

Liberalism and Confucianism: Rights and Virtues

NIU Geping *

Introduction: why compare liberalism and Confucianism?

Liberalism and Confucianism are two traditions of political thinking which are originally unrelated. The foundations of liberalism are to be found in the writings of 17th and 18th century authors such as Hobbes, Locke, or Rousseau. Many of its basic concepts, such as individual rights, democracy, constitutional state, the rule of law, have become to some extent common sense in the Western world. Confucianism, one of the major schools of Chinese political thinking, appeared during the Warring State Period, and was adopted as the state ideology for the following 2000 years imperial China. Its central propositions concerning human virtues, benevolent governance, the system of rites, etc. have become the core of traditional Chinese political culture.

These two independent traditions came into contact when China started its modernization process in the latter half of the 19th century. Forced to face the invasion of mostly Western major powers, but including rapidly modernizing Japan, China realized that its political ideology was strikingly different from the political thinking in the West. At first, efforts were made to modernize the country while remaining within its old political tradition, but they mostly failed. Confucianism increasingly became regarded as the obstacle to China's modernization process. In the New Culture Movement of the late 1910s, leading Chinese intellectuals openly claimed that China should reject Confucianism and turn to Western ideas such as democracy and science. It can be said that Confucianism ceased to be the state ideology with the end of China's pre-modern imperial history. However, as a major traditional political thinking it continued to be an important concern throughout the history of modern China, even though its actual fate was dramatically fickle, being alternatively criticized or praised depending on the vicissitudes of China's political situation. On the other hand, liberalism has always been a major source of aspiration for China's modern political movements. Almost all governments in China's modern history claimed to be committed to democracy and to China's political modernization. Major Western political concepts such as human rights, people's sovereignty, etc. are clearly inscribed in China's constitution. However, it must also be acknowledged that liberalism never completely succeeded to take root either in the thought of Chinese people, or in China's political system.

This paper will compare these two major sources of political thinking in modern China, and explore their differences and similarities. The purpose of this study, however, is not to argue which tradition is better for China's political reform. Liberalism is the dominant political thinking of modern western nation states, which constitutes the exemplar or target for China's modernization, Confucianism fashioned the ancient Chinese state, which is the object to be transformed, this comparison therefore may reveal some essential aspects of the

キーワード：リベラリズム、儒教、権利、道徳、国家

* 立命館大学大学院先端総合学術研究科 2007年度入学 共生領域

difficulty and complexity of China's political modernization. Further, it might throw some light on another important question: to what extent can the conceptual resources of those two traditions be made to converge?

Since both liberalism and Confucianism are important traditions with long histories and much internal differentiation and disagreements, it is impossible to compare them in an exhaustive manner. This research paper will restrict its ambition to the examination of the most basic and general concepts of both as found in some classical texts from each. In the case of liberalism, I will mainly resort to the writings of Hobbes and Locke, and in the case of Confucianism, to those of early or pre-Qin (先秦) scholars, especially Confucius and Mencius. After a short discussion on the different starting points of these two traditions, I will focus on two points: first, a comparison of individual rights, a core concept in liberalism, and of human virtues, a central concern in Confucianism; second, a comparison of the liberal constitutional state and the Confucian benevolent state, the state theories of liberalism and of Confucianism respectively.

I The state of nature and ancient sage kings

One apparent difference between liberalism and Confucianism is that liberalism views itself as a new theoretical creation, a break from previous traditions of Western political thinking, while Confucianism claims that it is not an innovation, but an explanation of the good politics found in the past.¹

A frequent starting point for liberal authors is 'the state of nature.' For most authors, the state of nature is basically a theoretical hypothesis, which is described as a pre-political state, i.e. the situation prior to the existence of political power. According to Hobbes², individuals' pursuit of their own interests in the state of nature will lead to a war of everyone against everyone. Thus, the state of nature is a state of anarchy, where individuals are living in constant fear and dangers. In order to escape this brutish condition, a 'Leviathan' or sovereign state should be established. Liberalism thus views itself as a form of political thinking which answers the question of how to construct a state starting from the state of nature, which constitutes the original condition of humankind.

Confucianism for its part claims that its ideal political system is not a theoretical innovation, but has models in antiquity, in the rule of ancient sage kings such as Yao/尧, Shun/舜, Yu/禹, Tang/汤, Wen/文, Wu/武. Confucius/孔子 describes himself as, 'a transmitter and not a maker, believing in and loving the ancients.'³ The proclaimed goal of Confucianism is to restore the good system of governance of the antiquity. However in Confucian classics, we also find descriptions of the situation in 'remote antiquity' (上古) which to some extent resemble 'the state of nature'. In *Liji* (『礼记』) there is a paragraph saying:

Formerly the ancient kings had no houses. In winter they lived in caves which they had excavated, and in summer in nests which they had framed. They knew not yet the transforming power of fire, but ate the fruits of plants and trees, and the flesh of birds and beasts, drinking their blood, and swallowing (also) the hair and feathers. They knew not yet the use of flax and silk, but clothed themselves with feathers and skins. The later sages then arose, and men (learned) to take advantage of the benefits of fire. They molded the metals and fashioned clay, so as to rear towers with structures on them, and houses with windows and doors. They toasted, grilled, boiled, and roasted. They produced must and sauces. They dealt with the flax and silk so as to form linen and silken fabrics. They were thus able to nourish the living, and to make offerings to the dead; to serve the spirits of the departed and God. In all these things we follow the example of that early time.⁴

Thus, Confucianism is more concerned with the primitive living conditions or the technological backwardness of 'the state of nature'. As the above description mentions 'early kings', this early state is not necessarily a pre-political state as is the case with the state of nature of liberalism. Moreover, according to Confucianism, the

sage kings who ended this 'state of nature' in remote antiquity and began the civilized period of antiquity not only developed means for living, cooking, and clothing to improve the welfare of people, but also invented the system of *li*/ 礼 (rites) to organize and harmonize the society, which is the theme of the chapter *Liyun* in *Liji*. Later on, with the death of the sage kings and the rise of tyrants, the system of rites were abused or abolished, and society fell into disorder.

Thus, for liberalism, the theory of the state of nature is a first and indispensable step in its theoretical construction. It is a hypothetical description of the original condition of human beings. The focus is on how to build a state out of this pre-political state of nature. Confucianism believes, to the contrary, that 'the state of nature' actually existed in remote antiquity and was not pre-political. For Confucianism, 'the state of nature' is not an important theoretical concern. Its focus is on how to restore the good system of the antiquity that is posterior to the existence of that early condition of humankind.

II Individual rights and human virtues

This part compares individual rights and human virtues, the core concepts of liberalism and Confucianism respectively. The comparison focuses on three points: the underlying conceptions of equality, reciprocity, and freedom found in both traditions.

2.1 equality

Individual rights constitute a fundamental claim in liberalism. Rights are something given, to which every individual is equally entitled. In other words, human beings are regarded as morally equal as far as individual rights are concerned. On the other hand, Confucianism is primarily concerned with human virtues, such as *ren*/ 仁 (human heartedness), *yi*/ 义 (righteousness), *li*/ 礼 (propriety), *zhi*/ 智 (wisdom), *xin*/ 信 (faithfulness), etc. According to Confucianism, virtues have to be cultivated and those who acquire more virtues become morally superior to those who have acquire less. Hence, there is no equality as far as human virtues are concerned.

However, we cannot simply draw the conclusion that there is room for social equality only in liberalism, but not in Confucianism. Actually both liberalism and Confucianism justify their claims concerning rights and virtues with reference to the concept of nature. Both consider that equality constitutes a fundamental dimension of human nature, though for liberalism it is to be found in the state of nature, while it is directly present in 'human nature' according to Confucianism. For Hobbes, in the state of nature, the capacity of body and mind of every individual should be regarded as equal inasmuch as the weakest one can kill the strongest. Given that the most powerful human passion is the fear of violent death or the desire for self-preservation, it is a fundamental moral conclusion that in the state of nature each individual should have an equal right to self-preservation. As time goes by, the list of individual rights in liberal tradition will get expanded. Already in Locke, apart from the right to self-preservation, the right to property also constitutes a primary individual right in the state of nature, which is justified by individuals' desire to pursue the means of happiness.

Mencius/ 孟子, the most famous Confucian theorist after Confucius, provides the justification of human virtues by relating them to human nature. Mencius argues that human nature is essentially good. Every human being equally has in his nature the beginnings or sprouts of those human virtues advocated in Confucianism. Mencius says 'The sense of concern for others (or sympathy) is the starting point of Humaneness. The feeling of shame and disgust is the starting point of Rightness. The sense of humility and deference is the starting point of Propriety and the sense of right and wrong is the starting point of Wisdom.'⁵ According to Mencius, if these four beginnings are allowed to reach their complete development, one will become a sage.

Thus, in liberalism, equal rights draw their justification directly from the 'equal' condition of all individuals

in the state of nature, that is, a largely equal capacity in mind and body, and the same passion of fear of violent death and desire for good life. More generally in liberalism, and not only in Hobbes, there is a kind of pre-political equality which is preserved when men enter the political order and that is central for its construction. In Confucianism, human virtues are said to have their foundation in human nature, which endowed every one equally. It is a primary proposition of Confucianism that everyone has the possibility or potentiality to develop his virtues and to become a sage. If we raise here Sen's question: 'the equality of what?' we find that, in liberalism, the answer is the equality of rights, while in Confucianism, it is the equality in the foundation of virtues, that is to say, the good of human nature. Equality in both liberalism and Confucianism is essentially applied in the same level, that of human nature.⁶

It is true that according to Confucianism virtues must be cultivated with effort. Thus the resulting degree of different individuals' virtues may be different and those who have acquired a higher degree of virtues are regarded as superior to those who acquired less. In this sense equality is absent here. Yet, it should be remembered that in liberalism, even if equality is a central characteristic of individual rights, equal rights do not entail equality in all aspects of human society. For example, in the case of property right, as far as the right per se is concerned, all individuals are equal, but the freedom to accumulate as much property as one can will inevitably lead to economic inequality. Liberal individual rights in this case rather constitute a justification of economic inequality. In consequence, both Confucianism and liberalism similarly justify certain forms of social inequality by reference to difference in the agents' effort and wisdom, as they proceed from an original position of equality.

2.2 Reciprocity

Another obvious difference between these two traditions is that liberalism proposes individualism while Confucianism is essentially against it. In liberalism human beings live as solitary individuals in the state of nature that exists prior to civil society. It follows that the rights with which all individuals are naturally endowed are essentially subjective rights. These are ultimate and inalienable and the state and civil society are constructed on this individualist basis, i.e. state power is derived from individual rights, and the role of the state is to guarantee individual rights.

In contradiction, in Confucianism human virtues are defined as essentially social. The most important concept in Confucius' *The Analects*/『論語』 is *Ren*/仁, which is usually translated as 'the perfect virtue,' 'human heartedness,' 'humaneness,' or 'humanity.' The Chinese character *ren*/仁 is composed of two characters, one means human/人, and the other means two/二. Confucius uses this concept to define the complete or perfect virtue of humans in relations to each other. Another important concept in Confucianism is *li*/禮. In the case of individual cultivation, *li*, propriety, refers to the proper manners and conduct of a person in his relationship with others. The relationship between *Ren* and *li* is somewhat like the relation between essence and form. On the one hand, without propriety, human virtues can become faults. Confucius says in *Analects* that, 'Respectfulness, without the rules of propriety, becomes laborious bustle; carefulness, without the rules of propriety, becomes timidity; boldness, without the rules of propriety, becomes insubordination; straightforwardness, without the rules of propriety, becomes rudeness.'⁷ On the other hand, without being sincere or truly virtuous, proper manners tend to be hypocritical and meaningless. Confucius says: 'If a man be without the virtues proper to humanity, what has he to do with the rites of propriety?'⁸ 'Fine words, an insinuating appearance, and excessive respect - Zuo Qiu Ming was ashamed of them. I also am ashamed of them. To conceal resentment against a person, and appear friendly with him - Zuo Qiu Ming was ashamed of such conduct. I also am ashamed of it.'⁹

Thus rights in liberalism are inalienable properties of individuals, while in Confucianism human beings can

only acquire and practice their virtues in their social relationships. However, both individual rights and human virtues are essentially dealing with the same problem: to define the basic principle of human relationship. Both of them similarly propose something like reciprocity as the fundamental principle of social relations.

In liberalism, though rights are endowed to individuals independently of their social relations, individual rights nonetheless constitute a framework which limits and constraints possible social relationships. The general concept of individual rights implies that others have a duty to respect, or not to violate a person's rights. And though the concept of rights is absent from Confucianism, it is not difficult to discern behind one's moral obligations to others something that is close to rights when viewed from the position of those 'others'. For example, the moral obligation of a son to be filial (孝) to his father implies that the father is entitled to enjoy his son's filial piety, or that the father has the 'right' to expect his son to be filial in his relation towards him. Moreover, corresponding to the son's obligation to be filial, a father should be kind (慈) to his son, which also implies that the son has the 'right' to his father's kindness. As Theodore de Bary points out, 'the root of filial piety lies in the parents' solicitude for the child, and what the child is to do for them comes as a natural response to their prior love, concern, and care.'¹⁰

Thus, in liberalism, rights imply duties, while in Confucianism, duties also imply 'rights' or reasonable expectations that form the basis for a person's justified claim. Further, behind both rights and virtues is a similar principle of reciprocity. When his disciple Zigong asked him whether there is one word which may serve as a rule of practice for all one's life, Confucius answers, 'Is not *reciprocity* such a word? What you do not want done to yourself, do not do to others.' This answer is exactly the same as Hobbes' description of the sum of the laws of nature: 'not to treat others as you do not wish them to treat you'. When Kant discusses the formal rules of moral practice, he proposes the first formulation of the categorical imperative as that your maxim of action could become a universal law. This is very similar to the Confucian concept *shu*/恕, which means you should put your self in the position of others.¹¹

2.3 freedom

Another difference between liberalism and Confucianism concerns their understanding of freedom. In liberalism, closely related to individual rights is the concept of freedom/liberty. In classical liberalism, individual rights are interpreted as liberty; if a person has a right to do something, then he is free to do it. According to Hobbes, the right of self-preservation in the state of nature means that an individual is free to do whatever he thinks fit for his self-preservation. As Hobbes says, 'The right of nature... is the liberty each man hath, to use his own power, as he will himself, for the preservation of his own nature; that is to say, of his own life; and consequently, of doing any thing, which in his own judgment, and reason, he shall conceive to be the aptest means thereunto.'¹²

Though later liberal authors interpret the meaning of liberty in a different context, i.e. the context of civil society, their ways of understanding it are not essentially different from that of early authors. According to John Stuart Mill, freedom means that you can do whatever you want to do as long as you do no threat others' liberty. Mill says, 'The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.'¹³ Isaiah Berlin argues that the concept of liberty or freedom in liberalism is that of negative freedom in the sense that it does not say what a person should do, but simply what he or she cannot; within the framework of laws individuals should be able to pursue different ends without interference by others.

Unlike individual rights, human virtues in Confucianism define what a person should be, and thus appear somewhat as the opposite of freedom. Furthermore, in liberalism, individuals are free to develop among

themselves whatever social relations they see fit as long as they respect each other's rights, while in Confucianism, virtues define not only what a complete human being should be, but also what a good society should be.

However, we cannot draw the conclusion that in Confucianism obligations toward society take precedence in relation to individual values. Confucian virtues just like liberal rights are subjective. That is, they are qualities of human being considered as a subjective agent. An individual person can have or acquire them on the sole basis that he or she is a human being. In Confucianism, to cultivate one's virtues equals to the pursuit of the completeness of one's humanity, something that may be described as a form of positive freedom, in the sense of Berlin.¹⁴

It is actually the belief of Confucius that the perfect virtue of *ren* should constitute the ultimate and lifelong pursuit of human beings, and he sees it as the call of the *Heaven*/ 天. Confucius says that 'The determined scholar and the man of virtue will not seek to live at the expense of injuring their virtue. They will even sacrifice their lives to preserve their virtue complete.'¹⁵ Mencius inherited Confucius concept of *Heaven* and applied it to his theory on human nature. According to Mencius, nature is what the *Heaven* has given to us. To try to understand this and to make great effort to nourish one's nature and to cultivate the perfect human virtue with single-mindedness is the way toward self-realization and the fulfillment of the calling of heaven.¹⁶

If we relate the problem of freedom with that of equality as it was discussed in former section, we can say that in liberalism economic and other inequalities are the result of individuals' exercise of his negative freedom, while in Confucianism, social hierarchy and inequalities are justified in relation to the different efforts in cultivating Confucian virtues as the pursuit of a positive freedom.

In short, if as far their core concepts are concerned, liberalism and Confucianism appear to be very different from each other, i.e. rights are equally given to every one while persons are 'unequal' in virtuousness; rights independently belong to individuals while virtues are socially defined; rights are directly related to the freedom of individual while virtues define what a person should do. However, it is also possible to find some essential similarities between these two traditions. For the justification of rights and virtues, both liberalism and Confucianism resort to human nature, and both also argue in favor of a certain natural equality of all human beings. Further, both rights and virtues similarly refer to the principle of reciprocity in the management of social interactions. Finally, both rights and virtues are related to human self-realization and freedom, though liberalism interprets freedom negatively while Confucianism argues in favor something like positive freedom. As we will now see, these differences and similarities of individual rights and human virtues have important implications for the state theories of liberalism and of Confucianism that will be examined in the following part.

III The liberal constitutional state and the Confucian benevolent state

Though Confucianism is often regarded as essentially a form of moral teaching, while liberalism is not, as is clearly shown by their respective emphasis on moral virtues and rights/freedom, both liberalism and Confucianism are essentially political philosophies, whose major concern is state power. We compare liberalism and Confucianism in relation to the two following issues: first, the necessity and the way to establish the state, and second, the form and function of the state.

3.1 why a state?

Both liberalism and Confucianism argue that there should be a form of centralized political power, the state, to govern the society, though they have different understanding of this fundamental claim and explanation of its necessity. For liberalism, state power is necessary to guarantee individual rights. According to Hobbes, in the

state of nature, every individual has the absolute right of self-preservation. However, this very right, where there is no common power to assure its proper application, leads to the situation of war of every one against every one. As a result individuals live in poor and dangerous circumstances, and the goal for which this right exists, self-preservation, cannot be realized. In a sense, it is not only the goal, but the right itself that cannot be realized, and, in that sense, does not exist. In order to get out of this miserable situation, a unified political power or state that will guarantee the security and order of society needs to be established.¹⁷

In the case of Confucianism, the government is needed to promote human virtues. As mentioned earlier, the virtues advocated by Confucianism are essentially socially defined. Confucius says, 'Now the man of perfect virtue, wishing to be established himself, seeks also to establish others; wishing to be enlarged himself, he seeks also to enlarge others.'¹⁸ In order to pursue the perfect virtue himself, a person must try to promote the virtues of others as well. And the most important way to do this is through the state. When Yanyuan, one of his best disciples, asked him about *ren* (the perfect human virtue), Confucius answered that *ren* is to take upon yourself the mission of restoring the system of *li* (rites). Here, *li* is interpreted as the ideal social and political institutions of Zhou dynasty.¹⁹

Thus, if now we consider individual rights and human virtues as the way in which liberalism and Confucianism understand humanity, we can discern in each a similar dialectical relationship between humanity and state power. In both liberalism and Confucianism, the primary and ultimate principle is humanity, either in the form of rights or of virtues. However, since neither rights nor virtues can be "realized" without a central power, both liberalism and Confucianism consider that the centralized power of the state is crucial to guarantee or promote humanity understood either as rights or as virtues.

As we discussed above in section 2.2, notwithstanding all the differences, individual rights and human virtues essentially imply the same principle in social relationships, i.e., the principle of reciprocity, or more exactly the moral rule of 'not to treat others as you do not wish them to treat you'. Rights imply duty in liberalism, while obligations imply something similar to rights in Confucianism. However, we must emphasize the word 'imply' here. For liberalism, the duty to respect others' rights is derived from the more primary principle of individual rights. In the state of nature, this duty is only a 'moral' one, which could be, and actually are, easily ignored. It is only after the establishment of state power that this duty becomes 'legal' and enforceable. Similarly in Confucianism, it is only in a well governed society where social rules and customs are generally observed, a person can have a legitimate expectation of something similar to 'rights' implied by others obligations. In other words, it is the state that make the principle of reciprocity behind rights and virtues be really applied in society.

3.2 how to establish the state?

In liberalism, the way to establish a common wealth is theoretically through a social contract, in which every individual forsakes his right to use violence and transfers it to the state. Hobbes defines a common wealth as 'one person, of whose acts a great multitude, by mutual covenants one with another, have made themselves every one the author, to the end he may use the strength and means of them all, as he shall think expedient, for their peace and common defense.'²⁰ A central idea behind social contract theory is that subjects should be the authors of the laws to which they are subjected.

The establishment of the state constitutes the transformation from the pre-political state of nature to the political unity of all individuals. While in the state of nature every individual could use violence to protect his own person, there now is a state's monopoly of legitimate violence. Thus, the state constitutes in a way the negation of the state of nature and the sovereign power imposes essential restrictions on the way individuals can maintain their rights. However, according to social contract theory, the legitimacy of the state is based on the agreements of all individuals, which implies that its sovereignty is essentially derived from individual

rights. Unlike Hobbes, who argues that once a Leviathan is established, subjects lose all right to revolt or rebel,²¹ Locke argues that the social contract also allows subjects to overthrow a tyrannical government. It later on became common sense within liberalism that citizens have equal political rights and that the legitimacy of the state should periodically be reconfirmed through democratic elections.²²

In Confucianism, it is the responsibility of morally superior men (君子) to serve the state and to promote the welfare and order of society. Zilu, one of Confucius' disciples, says, 'Not to take office is not righteous... A superior man takes office, and performs the righteous duties belonging to it.'²³ And Zixia, another disciple of Confucius, says, 'The officer, having discharged all his duties, should devote his leisure to learning. The student, having completed his learning, should apply himself to be an officer.'²⁴ Actually, many of Confucius' outstanding disciples went to serve the governments. And Confucius himself spent many years traveling from one state to another, persuading rulers to adopt his political thinking.

According to Confucianism, the ideal king should be a sage, a person who is perfectly virtuous and wise. The sage king should have the sovereign power to rule the society. On the other hand, Confucianism acknowledges that in reality the ruler might not be a sage but a tyrant. In this case, it is argued that the tyrant ruler can be replaced. Revolution/革命 is an important concept in Confucianism. According to Mencius, the state power is given to the ruler by the *Heaven*, depending on whether he can gain the heart of the people. Should a 'so-called ruler' fail to gain the people, he will lose that which makes him a ruler and become a 'mere fellow' and be displaced by the *Heaven*.

Thus, since rights are equally given to every individual while virtues need to be cultivated with effort and in consequence cannot be 'equal' among all, political equality constitutes a primary principle of liberal state theory while it is absent from Confucianism. In the social contract theory, it is fundamental for every individual to agree with the terms establishing the central power. Or more generally, in liberal democracy, every citizen in principle has an equal political right to participate in electing the state's leader. In Confucianism, to the contrary, it is the responsibility of morally superior men to pursue state officialdom and to run government. Morally inferior people, who are also designated as 'small men'/小人, do not have any say in state affairs. Thus, in comparison to a democratic liberal state, the Confucian state might be better defined as the rule of the elite.

Since the end of state power is to promote rather than harm humanity, the state power must be founded on humanity. In liberalism, in order for the state to guarantee individual rights, the state must be established through social contract that is based on individual rights. While for Confucianism, in order for the state to promote human virtues, it must be run by those who have acquired higher virtues. As mentioned earlier, in Confucianism, though the virtues become different through cultivation, the ultimate foundation of human virtues, i.e. the good human nature, is bestowed on every human being equally. Hence, it is also a principle of Confucianism, or at least implicitly assumed, that every one could cultivate his virtue, and correspondingly, be responsible for the government of the state. On the other hand, though the ideal state should be run by a sage ruler and virtuous official, in reality the ruler may not be a sage and is urged to follow the teaching of Confucianism. Thus, according to Confucianism, though the ruler is politically superior to his subjects, he is not morally superior to the people as a whole, especially to excellent Confucian scholars. Furthermore, when state power falls into the hand of a tyrant, he can be overturned by the people as a whole.

3.3 the form of the state

The liberal state is essentially a constitutional state. The power of the state and the structure of the government are constitutionally defined. As discussed above, in liberalism individual rights are ultimate; they constitute not only the origin but also the limits of state power. Liberalism is in consequence much concerned with threats to individual rights and freedom that come from the public authority. Constitutional safeguards

are intended to protect individual liberty. The focus of liberal state theory then is to build institutions that will make it difficult, if not impossible, for public powers to violate the fundamental rights of individuals.

One major principle underlying these institutions is the separation and balance of power, which was famously expounded by Montesquieu. In *The Spirit of Laws*, Montesquieu points out that there can be no liberty if all the powers are united in the same person or in the same body of magistrates. Accordingly, he proposed that the legislative, executive and judicial power should be exercised by various branches of government. These and other constitutional restraints of state power are designed to solve the problem that the government, which is supposed to guarantee individual rights, might constitute a threat to individual rights and liberty.

In liberalism, even if all individuals have an equal political right to elect the government, they are not expected to directly participate in running the state. The sovereign power is to be held by their representative(s). Benjamin Constant, in his *The Liberty of the Ancients Compared with that of the Moderns*, criticizes the concept of people's sovereignty advocated by Rousseau. Constant points out that collective notion of liberty related to direct democracy belongs to an ancient time; the liberty of the moderns, as it exists in a commercial society, he argues, is essentially an individual notion. It requires representative democracy and liberal constitutional state to allow individuals to freely pursue their private ends. 'When you establish that the sovereignty of the people is unlimited,' writes Constant, 'you creates and tosses at random into human society a degree of power which is too large in itself, and which is bound to constitute an evil, in whatever hands it is be placed.'²⁵

Compared to liberalism which is centrally concerned with the institutional structure of the state, Confucianism is mostly concerned with the morality of the ruler. Mencius explicitly proposes the concept of benevolent governance (仁政), which means to rule with *ren* / 仁 (the perfect virtue) and *yi* / 義 (righteousness). According to Mencius, only if the policies promulgated by the king are on behalf of the people, will his subjects delight in obeying him, in consequence more people will come to live in his kingdom, and the state will become powerful and will be able to avoid destruction from other strong states. There is one famous saying in Mengzi: 'The people are the most important element in a nation; the spirits of the land and grain are the next; the sovereign is the lightest. Therefore to gain the peasantry is the way to become sovereign...'²⁶

However, notwithstanding these different points of emphasis, the purpose of both is to ensure that the state will serve, rather than harm, the interest of the people. As mentioned earlier, since Confucianism understands humanity as the cultivation of human virtues, a state whose end is to promote human virtues must necessarily be a benevolent state. If the common people are to try to pursue the perfect virtue of *ren* and to behave with *li* / propriety, it must be the case that the sage ruler should rule with benevolence (the political application of *ren*), and in accordance with the system of *li* / rites. For liberalism, everyone is assumed to be equally endowed with equal rights, independently of any virtues which they may otherwise acquire. Correspondingly, there is a kind of separation or discontinuity between individual virtues and political order. Hence, in order to guarantee individual rights, liberalism does not appeal to individual morality or to the virtues of the ruler, but rather resorts to constitutional restraints to make sure that those who rule will not use their power to harm the citizens.

3.4 the function of the state

For liberalism, the primary function of the state is to safeguard individual rights and freedom through the rule of law. As Bobbio points out, through the rule of law, individual rights are transformed from a system of rights in the weak sense, that is to say, natural rights in the state of nature, to a system of rights in the strong sense, legal rights guaranteed by the state's power.²⁷

However, which rights should individuals have and should the state guarantee is an open question. Generally

speaking, as T.H. Marshall points out, individual rights in history have slowly expanded from civil and political rights to social rights.²⁸ Originally, liberalism was concerned mainly with civil rights, such as the right to life, the right to property, freedom of speech, freedom of movement, etc. This is in agreement with the fundamental liberal idea of the autonomy of civil society and of noninterference on the part of the state. The role of the state is only to guarantee the basic conditions of civil society through the rule of laws.

The concept of social rights and the institution of welfare state are a later development in liberalism. It is now generally agreed that the state has a responsibility to provide a minimum level of social security to all of its citizens, including education, medical care, etc. However, since the guarantee of social rights requires state interference and redistribution of resources, the position of liberalism towards social rights remains ambiguous. Some conservative liberal authors, such as Hayek, see the concept of social right as exterior and contradictory to liberalism. Others, like Marshall and Rawls, regard social rights as the natural consequence of civil and political rights, and thus as an integral part of liberalism.

On the other hand, the major role of the Confucian state is to promote the moral order of society through the system of rites. According to Confucius, the king should rule with virtues/ 德 and according to *li*/ 礼 (propriety or rites). Confucius argues that the rule of virtues and rites is essentially superior to ruling with punitive laws. The system of laws can only be a supplement to the system of rites. Punishing the people without first educating them is tyranny. Confucius says, 'If the people be led by laws, and uniformity sought to be given them by punishments, they will try to avoid the punishment, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good.'²⁹

At the same time, Confucianism argues that that cultivation of human virtues is possible only when the people enjoy moderately comfortable living conditions. Thus, before educating its people and promoting their social morality, the benevolent state must first of all guarantee their basic subsistence through equal distribution of lands and proper management of the economy.

Thus, as far as the function of the state is concerned, the primary concern of liberalism is to guarantee individual rights and liberty through the rule of laws. The state is not supposed to interfere with the autonomy of civil society. It is only later on that liberalism began to acknowledge that the state should provide a minimal social security to its citizens. To the contrary, the primary role of the Confucian state is to promote human virtues with the system of *li*/rites. And in order to do this the Confucian state must first of all directly interfere with the economy to guarantee a good living to all its subjects.

In spite of these differences, for both liberalism and Confucianism, the role of the state is to serve the society through guaranteeing or promoting humanity, though they have different understanding of what constitutes humanity, and accordingly what the relation of state and society should be. An autonomous civil society cannot exist outside a liberal constitutional state and without a Confucian benevolent state a Confucian society cannot prosper. In both liberalism (modern) and Confucianism, the state has to provide minimal social welfare, such as the means to subsistence, education, etc., but the relative importance of this function of the state is quite different in the two political traditions. In liberalism, basic social welfare is a condition necessary for individuals to really be able to enjoy the rights and liberty to which they are entitled. In Confucianism, a good living is a precondition for cultivating human virtues.

Conclusion

The different state theories of liberalism and Confucianism can thus be related to their respective claims concerning individual rights and human virtues. Liberalism argues in favor of a constitutional state which

guarantees the basic conditions of an autonomous civil society; Confucianism insists on the need of a benevolent state, which promotes the well-being and moral order of society. Notwithstanding these differences, both liberalism and Confucianism similarly provide a justification of centralized state power which is defined in relation to their normative understanding of humanity. For both of them, the state role is to serve society through guaranteeing or promoting humanity (understood in each tradition's own way).

This comparison might help us to explain the tangling of these two political traditions in the history of modern China. When China failed to prevent modern states' invasion and was forced to start modernizing, what was first noticed were the striking differences between China's traditional political thinking and the dominating western political thinking. Thus at the beginning of 20th century, the New Culture Movement strongly criticized Confucianism and promoted Western liberal concepts of rights, freedom, equality, and democracy.

However, under the imperial system of modern states, a small number of scholars and students' adopting western political thinking were not able to change China into a modern state.³⁰ China finally succeeded its independence (and partially its modernization) by turning to communism, which was originally a criticism of liberalism, and somewhat resembles the vague Confucian utopian ideal of the Grand Union/ 大同社会 . But actually, the complete state control of economy and society in communist China (in the pre-reform period) actually openly denied both liberal rights/freedom and Confucian virtues. This is because, in both liberalism and Confucianism, the role of the state is to serve the society, to guarantee or promote either the negative or the positive freedom of the individuals, while in communist China, the state was dominating the society; individuals lost their subjectivity and were turned into components of the state machinery.

With the fading of the communist ideology in the last quarter of 20th century, it seems that liberalism, its Western ideological rival, is gaining an important audience in China. At the same time, last two decades also saw a resurgence of Confucianism, which is now regarded as the representative of traditional Chinese culture. However, it seems that neither liberalism nor Confucianism are really understood and applied in present day China. The recourse to liberalism relates more to economic reform, with the purpose of justifying the reduction of social welfare, while Confucianism is implicitly used to justify the 'non-Western-style-democratic' character of China's political system. However, liberalism's ambiguous attitude toward social rights is based on its more essential claim concerning individual rights and its fear of the arbitrary use of state power. Further, notwithstanding controversies concerning social rights, modern liberalism in the West has largely managed to incorporate social rights into its system, as shown by the growth of the welfare state. Thus, the emphasis of the noninterference principle of liberalism in today's China largely ignored liberalism's primary concern for individual rights and democracy as well as the welfare function of modern liberal states. On the other hand, it is true that constitutional restraints of state power are lacking in Confucianism, but this is related to its emphasis on the cultivation of human virtues and correspondingly on the benevolence of the ruler. In consequence, it is clear that the rampant corruption that results in China from the lack of constitutional limit on the power of state officials certainly could not be approved by Confucianism.

Not surprisingly discussions concerning the difference or similarity of these two forms of political thinking also revived. Unlike the intellectuals of the New Culture Movement who saw Confucianism as the obstacle to China's modernization process, it seems that most present day scholars are reinterpreting Confucianism to make it more compatible to liberal political thinking.³¹ But there are also some scholars, for example, Jiang Qing, who insists that Confucian political thinking is essentially different from and even superior to liberalism in many of its aspects, and who argue that China should reform its political system essentially on the basis of Confucian political thinking, and, if necessary, adopt Western methods but only as means and not as ends.³²

In conclusion, this comparison of liberalism and Confucianism brings out the essential differences and

similarities in their understandings of humanity, equality, freedom, society, as well as the form and function of the state. As the dominating forms of political thinking in modern West and in ancient China respectively, liberalism and Confucianism constitute two major resources of political thinking in today's China, the political modernization of which is still an ongoing process. This study indicates some possible convergence in these two conceptual resources, which might facilitate the creation of a new moral and political philosophy that is needed for China's political modernization.

NOTES

- 1 However, we should not entirely believe those claims. As many authors have pointed out, liberalism's debt to previous traditions of Western political thinking is much greater than it tends to admit, and Confucianism actually constitutes a much more novel political thinking than it pretends.
- 2 Hobbes is regarded as one of the founding father of liberalism, though Hobbes himself is usually not regarded as a liberal and his Leviathan is clearly a non-democratic state.
- 3 <http://chinese.dsturgeon.net/text.pl?node=1088&if=en> *The Analects* 7/1. Most of the quotations of the English translation of Confucian classics in this paper are from the website of Chinese Text Project <http://ctext.org> (on March, 3, 2011), mainly for the convenience of the readers. The quotations in this paper provided in the website are all from the works of James Legge.
- 4 <http://chinese.dsturgeon.net/text.pl?node=9871&if=en> *Liji*, the chapter of Liyun.
- 5 <http://www.acmuller.net/con-dao/mencius.html#div-4#ixzz0qRyWsBse> (on March, 3, 2011) *Mengzi*, 2/A/6.
- 6 Amartya Sen, *Inequality Reexamined*, 'Equality of What?' Oxford University Press, 1992.
- 7 <http://chinese.dsturgeon.net/text.pl?node=1089&if=en> *The Analects*, 8/2.
- 8 <http://chinese.dsturgeon.net/text.pl?node=1084&if=en> *The Analects*, 3/3.
- 9 <http://chinese.dsturgeon.net/text.pl?node=1086&if=en> *The Analects*, 5/25.
- 10 Wm. Theodore de Bary. *The Trouble with Confucianism*. p. 33. Harvard University Press. 1996.
- 11 For detailed comparison of Kant's moral philosophy and Confucian moral philosophy, see the works of MOU Zongsan (牟宗三).
- 12 *Thomas Hobbes Leviathan* volume two, p. 104.
- 13 John Stuart Mill, *On Liberty and Other Essays*. p. 14. Oxford University Press. 2008.
- 14 A core principle of Kant's moral philosophy is that individual gives his own laws, which is based on, and is the indication of, the freedom of the person. Understood in this way, freedom seems to be more than 'negative'.
- 15 <http://chinese.dsturgeon.net/text.pl?node=1096&if=en> *The Analects*, 15/9.
- 16 Unlike Mencius who speaks of an ethical Heaven, Xunzi/荀子, the most important figure in Confucian school after Mencius, regards heaven as an expression of a mechanistic nature. And he argues that human nature is evil, and goodness is only acquired training. According to Xunzi, if natural desires are given free rein, the result will be inevitably undesirable; hence desires need to be kept in proper restraint by the mind through its power of cogitation. And if one tries to develop his mind with sincerity and to pursue human virtues and practice righteousness with unswerving singleness of purpose, one will be transformed to a sage. Notwithstanding the difference between their opinions on human nature, both Mencius and Xunzi assert that human being should cultivate virtues, and they try to justify the cultivation of human virtues in relation to human nature. The general Confucian understanding after virtues is actually a compromise between these two opposing opinions, though in appearance it follows Mencius' proposition that human nature is good.
- 17 Locke's version of the state of nature is less dark than that of Hobbes. For Locke, a central political power is needed in order to get out of the 'inconveniency' of the state of nature. Notwithstanding this difference, the logic of these two authors is basically the same.
- 18 <http://chinese.dsturgeon.net/text.pl?node=1087&if=en> *The Analects*, 6/30. 夫仁者，己欲立而立人，己欲達而達人。
- 19 *The Analects*, 12/1. 克己復禮為仁。 There are different understandings as to the meaning of this sentence. Here, I takes LIU Yongji's interpretation. A different translation is 'To subdue one's self and return to propriety, is perfect virtue.' See <http://chinese.dsturgeon.net/text.pl?node=1093&if=en>
- 20 Hobbes, *Thomas Hobbes Leviathan*; volume two. p. 137. Continuum international publishing group, 2005.
- 21 It is true that Hobbes recognizes that a criminal about to be executed has the right to resist. However, there is a difference between the individual's right to protect his or her own life and a political right to rebellion, something which Hobbes rejects.

- 22 The problem of democracy is surely more complicated. It is true that both Hobbes and Locke argue that social contract is compatible to not only the state form of democracy but also to that of monarchy and oligarchy. But the general conception of democracy is now more related to the process of choosing government through universal elections. Democracy understood in this way is clearly related to and can be justified by the social contract theory, which might to some extent explain why democracy has become a central claim of modern liberal political thinking, though it is not so important in the early writings of liberalism.
- 23 <http://chinese.dsturgeon.net/text.pl?node=1099&if=en> The Analects, 18/7.
- 24 <http://chinese.dsturgeon.net/text.pl?node=1100&if=en> The Analects, 19/13.
- 25 Benjamin Constant, *Political Writings*, trans. and ed. by Biancamaria Fontana (Cambridge: Cambridge University Press, 1988), p. 176.
- 26 <http://chinese.dsturgeon.net/text.pl?node=1840&if=en> *Menzi*, 7/60.
- 27 Norberto Bobbio, *The Age of Rights*, translated by Allan Cameron, Polity Press, 1996, p. 47-60.
- 28 T. H. Marshall. *Citizenship and Social Class*. Pluto Press, 1992.
- 29 <http://chinese.dsturgeon.net/text.pl?node=1083&if=en> *The Analects*, 2/3.
- 30 Liberalism is essentially the political principle applied within modern nation state, and it is different from the principles regulating relationship among modern states and the principles which deal with countries which are not turned into modern nation states. I will not discuss this issue in this paper.
- 31 As for a discussion from the perspective of Confucianism, see *Confucius and Modern China* / 『孔子与当代中国』陈来, 甘阳主编。生活读书新知三联书店, 2008年7月。
- 32 蒋庆, 『政治儒学』(Political Confucianism) 台湾: 养正堂文化。2002年。

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Liberalism and Confucianism: Rights and Virtues

NIU Geping

Abstract:

This paper compares liberalism, the dominant political thinking of the modern Western nation state (which constitutes the exemplar of China's modernization), and Confucianism, which fashioned the ancient Chinese state (the object to be transformed). After a short discussion on the different starting points of these two traditions, the paper draws two main comparisons: first, that of individual rights, a core concept in liberalism, and human virtues, a central concern in Confucianism; second, that of the liberal constitutional state and the Confucian benevolent state. In particular, the paper finds that the different state theories of liberalism and Confucianism are related to their respective claims concerning individual rights and human virtues. More specifically, liberalism argues in favor of a constitutional state which guarantees the basic conditions of an autonomous civil society, while Confucianism insists on the need of a benevolent state which promotes the well-being and moral order of society. Notwithstanding these differences, both liberalism and Confucianism provide a justification of centralized state power which is defined in relation to their normative understanding of humanity, based on either individual rights or human virtues, respectively. Also, for both of them, the state role is to serve society through guaranteeing or promoting humanity understood in each tradition's own way.

Keywords: liberalism, Confucianism, rights, virtues, state

リベラリズムと儒教

——権利と道徳——

牛 革 平

要旨：

本論文はリベラリズムと儒教を比較する。前者は中国の近代化の模範とされている近代西洋国民国家における支配的な政治思想であり、後者は変革の対象としての古代中国のイデオロギーである。二つの理論の異なる出発点について簡略に検討した上で、以下の二点において比較を行った。第一に、両者の核心概念としての権利と道徳との比較であり、第二にリベラル的な立憲国家と儒教的な仁政国家との比較である。比較した結果は、リベラリズムと儒教の異なった国家理論がそれぞれの個人権利や人間道徳に対する主張において関連をもっていることを明らかにした。すなわち、リベラリズムは自律的な市民社会の基本条件を保証する立憲国家を主張するのに対して、儒教は社会福祉や道徳秩序を促進する仁政国家を主張するのである。そうであるにもかかわらず、両者は同様に集権国家を正当化し、権利や道徳によって、人間性に対して規範的な理解によって国家を定義し、国家の機能は人間性の保証によって社会を促進することにあると主張する。