Liberty, Right and Nature*, 113.

[57]  Ibid., 115. However, Conradus supplements this with a moral right which is not necessarily *ad alterum*.

[58]  Ibid., 113.

[59]  Aristotle, *Eudemian Ethics*, 1241ᵇ 11–12.

[60]  Ibid., 11. In the heyday of colonialism, this kind of argument was often used by colonizers to justify disregarding the rights of the colonized. J. S. Mills was one such advocate. The Chinese for that reason were skeptical about international law and rights discourse. The skepticism ran especially high during the days when the nation was repeatedly forced to sign unequal treaties, but some degree of suspicion has continued to remain in the people's collective memory in the aftermath of colonialism. From the late 19th to the early 20th century, Chinese intellectuals and ministers repeatedly characterized European international law as imperialistic, because justice or *li* (the traditional Chinese concept of "right") for the Westerners could only take place "among equals." Zheng Guanying (鄭觀應), Zhang Zhidong (張之洞), and Liang Qichao (梁啟超)were all strongly vocal in this regard.

### 3.2.1.1 Aristotle's "Right" and the Polis

Given that justice is *ad alterum*, and that it can happen only among equals, it is not surprising that the *polis* according to Aristotle provides the best setting for realizing the nature of justice and the natural end of human beings. Unlike St. Augustine who discourses on two cities, with the Earthly City contrasting very unfavorably to that of God, there exists only one city in Aristotle – the city of men, which is perfectly capable of cultivating virtue and realizing the good life without God.

Aristotle defines the human being as a *zōon politikon* whose humanity can be best realized in the *polis*.[61] Eric Voegelin draws attention to three fundamental definitions formulated by Aristotle in the *Politics*:

(a) justice (*dikaiosyne*) is a *politikon*;

(b) Right (*dikaion*) is the order (*taxis*) of the *koinonia politike* (the political community);

(c) the judicial decision (*dike*) is the determination of what is right (*dikaion*).[62]

The definitions make clear the close connections between justice and the polis. As Voegelin puts it: "We infer from the definitions that Aristotle wanted to put the questions of justice and judicial decision into an essential connection with the polis. For justice is a *politikon*; the *dikaion*, in turn, relates only to the polis but not to any other kind of association and its order; the judicial decision, whether it is to be understood as a legislative norm of a judge's decision, regards what is right within the framework of the community of the polis."[63] *Nicomachean Ethics* also reserves justice specifically for the polis: "we call those acts just that tend to produce and preserve happiness and its components for the political society."[64] The centrality of justice to Aristotle's polis is further evident from his theory of constitutions in *Eudemian Ethics*: "Now constitutions are all of them a particular form of justice; for a constitution is a partnership, and every partnership rests on justice."[65]

### 3.2.1.1.1 General Justice

Significantly, the kind of life pursued by human beings in the polis enjoins universal justice (also called "general justice") which Book V of *Nicomachean Ethics* describes as the "sum of all virtues" characterizing the good citizen –

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[61] Aristotle, *History of Animals 488a 7–10; Nicomachean Ethics 1097b 8–11, 1162a 17–19, 1169b 16–20; Eudemian Ethics 1242a 22–27; and Politics 1253a 4 and 1278b 20.*

[62] E. Voegelin, *Collected Works of Eric Voegelin*, vol. 6, *Anamnesis: on the theory of history and politics*, transl. D. Walsh, M. J. Hanak, G. Niemeyer (Columbia: University of Missouri Press, 2002), 142.

[63] Ibid.

[64] Aristotle, *Nicomachean Ethics*, 1129$^b$16–19.

[65] Aristotle, *Eudemian Ethics*, (1241$^b$13–15)

such as courage, honesty, truthfulness, etc. This is because universal justice includes any ethical virtue in so far as it promotes and protects the good of the community":

the law commands all the virtuous acts that contribute to the happiness of the political community. Therefore, universal justice is not a particular virtue but includes all of virtue. A person who is just in this sense will act courageously (e.g. not deserting his post), temperately (e.g. not committing adultery or acts of insolence), and so forth. For the laws should require such acts and forbid their opposites (1129ᵇ19–25, 2 1130ᵇ22–4). Further, Aristotle argues (1129ᵇ25–1130ᵃ13) that this form of justice is to be identified with perfect (or complete) virtue, not without qualification but in relation to others.[66]

Human beings can best realize their human nature in the polis, precisely because the polis is first and foremost a moral association, and that it exists for the sake of the good life or living well.[67] For Aristotle, the purpose of politics is to promote and cultivate the virtue of its citizens. In contrast to liberals whose measure of a just society is whether it provides a fair framework of rights within which *individuals* can pursue their own values, Aristotle and Confucius believes that justice consists in rewarding virtue or moral desert, and that a just society is one that produces virtuous citizens and enables human beings to realize their highest nature and to live the good life. Aristotle's *polis* "exists for the sake of noble actions and not of [mere] living together": "it is the community in living well [*hē tou eu zēn koinōnia*] for households and families, for the sake of a complete and self-sufficient life … This is, as we say, living happily and nobly."[68] In stark contrast to modern liberal notions of right, Aristotle's polis "is not a community in a place for the sake of not doing injustice to each other and of making transactions; but it is necessary for these things to be present if there is to be a polis; yet even when all of them are present there is not yet a polis."[69] Aristotle's polis thus expects – and aims at helping its citizens to develop – a far more substantive, thorough, and rigorous concept of justice than what modern liberal rights would and could allow.

While Aristotelian "right" concerns first and foremost ethics and the good life, an individual's subjective right is by default amoral and his/her action concerned indifferent, in that such action can be justified in terms of *oneself* with no necessary dimension of *ad alterum*. As Annabel Brett points out, "*ius* as *facultas* or *potestas*, or the language of *ius* as *dominium*, signifies a notion of right as indifferent liberty or sovereignty." Subjective right reverses Aristotle by asserting the priority of the individual to civil society. What follows from such

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[66] Miller, *Nature, Justice, and Rights*, 70–71.
[67] Aristotle, *Politics*, 1252ᵇ 29–30.
[68] Ibid., 1281ᵃ 3–4; 1280b 33–35; 1281a 1–2. Translation of this quote is adopted from Miller, *Nature, Justice, and Rights* 131, which brings out better Aristotle's argument than B. Jowett's rendition in the Barnes edition.
[69] Ibid., 1280ᵇ 29–33.

a premise is that all rights of civil society or of the sovereign are derivative from rights which originally belonged to the individual.

### 3.2.1.1.2 *Particular Justice*

While general justice is "the sum of all virtues," particular justice means assigning to each his/her right share and just deserts. For Aristotle, such justice is proportional to the receiver's merit and/or contributions to the community. Note that in his discourse on particular justice, Aristotle's concern is about getting the proportions *right* rather than a "right" inherent to an individual.[70] For him, "justice is a kind of mean [...] while injustice relates to the extremes."[71] There are other reasons why particular justice cannot be equated with subjective right. Aristotle is explicit that both general and particular justice pertain to the good of others.[72] Both are "concerned with human beings provided they have something in common (*koinōnousi*) or form a community (*koinōnia*).[73] In short, both should be understood as "communal virtue" (*koinōnikē aretē*).[74] Particular justice is not subjective right, the former being decided with reference to the communal good and how specific sorts of actions affect the common advantage. This notion of justice continues in Roman law. As Michel Villey and Richard Tuck observe, *ius* in Roman law refers to a right or just thing in itself, or to a correct assignment of things to persons, that inheres in the individual right-holder as such.[75] Another important difference between particular justice and entitlement is that "right" for antiquity by no means necessarily represent a *good*."To give each his right" may include cutting off his head, if he has deserved it. As Aristotle opines, a criminal ought to be punished, or that punishment is their due, but it would be odd to say that they are entitled to be punished.

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[70] Aristotle on justice as proportion starts from the end of Book V, § 2 through the end of Book V, § 5.

[71] ARISTOTLE, *Nicomachean Ethics*, 1133b 32–33.

[72] Ibid., 1130ᵃ 3. Aristotle holds the same position as Plato on this subject. The latter defines justice as "another's good, one's own harm." PLATO, *Republic*, 343ᶜ 3–5.

Following Aristotle, Aquinas explicates the concept "due" (*debere, debitum*) in terms of obligation and *ad alterum*. "Due" concerns not what is due to me, but what is due – that is, my duty – toward the other. Thus, "the right thing is due from the just man to another citizen." BRETT, *Liberty, Right and Nature*, 92.

[73] F. D. MILLER, JR., *Nature, Justice, and Rights in Aristotle's Politics* (Oxford: Clarendon, 1995), 69.

[74] ARISTOTLE, *Nicomachean Ethics*, 1283ᵃ38–9. Once again, I decide not to adopt the translation by B. Jowett in the Barnes edition. His rendition "social excellence" is unclear and could be potentially misleading for readers with no expertise in classical philosophy.

[75] M. VILLEY, *Le droit romaine* (Paris: Presses universitaires de france, 1946), 201–27, and *Lecons d'histoire de la philosophie du droit* (Paris: Dalloz, 1962), 29–30, 183–6, 229–40. See also R. TUCK, *Natural Rights Theories: Their Origin and Development* (Cambridge: University Press, 1979).

### 3.2.1.2 Confucius's "Right" and "Humanity in Grand Togetherness" (大同)

Original sin is as absent from Confucian as it is from Aristotelian thought. On the basis of that shared "innocence," Confucius harbored a even grander view of the "end" (*telos*) of humanity than that of Aristotle. While Aristotle sees *to dikaion* as best realized in the *polis*, Confucius sees it as best realized in the world ("A World for All 天下爲公"). This trust in human capacity for building a world society of virtues is connected to the Chinese belief that moral reason/rightness (*li* 理) is a force permeating the whole cosmos. Far from taking as its point of departure fallen human beings and wounded nature, pre-modern Chinese philosophy's foundation in *li* gives rise to a worldview that regards nature and the whole universe as infinitely benign and infinitely nurturing. The classical Chinese language makes little conceptual distinction between subject and object. Instead of pitching a subject against an object – a worldview that sets other human beings and nature against oneself and one's self-interest – Confucianism understands Heaven-Earth-Human Beings (天地人) as one integral whole. Not surprisingly, traditional Chinese philosophy advocates human beings harmonizing with each other, with nature, and with the entire universe. Given such a worldview, it is understandable why Confucius understands "right" not in terms of the *polis* but in terms of "A World for All."

While in Greek, "politics" is derived from *polis*, in classical Chinese, "politics" (*zheng* 政) is connected to "the right" (*zheng* 正).[76] Subjective right is as alien to pre-modern Chinese culture as it is to ancient Greek culture, with one difference. The latter takes its clue of justice from the way how human beings associate with each other in the *polis*, while its Eastern counterpart grounds its equation of "right" with "the grand openness and complete absence of private interests" (大公無私)[77] in Heaven and Earth (the whole cosmos) who nourish all indiscriminately with no self-interest or partiality. Any leaning toward the private – not to mention private property – is associated with self-interest, partiality, unfairness, and, by extension, injustice. In "The Grand Togetherness of Humanity" (大同), Confucius even points to private ownership as the origin of vices such as connivance, conflicts, and wars:

Now that the Great Way of the Grand Togetherness of Humanity has lapsed into obscurity, the world revolves around families [in contrast to the world being shared in common], with everybody attending to his/her parents and children only, with acquisition of goods and expenditure of labor merely for self-interests. The great lords establish rites

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[76] See *Analects:* "Politics (*zheng* 政) is grounded in acting right (*zheng* 正) (政者，正也)" ("Yen Yuan 《顏淵》").

[77] The idiom is a popularization of a phrase in Ma Rong (馬融) 's *The Canon of Loyalty* (忠經): "Integrity means setting one's heart in the center – absolute openness to all with no private interests (忠者中也，至公無私)" ("The All-Observing Spirits in Heaven and on Earth 《天地神明》").

legitimizing familial inheritance of titles; walls and moats are built to strengthen one's strongholds; rites and rituals are established to impose order […] to claim credits for oneself. From such practices arise scheming and conniving of all kinds, and fights and wars ensue. […] This is called "Peace in a Diminutive Form." (今大道既隱．天下為家．各親其親．各子其子．貨力為已．大人世及以為禮．域郭溝池以為固．禮儀以爲紀[…]以功為已．故謀用是作．而兵由此起．[…] 是謂小康。)

One could see how, with each minding only his/her family, conflicts would still arise, because there would always be families or groups competing against each other for more goods. For Confucius, "the Right" is not merely a matter of each attending to one's own family. Familial affection is but the first step taking one outside one*self* to care for an*other*. It is the first step *ad alterum* – *the first step* on the way to realizing *ren* (仁) – *ren* being the Confucian *end* of humanity and is a concept which I will soon elaborate. The family is *not* the end, and one's care for others must be extended beyond the family to wider and wider circles, beyond the *polis* also, until one loves and cares for the entire humanity as oneself.[78] The "Great Way" (that is, the "Great Right" 大道) prevails when society as a whole is thus altruistically inclined. This state which Confucius calls "the Grand Togetherness of Humanity" (*Datong*) is the ultimate manifestation of the true spirit of *ren*, and the true nature and *end* (*telos*) of humanity.[79] In such a state, everyone is well taken care of by others; hence there is no cause for offences against others, still less violations of others' "rights":[80]

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[78] Note that loving the entire humanity does not cancel out the love of human beings at more micro levels. Love of family and other levels of love remain central throughout one's life. In other words, love at wider and wider levels is an (obligatory) enrichment and expansion, rather than negation and subtraction, of love at the more nascent levels.

[79] Engaging Confucius in dialogue with Aristotle has allowed me to detect in Confucius a similar teleological view of human nature. Without any discourse on "final cause," Confucius nonetheless also identifies the real nature of human being in "what [it] is when fully developed" (ARISTOTLE, *Politics*, 1252b3–34). Confucius's teleological view of human nature is underscored in the Confucian ceremony of "Adulthood (冠禮)." It is also evident in Confucius's use of the term "diminutive human being" (小人) to refer to those who are self-serving rather than concernful toward others. A "diminutive human being" is "diminutive" because s/he has not realized his/her human capacity, and as such is not fully human (that is, not a fully developed human being). Mature humanity expresses itself in the altruism of co-humanity (仁). The diminuitive human being is characterized by his/her incapacity for acting *ad alterum*; his/her action is always *ad se* – that is, self-interested.

For both Aristotle and Confucius, human nature flourishes fully only at the end of a rigorous process of self-cultivation. The Confucian expression "diminutive human being" shows how Confucius, just like Aristotle, recognizes that individuals do not always deliver their potentials.

[80] This is no empty utopian talk. Confucius cites Xia, Shang, and Zhou as times when "the Great Way/the Great Right" was successfully realized.

When the Great Way (the Great Right) prevails, the world is for all and shared in common by all. The virtuous and the capable are elected to office. Keeping promise and peace are the maxims of living. Filial devotion is not limited to one's own parents, nor solicitude to one's own children. The aged are assured of provisions till their last days, adults accorded opportunities to apply their talents, and the young given support through maturity. Widows and widowers, the orphaned, the old and childless, as well as the sick and the disabled are all well looked after. Men have their *proper shares*[81] and women their homes. *Their objections to wasteful conduct does not translate into practices of hoarding; their objections to idleness does not mean that their efforts and endeavors are made on behalf of self-interest. This way, intrigues and connivance have no room to take root; robbery, theft, and lawlessness given no chance to take place. Doors are left wide open.* This is called Humanity in Grand Togetherness.[82]

Note that the Great Way (the Great *Right*) could prevail only when everybody fulfils his/her ethical duties (non-subjective *right*) toward each other. The opposite would be true if each insists on his/her own rights and properties (subjective right), as Confucius describes of the state called "Peace in a Diminuitive Form" (小康). The former could only be realized when "doors are wide open" to each other, and not when people are always jealous of their own properties and suspicious of others as competitors and potential threats to their interests.

### 3.2.1.2.1 Confucius's Inter-Related Selves

Although Confucius's vision is the harmony of the world rather than Aristotle's solidarity of the polis, both espouse an organic view of the community they envision, in which any member's joy and sorrow is the entire community's joy and sorrow. The "self" is always already interpenetrated by other selves, and human beings are always already interconnected with other human beings. Both philosophers view the ability to fully connect oneself with the community as the realization of the human being's human nature. To be human is to be connected to other human beings. Thus Aristotle calls man a *zōon politikon*. For Confucius, human beings exist in, and through, other human beings. Contrary to Locke, Confucius has no view of self-ownership. In the opening chapter to *The Canon of Filial Piety* (《孝經：開宗明義章第一》), for example, Confucius enjoins taking good care of one's body *not for one's own sake, but for the sake of one's parents as they continue to live in one's own body*: "Our bodies, hair, and skin are inherited from our parents. To protect them from harm marks the beginning of filial piety (身體髮膚，受之父母，不敢毀傷，孝之始也)."

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[81] This is quite close to Aristotle's notion of particular justice.
[82] "Humanity in Grand Togetherness," "*Li Yun*," my italics.

### 3.2.1.2.2 Ren *and Inter-Related Selves*

Given Confucianism's interrelated and interrelating "self," it is not surprising that classical Chinese, no less than ancient Greek, presents a challenge to translators who wish to render "right" into these languages. When discussing Aristotle's concept of "right," one has to consider instead his expression *to dikaion*.[83] Likewise, when investigating the concept of "right" in classical Chinese, the best one could muster is a range of "approximates" which could perhaps be best summed up – as far as the human domain is concerned – by *ren* 仁 and *yi* 義, both of which being human realizations of *li* 理 (Yuan Dehui's translation of "right"). *Li*, the cosmic principle of rightness, is articulated in action as *yi* (upright, righteous). The virtuous person – the person who best realizes his/her humanity – is described as being *ren* (humane, compassionate, benevolent). *Ren* and *yi* are interrelated and each gets articulated through the other. These concepts serve similar role in Confucian ethics and politics as *to dikaion* does in their Aristotelian counterpart. Although *ren* and *yi* are often used together as a compound (*renyi*), *ren* is always the guiding term, as in the expressions *ren ren yi shi* (仁人義士) and *cheng ren qu yi* (成仁取義). A *ren* person is always capable of *yi* action. Other-directedness (*ad alterum* as a disposition), in other words, makes possible altruistic actions. As such, *ren* can be understood as the real nature of humanity as well as its highest expression according to Confucius. It is also the concept which the Chinese representative P. C. Chang proposes to be incorporated into the UDHR at its drafting stage.[84] Invoking Confucius's idea of *ren*, Chang recommended that the foremost mission of the UDHR should be the "*humanization of man*." For the Chinese, crimes against

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[83] The word "right" in contemporary English (and other European languages) carries with it a range of referents that are not necessarily covered by a single word in ancient Greek. *Orthos* is properly "straight," the antonym of *skolios* ("crooked"); when it signifies 'right', it designates right in the factual, not the moral sense, as in "the right (correct) answer," "the right angle" (*orthos* in this case can refer both to "the right perspective" and the geometric right triangle), or what is correct according to custom (hence "orthodoxy" is somewhat literally "right belief"). *Orthos* may also translate "right" in the sense of duty – but not legal duty and rarely ethical duty; it would be more the duty of custom.

"Right" in the sense of "just" or more broadly "righteous" is *dikaios*; this is derived from *dike*, which originally meant justice. However, the name of the goddess was generally used in the Attic dialect to mean "lawsuit," so that concepts such as "justice" and "righteousness" had to be expressed by the derivative *dikaiosune*. *Dikaios* is an adjective, usually translated as "just", but it has a wider meaning than "just" in English, so that sometimes the more general word "right" is a better translation. *Dikaios* is the masculine, and *dikaion* the neuter. *To dikaion* means "the just." The ancient Greeks frequently used the neuter form of an adjective with the article where English speakers would use an abstract noun. Thus, "the just" was used where we would say "justice," "the beautiful" where we would say "beauty," and "the hot" where we would say "heat." In fact, substantivized adjectives were used not only in place of abstracts but even, with the genitive of a noun, the "X element in Y" (which in some writers became a mannerism).

[84] See Cheng, "Translation."

humanity resulted not from the absence of concepts of "right" in the world, but from people's loss of their humanity/humaneness – that is, their *ren* quality.[85]

Significantly, *ren* has been translated as "humanity" – in that this virtue could be regarded as the highest realization of humanity or human nature. This realization could take the forms of humaneness, benevolence, compassion – all of which convey some aspects of *ren*, with none fully capturing its meaning and especially its full essence which I will now elaborate. Despite the differences, one direction which all renditions of *ren* are gesturing at is *altruism – ad alterum* in a Confucian sense which *begins in the heart* – that is, a feeling of one's being and predicament as intrinsically tied up with those of the Other. A good deed not enacted from the sincere bonding of one's being with the (well-)being of the Other could not qualify as a kind deed, less to mention qualifying the performer of the deed as *ren*.

The integrally related selves of human beings are inscribed in the character *ren* (仁) through its combination of the characters "human being" (人) and "two" (二) . The number "two" is figurative rather than literal, suggesting that human beings can become truly human and humane only by cultivating their co-humanity (*ren*) with fellow human beings, and by interacting with each other with kindness and compassion. *Humanity* is always *co-humanity* – and "co-humanity" is Peter Boodberg's suggested rendition for *ren* which is also regularly translated as "humanity."[86] In contrast to modern liberalism, the composition of *ren* makes clear that disengaged individuals can never be truly human and humane. For Confucius – no less than for Aristotle's teleological view – isolation is against the true nature of humanity. Going beyond existing scholarship I have encountered on the subject, I have demonstrated elsewhere[87] how *ren* is existential.[88] – *ren* relates one to the Other as oneself, in the sense that *the Other's (well-)being is at stake for my being*. This key spirit of *ren* highlights human beings as existentially and emotionally connected to each other.[89] In

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[85]  Chang's proposal fell on deaf ears. The long list of human rights violations simultaneous with the burgeoning of rights discourse ever since the adoption of the UDHR in 1948 seems to render it time to reconsider Chang's proposal, which is the original impetus of my book manuscript.

[86]  P. Boodberg, "The Semasiology of Some Primary Confucian Concepts," *Philosophy East and West* 2, no. 4 (1953), 317–332.

[87]  See Cheng, "Translation."

[88]  Contemporary scholarship seems to have been confined to discussing the social dimension of *ren* – without attending to how the Confucian social is actually animated by the existential. This oversight might have partly contributed to certain misrepresentations in popular media that Confucianism imposes social conformity and produces social robots.

[89]  Note that existentialism does not have to depend on individualism. Existentialist Marxism provides one good example; Catholic existentialism provides another. By performing a close reading of *ren*, my essay "Translation, Power Hierarchy, and the and the Globalization of the Concept 'Human Rights'" analyzes how the real foundation of existentialism is not individualism but "passionate inwardness." *Ren* carries with it a strong existential impetus, not the

other words, the human togetherness in *ren* must be *internal* and not just external. Confucius and his disciples repeatedly underscore *the centrality of the heart* (心) – a crucial point easily and not unoften missed by scholars approaching Confucianism with Western methodology and taking apart Confucianism as an aggregate of ideas, instead of approaching these ideas as an integral whole animated by the heart. It is this emotional and existential bond that prompts Confucius's vision of *ren* and Mencius's vision of *yi* – namely, the consummation of one's humanity in sacrificing oneself for the Other.

Instead of construing humanity as isolated individuals with competing interests, and of human individuals as jealous guardians of his/her own rights, *ren* offers an inclusive vision of humanity: the Other, far from being considered a potential threat to my properties and rights, is always already included in my humanity. In other words, *the Other is constitutive of my own subjectivity* instead of being a competitor against my identity and humanity. In contrast to liberal notions of rights which construe the human individual as a subject defined by a boundary against which any intrusion would be registered as violations of his rights, *ren* construes human beings as human only insofar as they are interrelated.[90] *Ren* teaches that we attain full humanity only in being *related to* (and not merely inhabiting the same space with) other human beings.

In *ren*, the Other is a *living presence* and *not an abstract idea, least of all an instrument*. The "two human beings" in *ren* requires that the relationship is between

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least because of Confucianism's groundedness in *inner feelings, sincerity, honesty, conviction, and commitment* – that is, groundedness in the *heart* (心) and its *commitment to the (well-)being of other human beings as at stake for one's own being*. Passion has an intentional structure. To be passionate about something requires opening oneself to being moved by an*other* and toward an*other*. Interestingly, Aristotle describes virtues as dependent on cultivating not just the right kind of actions but also the right kind (and degree) of passions. The existentialist subject does not passively await being impressed upon by the world. Rather, through care, the subject actively relates to the world as "that which is *at stake* for me." The existentialist subject thus *actively* assumes the suffering of the Other as duties emanating from his/her own existence in the world, by experiencing the Other's pain as at stake for his/her own moral and emotional being.

As I explain in my essay "The Novel and the Burger," it is this subjective opening to the outside world that allows one to see, and be connected to, the concreteness of the pain of *the Other*, and to hold fast to it with a subjective certainty and passionate inwardness. Rethinking Kierkegaard via Confucianism, "passionate inwardness" is achieved – one's own being is authenticated – when the Other's suffering and well-being are actively assumed as one's own. *Ren* is an embedded humanism, not least because of its nature as an (inter-)subjectively swayed sense of morality.

In sum, existentialism can be intersubjective as much as it can be subjective. See my essay "The Novel and the Burger" for a related analysis of how the existential can be fruitfully combined with the social and the political.

⁹⁰ See Z. R. EISENSTEIN, *The Female Body and the Law* (Berkeley: University of California Press, 1988). See also Jim Holston and Teresa P. R. Caldeira's development of Eisenstein's theory of "the bounded body" in "Democracy and Violence in Brazil," *Comparative Studies in Society and History* 41, no. 4 (1999): 691–729.

an "I/Thou" rather than an "I/It.".[91] In *ren*, human beings exist for each other, in each other, and through each other not as abstract conceptions, but as ontological realities with an overwhelmingly meaningful presence. The fact that *ren* requires both sides to be human entails that when one party dehumanizes or objectifies the other, the aggressor automatically becomes dehumanized or objectified also. This explains *ren*'s efficaciousness for preventing aggressions. It is by construing humanity as *two* rather than *one* human being (仁) that *ren necessarily precludes destroying another human being – because without the other, one is not human*.[92]

Given that *ren* arises from human beings' relations to each other as flesh-and-blood living *human* beings, the attunement to each other as human in his/her full capacity for feelings and vulnerabilities gives rise to compassion and kindness. *Com-passion, literally meaning "suffering together," is the true meaning of human co-existence – that is, the ability to suffer the suffering of the Other.* Existence is existence as concernful being toward one another – a *Fürsorge* to the extent that the Other's (well-)being is at stake for my being. It is *ad alterum* in a radical sense, a real *altru*ism which takes one outside oneself toward a *full commitment* to the Other. This commitment Confucius calls *zhong* (忠; a very inadequate translation being "loyalty") – a commitment which Confucius urges to be applied not only in one's relations to the ruler but to all human beings – that is, to the Other.[93] From this arises the associations of *ren* with

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[91] *Ren*, in other words, offers a meaningful, existential way of relating to others similar to that of Martin Buber, except that Confucianism formulates this in purely human rather than theological terms. See M. BUBER, *Ich und Du* (Leipzig: Insel-Verlag, 1923).

[92] *Ren* in this way could provide the foundation for realizing a number of aspirations of the UDHR which the latter has failed to accomplish by relying on the many elaborations of abstract notions of "rights." By "rehumanizing human beings" – by teaching them to treat each other *as human beings* – people would of their own accord refrain from "barbarous acts which have outraged the conscience of mankind" (Preamble), support "rebellion against tyranny and oppression" (Preamble), "promote the development of friendly relations between nations" (Preamble), and "promote social progress and better standards of life in larger freedom" (Preamble), thereby establishing the real "foundation for freedom, justice and peace in the world" (Preamble). *Ren* includes and even goes beyond acting in accordance with "conscience" and "spirit of brotherhood" (Article 1). People abiding by the principle of *ren* would of course respect others' "life, liberty and security" (Article 3), would not subject others to slavery (Article 4), nor "to torture or to cruel, inhuman or degrading treatment or punishment" (Article 5). A state operating on the principle of *ren* would not subject its people to "arbitrary arrest, detention or exile" (Article 9), and would make sure that they are well provided for (Articles 22 and 25). It would also promote education and provide such opportunities for its citizenry (Article 26). A *ren* society would by default be built on the belief that "everyone has duties to the community in which alone the free and full development of his personality is possible" (Article 29).

[93] *Zhong* and *shu* are so central to the realization of *ren* that Confucius's disciple Zengzhi (曾子) even observes in "Residing in *Ren*" (里仁) of the *Analects* that "The Master's way can be summed up as *zhong* and *shu*" (夫子之道，忠恕而已矣) ". According to Zhu Xi's *Annotations* (朱熹 集注)," *zhong* refers to a full commitment to others' well-being, and *shu* the ability to 'imagine oneself in another's place'" (尽己之谓忠，推己之谓恕).

compassion, kindness, and benevolence – all of which are necessary but inadequate characterizations of the deeper significance of *ren*.[94]

## Conclusion

Without the notion of original sin, both Aristotelianism and Confucianism believe in an ideal human nature that can be nurtured and developed to the full via self-cultivation and education (including habituation). *Right* (the ideal human nature) and a *righteous* society can be achieved in entirely human terms without resorting to divine grace. Unlike Christianity, the ideal human nature and moral reason for both Aristotle and Confucius are *immanent to humanity. The ideal is a potentiality that can be actualized in reality via human efforts.* This idea for both Aristotle and Confucius are intimately tied to their teleological conception of human nature, even though the latter does not phrase it as such. This is precisely why I choose a comparative approach: a comparative Greek-Chinese reading yields among other advantages the opportunity of opening a new angle to further draw out Confucius's insight from an Aristotelian angle, and vice versa. Due to space limitations, this has to be reserved for another chapter in my book.

Suffice to say for now, that the absence of a concept of "original sin" in both classical Hellenic and Chinese cultures left a highly visible absence of a concept of "subjective right." Note also, that *in the absence of "subjective right," both Aristotelian and Confucian societies were by no means less virtuous, less capable of bringing about human flourishing than ours today with all our "rights talk."* Also, "the division between China and the West on the topic of 'right'" could be more accurately rephrased as "the division between China and the *modern* West" – with "modernity" beginning with the emergence of the individual (nominalism) with a subjective will (voluntarism) in late Medieval theology – the institution which was also responsible for coining the term "modern."

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[94]  Cheng, "Translation," 19–21.