

# A neo-communitarian approach on human rights as a cosmopolitan imperative in East Asia

## Uma abordagem neo-comunitária nos direitos humanos como um imperativo cosmopolita na Ásia Oriental

Akihiko Morita<sup>1</sup>  
Shokei Gakuin University

### Abstract

In my view, human rights must find an appropriate philosophical foundation/justification to be incorporated into non-Western societies and such a foundation/justification must be attractive and inspiring for ordinary citizens in those societies and be based on their own intellectual resources, including local languages. In contemporary Japan, 'KEN RI (権利)' is considered as the Japanese term corresponding to human rights. However, Fukuzawa Yukichi, the most influential intellectual leader of the early Meiji period, introduced human rights as 'KEN RI TSUU GI (権理通義)'. The Chinese character 'KEN (權)', in the most fundamental text of Confucianism, the teachings of Confucius (551-479 B.C.), *Analects*, means being able to weigh occurring events and determine the application of principles to them. In the account of Tomonobu Imamichi, a Japanese philosopher, 'GI (義)', usually considered as justice, originally meant responsibility. Thus, 'KEN RI TSUU GI (権理通義)' can be reinterpreted as being able to practically apply principles (理) to those events, while assuming responsibility (義) before Heaven and the community to which the person belongs. This view of humans as being embedded in communities and as centers of responsibility in the secular and transcendental dimensions is apparently different from the Western philosophical view of humans as rational beings with the capacity to act according to the universal law, but still defends human rights and the democratic development of society.

**Key words:** human rights, philosophical foundation, Confucianism.

### Resumo

Em minha opinião, os direitos humanos precisam encontrar uma fundamentação/justificação filosófica apropriada para serem incorporados em sociedades não ocidentais, e tal fundamentação/justificação precisa ser atraente e inspiradora para os cidadãos comuns dessas sociedades e estar baseada em seus próprios recursos intelectuais, incluindo a língua local. No Japão contemporâneo, 'KEN

---

<sup>1</sup> Shokei Gakuin University: 4-10-1, Yurigaoka, Natori-City, Miyagi-ken 981-1295, Japan. E-mail: a\_morita@shokei.ac.jp

RI (権利) é considerado o termo japonês que corresponde a direitos humanos. Entretanto, Fukuzawa Yukichi, o mais influente líder intelectual do início do período Meiji, introduziu os direitos humanos como 'KEN RI TSUU GI (権理通義)'. No mais fundamental texto do confucionismo, nos ensinamentos de Confúcio (551-479 a.C.) intitulados *Analectos*, o caractere chinês 'KEN (權)' significa ser capaz de ponderar os eventos que ocorrem e de determinar a aplicação de princípios a eles. Na proposta do filósofo japonês Tomonobu Imamichi, 'GI (義)', geralmente tido como justiça, significa originalmente responsabilidade. Assim, 'KEN RI TSUU GI (権理通義)' pode ser reinterpretado como ser capaz de aplicar na prática princípios (理) a esses eventos, ao mesmo tempo em que se assume responsabilidade (義) diante do Céu e da comunidade à qual se pertence. Essa concepção do ser humano como ser imerso em comunidades e como centro de responsabilidade nas dimensões secular e transcendente é aparentemente distinto da concepção filosófica ocidental do ser humano como ser racional capaz de agir de acordo com a lei universal, mas ainda assim defende os direitos humanos e o desenvolvimento democrático da sociedade.

**Palavras-chave:** direitos humanos, fundamentação filosófica, confucionismo.

## Introduction

In this article, I would like to present an alternative conception of the Japanese philosophical foundation for human rights.

Human rights contain legal norms and their underlying foundation (Taylor, 1999), as Charles Taylor aptly puts forward.

Human rights must find an appropriate philosophical foundation/justification to be incorporated into non-Western societies and such a foundation/justification must be attractive and inspiring for ordinary citizens in those societies and be based on their own intellectual resources, including local languages.

For instance, even basic human needs such as desire for food, water and communication take on different expressions in different languages.

So, although basic human needs constitute the foundation for human rights, we still need a different reasoning/justification, specific to each language and society.

It is also my basic assumption that each society, which sometimes is not limited by territorial boundaries in the age of globalization, has its own social moral order with a certain conception of humans and society, historically developed in that society. In other words, any philosophical justification of human rights must contain a particular conception of social moral order with its own philosophical view of humans and society.

This philosophical justification of human rights could be formulated by deconstructing and reconstructing each local tradition/culture and through a dynamic intermingling and interaction among communities within a state and other societies beyond national borders (Levy, 2010).

For this exercise, a 'neo-communitarian'<sup>2</sup> approach seems useful and viable in East Asia because what we need in the midst of ongoing individualization without individualism in East Asia (Kyung-Sup and Min-Young, 2010) is a new normative reasoning for the vision of the future which individualization is bringing into East Asia, and such normative reasoning must be based on the tradition available in the region, well-known to ordinary citizens (Han and Shim, 2010).

---

<sup>2</sup> The term 'neo' of 'neo-communitarian' means breaking away from all traditional and authoritarian types of collectivism and simultaneously embracing and defending individuality within a flourishing community (Han and Shim, 2010).

In this sense, a neo-communitarian reasoning on human rights based on traditions is worth exploring.

I believe that articulating neo-communitarian reasoning(s) on human rights in East Asia will complement and enrich the promising cosmopolitan approach to human rights as a cosmopolitan imperative advocated by Ulrich Beck, particularly in East Asia (Beck, 2002; Beck and Grande, 2010).

In advance, I would like to present my propositions as follows:

- (i) Universal human rights can and should be justified by different cultures through their own terms and perspectives, expecting that an overlapping consensus on the norms of human rights may emerge from those self-searching exercises and mutual dialogue<sup>3</sup>.
- (ii) North-east Asian societies, China, Korea and Japan, share the Confucian tradition, even though Japan has never been a Confucian state in a strict sense.
- (iii) Every society has a particular social moral order, including its own conception of humans and society, supported and developed in its own tradition, including language.
- (iv) The Neo-confucian conception of self, articulated by Tu-Weiming as a center of relationships and as a dynamic process of spiritual development (Tu, 1986, p. 113), is compatible with the modern conception of self as the subject of human rights in the West.
- (v) Likewise, Japan could formulate an alternative conception of self, utilizing the intellectual resources in East Asia, although its composition might be different from the ones in China and Korea.

## An alternative model of self

Even today, a considerable number of Japanese people show a sense of uneasiness toward human rights, claiming, for instance, that teaching human rights to children makes them selfish and egoistic and that children must first learn obligation and responsibility, although both the government and citizens formally follow human rights as the legal norms.

In order to address this ambivalent attitude of Japanese people toward human rights, it seems useful to employ the dual distinction of human rights presented by Charles Taylor, namely human rights as legal language and their underlying philosophical foundation<sup>4</sup>. To Japanese people, individualism as the underlying foundation of human rights, which they feel originated in the West, is something foreign although they adhere to human rights as official legal norms imposed by the government.

In Taylor's account, in the West, the ideas of modern society were articulated as the theory of natural law in the 17<sup>th</sup> century mainly by Grotius and Locke. This theory is based on a certain conception of human being and society, which is that individuals, on their own judgments, voluntarily come to an agreement with each other and form society in order to promote their mutual benefit. Individuals are supposed to be endowed with natural rights as subjects of rights. This modern self, as an autonomous and rational agent, is supposed to take a disengaged stance toward the world, including themselves, and to be able to act as sovereign people, formulating a commonly elaborated opinion in the public sphere while managing to make a living as an independent agent in the market economy (Taylor, 2007).

<sup>3</sup> Joseph Chan contrasted the ecumenical approach with the fundamentalist approach, which is that there are universal values and moral principles on the basis of which one can justify human rights to all reasonable persons (Chan, 1999).

<sup>4</sup> "The notion of (subjective) rights both serves to define certain legal powers and also provides the master image for a philosophy of human nature, of individuals and their societies" (Taylor, 1999, p. 127).

This concept of human being, of self as the subject of rights<sup>5</sup>, is the key concept of the modern social imaginaries in the West, including human rights.

So, we may raise the question whether modernity, be it the first or the second, be it stretched or compressed, is possible with a different conception of the self.

Is the Western modern self the only possible modern self?

Both empirical and historical studies refute this claim.

Çiğdem Kağıtçibaşı, a Turkish psychologist, makes the following point:

American (and Western) psychology, both reflecting and reinforcing the individualistic Western cultural ethos, has drawn the line narrowly and sharply, constituting a clear boundary between self and non-self (Kağıtçibaşı, 1996, p. 55).

She employs the three ideal-typical family/human models:

- (i) The model of inter-generational interdependence in both the material and the emotional dimension,
- (ii) The model of complete independence in both dimensions,
- (iii) The model of emotional interdependence without material independence (Kağıtçibaşı, 1996, p. 76-97).

She holds that it is widely observed that although material dependence on parents by children decrease with socioeconomic development in the Majority World (non-Western societies), emotional dependency remains (Kağıtçibaşı, 1996, p. 86).

In her account, the third model reveals the causal antecedents of the development of the autonomous-related self through societal/familial change, which integrates both autonomy and relatedness (Kağıtçibaşı, 1996, p. 89).

Taylor also admits that the Western modern notion of inner and outer is strange and without precedent in other cultures and times (Taylor, 1989, p. 114)<sup>6</sup>.

In Taylor's account, what distinguishes the West from the others in terms of modernity is that the process was accompanied by a growing sense of uneasiness towards church-controlled collective rituals and magic and that secularization in the West has evolved as a negation of magic, religious collective rituals, while in Japan collective rituals are not seen negatively<sup>7</sup>.

In my view, this explains why the Western modern self had to enclose its boundaries completely. On the contrary, in Japan, the porous self did not find it necessary to close itself against the world completely.

So, based on this self model, Japan could be defined as the society in which self remains partially porous, "relational" in Kağıtçibaşı's term, even after it is institutionally modernized.

## **Japanese philosophical foundation for human rights: A reinterpretation of the conventional understanding of 'KEN RI TSUU GI (権理通義)'**

Now I would like to put forward my idea of the Japanese philosophical foundation for human rights.

---

<sup>5</sup> Taylor explained the meaning of subjective right as something on which the possessor, subject of right, can and ought to act in order to put it into effect (Taylor, 1989, p. 11).

<sup>6</sup> Taylor also holds that this very clear-cut distinction (between 'this world', or the immanent, and the transcendent) is itself a product of the development of Latin Christendom (Taylor, 2007, p. xvii-xix).

<sup>7</sup> In an interview with Charles Taylor on November 15<sup>th</sup>, 2008 (Taylor, 2009).

First, I will explain the brief history of the translation of human rights into Japanese, KEN (權) RI (利), refer to the ensuing criticism around this translation and then discuss another translation of human rights by Yukichi Fukuzawa, KEN (權) RI (理) TSUU (通) GI (義).

Then, I will present my own re-interpretation of KEN (權) KEN (權) RI (理) TSUU (通) GI (義) as a plausible alternative. I will, then, compare this alternative formation with the one based on Theravada Buddhism in Thailand and the modern Chinese self articulated by Tu Wei-Ming.

Finally, I will highlight the difference between this Japanese philosophical view of human and society and the one developed in the West.

## The brief history of translating human rights in Japan

'KEN RI (權利)' is now considered as the Japanese term corresponding to human rights.

'KEN (權)', the Chinese character, appeared in the Chinese classics such as "XUN ZI (荀子)", the Confucian book written by Xun Zi (荀子) (313-238 B.C.), which at the time meant power and benefit.

'KEN (權)' in the modern meaning appeared as the Chinese translation of human rights in the Chinese version of *Elements of International Law*, which was originally published in 1836 by Henry Wheaton (1785-1848), translated into Chinese and published by William Martin (1827-1916) in 1864 and immediately introduced in Japan. Then, the Japanese text (万国公法) was published by Kaiseijō, the center for research and education of Edo-shogunate, the feudal regime of Japan, in 1865. It was translated by Amane Nishi, who is usually considered as the first scholar who introduced the concept of human rights in Japan.

Akira Manabu pointed out that Nishi mixed up the two different KEN (權)s, the traditional meaning of power and the translated meaning of right, which was a meaning strictly opposed to power in the history of Western thought<sup>8</sup>.

Manabu comments as follows:

Today we use the word kenri, which is often expressed with a character ken, such as the same ken of woman and man, and ken to enjoy sunshine etc. The traditional meaning of ken is, I believe, still living.

Ken has inevitably some sense of thrusting or by force. For instance, when we mention this word in our daily life, we are apt to feel constrained. This word feeling is living in the concrete expression of this word in its ordinary use (Manabu, 1982, p. 172).

In Manabu's account, when Nishi translated the original Dutch text of *Elements of International Law*, he chose 'KEN (權)' as the term for "regt", a Dutch word which meant both power and law in the sense that the international law ("regt") is based on a nation's "regt", which means power (Manabu, 1982, p. 162-165).

Manabu holds that KEN (權) was first introduced as a term of public law by Nishi and must have had an unexpectedly deep influence upon the minken (freedom and civil rights) movement in the 1870's and 1880's. In Manabu's account, minken campaigners demanded essentially the same KEN(權) as the one of government, i.e. power as the right to participate in politics, while they did not care so much about KEN(權) of the fundamental human rights (Manabu, 1982, p. 171).

<sup>8</sup> Akira Manabu, *The History of Translating Words in Japan* (翻訳語成立事情), originally published in Japanese by Iwanami Bookstore in 1982. The English version in the following URL is a test translation by the author (<http://www.japanlink.co.jp/ol/rig.html>).

However, in the early Meiji period, there was another attempt at translating human rights.

Fukuzawa Yukichi, the most influential intellectual leader of the day, introduced human rights as 'KEN RI TSUU GI (権理通義)' or 'KEN RI (権理)' in the second article of *Gakumon no susume (An Invitation to learning)*, published in 1873. Fukuzawa explained 'KEN RI TSUU GI (権理通義)' as the great justice (大義) meaning that people should respect life, preserve property and care for honor. In Fukuzawa's account, 'KEN RI (権理)' is the freedom in which each human can seek the fulfillment of their own desire without hindering others. It should be noted that instead of RI (利), which usually means profit, Fukuzawa employed RI (理), which is considered as the ultimate principle beyond Heaven and Earth, but also exists in each individual thing, according to the philosophy of the Chu His school (Yukichi, 2005, p. 21-22).

Apparently, Fukuzawa's translation grasped the meaning of human rights much more accurately than Nishi's one.

Now, following Fukuzawa's account, I would like to reexamine and reconstruct the Japanese terms for human rights.

## An alternative reinterpretation of 'KEN RI TSUU GI (権理通義)'

It is said that 'KEN(権)', the Chinese character, originally meant power and benefit.

However, in the most fundamental text of Confucianism, the teachings of Confucius (551-479 B.C.), *Analects*, 'KEN (権)' was used differently.

There are some with whom we may study in common, but we shall find them unable to go along with us to principles. Perhaps we may go on with them to principles, but we shall find them unable to get established in those along with us. Or if we may get so established along with them, we shall find them unable to *weigh occurring events along with us* (*The Confucian Analects*, 2009, p. 225-226).

KEN (権)' in this chapter means being able to weigh occurring events and determine the application of principles to them (*The Confucian Analects*, 2009, p. 226). 'KEN (権)' in this meaning does not have any reference to power. Rather, 'KEN (権)' in this chapter means the capacity for practical reasoning and dealing with occurring events.

'GI (義)', usually considered as justice, has also a different meaning. Tomonobu Imamichi, a Japanese philosopher, holds that 'GI (義)', the Chinese character, originally signifies I (我) shouldering sheep, the victim animals dedicated to Heaven, which means that I assume both vertical responsibility before Heaven and horizontal responsibility before the fellow villagers who entrusted to me the sacred mission of presenting the victim animal to Heaven at the festival. In Imamichi's account, 'GI (義)' was introduced in Europe from China at the end of 17<sup>th</sup> century and translated into "justice" in the 18<sup>th</sup> century, since there had been no English term for "responsibility" there until the late 18<sup>th</sup> century. Imamichi holds that 'GI (義)' originally meant responsibility (Imamichi, 2010, p. 172-174).

Now, if we accept the above-mentioned two different interpretations of 'KEN (権)' and 'GI (義)', we could formulate a different reasoning on human rights.

'KEN RI TSUU GI (権理通義)' means being able to weigh occurring events and determine the application of principles (理) to them while assuming responsibility (義) before Heaven and the community to which the person belongs.

This reinterpretation of 'KEN RI TSUU GI (権理通義)' presupposes the view of humans as being embedded in communities and as centers of responsibility in the secular and transcendental dimensions.

This view of humans is compatible with the autonomous relational self presented by Kağıtçıbaşı.

Now, let me try to compare this conception with the other East Asian formations.

Taylor contrasts Theravada Buddhism with the Western modern discourse on human rights and democracy. According to Taylor, in Thailand there were several attempts to reinterpret the majority religion, Theravada Buddhism, in the 19<sup>th</sup> century (Taylor, 1999, p. 133).

Taylor summarizes the two major principles in this reform movement which have created a basis for a democratic society and human rights as follows.

The first is the notion, central to Buddhism, that ultimately each individual must take responsibility for his or her own Enlightenment. The second is a new application of the doctrine of nonviolence, which is now seen to call for a respect for the autonomy of each person, demanding in effect a minimal use of coercion in human affairs (Taylor, 1999, p. 134).

Taylor concludes that while both democracy and human rights have been furthered along with the exclusive humanism stressing the incompatible importance of the human agent in the West, the convergence on a policy of defense of human rights and democratic development in Thailand took a different path, but arrived at the same norms (Taylor, 1999, p. 135-136).

Tu Wei-Ming also explained the East Asian social norm as follows.

The sense that one is obliged to, and responsible for, an ever-expanding network of human relatedness may not be a constraint on one's independence and autonomy. On the contrary, since personal dignity is predicated on one's ability not only to establish oneself but also to take care of others, one's level of independence and autonomy is measurable in terms of the degree to which one fulfills obligations and discharges responsibilities to family, community, state, the world, and Heaven (Wei-Ming, 1997, p. 8).

The view of humans as being embedded in communities and as centers of responsibility in the secular and transcendental dimensions, striving to become capable to weigh occurring events and determine the application of principles to them, is apparently different from the Western philosophical view of humans as rational beings with the capacity of acting according to the universal law. However, as Taylor concludes about the Thai case, this view of humans also defends human rights and the democratic development of society.

## Conclusion

My proposition is that the cosmopolitan nature of human rights is compatible with and even complemented by the neo-communitarian approach, specific to each region, based on the ecumenical approach articulated by Joseph Chan, which is the idea that universal human rights can and should be justified by different cultures through their own terms and perspectives, expecting that an overlapping consensus on the norms of human rights may emerge from those self-searching

exercises and mutual dialogue. Hence, in my understanding, we should be satisfied with the claim that Asian values, whether from Confucianism or Buddhism, can be compatible with human rights as the universal social norm.

One of the remaining questions for my approach is whether human rights in this current form are as universal as legal language.

Responding to this, I would like to refer to the following tripartite distinction presented by Charles Taylor.

It might help to structure our thinking if we made a tripartite distinction.

What we are looking for, in the end, is a world consensus on certain norms of conduct enforceable on governments.

To be accepted in any given society, these would in each case have to repose on some widely acknowledged philosophical justification, and to be enforced, they would have to find expression in legal mechanisms.

One way to putting our central question might be this: What variations can we imagine in philosophical justifications or in legal forms that would still be compatible with a meaningful universal consensus on what really matters to us, the enforceable norms? (Taylor, 1999, p. 129).

We may have to develop and articulate a regional common legal form in East Asia, which has already been developed in the European, African and American continents as the regional human rights charters. Additionally, it should be noted that one of the main reasons why African states wished to create their own regional charter of children's rights was that they felt that the Convention on the Rights of the Child, adopted at United Nations General Assembly on November 20, 1989, does not reflect the specific needs of African children.

Another more fundamental issue has to do with the Japanese philosophical foundation for human rights. In this article, I only focus on the alternative interpretation of human rights based on the most fundamental text of Confucianism, *Analects*.

Although Chinese culture, including its characters and Confucian teachings, is one of the main foundations of the so-called "Japanese culture", Japan has different social moral orders of non-Confucian origin and of local uniqueness.

So, the next challenge might be the explication and articulation of political identities based on such a locally oriented uniqueness that are compatible with liberal democratic principles<sup>9</sup>.

## References

- BECK, U. 2002. *Macht und Gegenmacht im globalen Zeit alter: Neue weltpolitische Ökonomie*. Frankfurt, Suhrkamp Verlag, 480 p.
- BECK, U.; GRANDE, E. 2010. Varieties of second modernity: The cosmopolitan turn in social and political theory and research. *The British Journal of Sociology*, 61(3):409-443. <http://dx.doi.org/10.1111/j.1468-4446.2010.01320.x>
- CHAN, J. 1999. A Confucian perspective on human rights for contemporary China. In: J.R. BAUER; D.A. BELL (eds.), *The East Asian challenge for Human Rights*. Cambridge, Cambridge University Press, p. 212-237.
- COMMISSION on Reasonable Accommodation with regard to cultural differences

<sup>9</sup> "(State) is democratic insofar as political power ultimately resides with the people, who delegates such power to representatives who exercise it in the people's name for a given period and liberal if individual rights and freedoms are deemed to be fundamental and thus confirmed and protected by the State" (Commission on Reasonable Accommodation with regard to cultural differences in the province of Quebec, 2008, p. 35).

- in the province of Quebec. 2008. *Building a future: A time for reconciliation*. Québec, Government of Québec, 95 p.
- HAN, S.-J.; SHIM, Y.-H. 2010. Redefining second modernity for East Asia: A critical assessment a critical assessment. *The British Journal of Sociology*, 61(3):465-488. <http://dx.doi.org/10.1111/j.1468-4446.2010.01322.x>
- IMAMICHI, T. 2010. 今道友信 わが哲学を語る (*Exposition of my philosophical perspective: New mode of introduction to philosophization*), Kamakura, Kamakura Shunjuu sha, 333 p.
- KAĞITÇIBAŞI, Ç. 1996. *Family and human development across cultures: A view From the other side*. Abingdon, Lawrence Erlbaum Associates Publishers, 233 p.
- KYUNG-SUP; MIN-YOUNG. 2010. The stranded individualizer under compressed modernity: South Korean women in individualization without individualism. *The British Journal of Sociology*, 61(3):539-564. <http://dx.doi.org/10.1111/j.1468-4446.2010.01325.x>
- LEVY, D. 2010. Recursive cosmopolitanization: Argentina and the global Human Rights Regime. *The British Journal of Sociology*, 61(3):579-596. <http://dx.doi.org/10.1111/j.1468-4446.2010.01327.x>
- MANABU, A. 1982. *The history of translating words in Japan* (翻訳語成立事情), Tokyo, Iwanami Shoten, 212 p.
- TAYLOR, C. 1999. Conditions of an unforced consensus on human rights. In: J.R. BAUER; D.A. BELL (eds.), *The East Asian challenge for Human Rights*. Cambridge, Cambridge University Press, p. 124-144.
- TAYLOR, C. 1989. *Sources of the self: The making of the modern identity*. Cambridge, Cambridge University Press, 601 p.
- TAYLOR, C. 2009. Religion and democracy: Multiple secularizations. KAN (環), 37, Tokyo, Fujiwara Shoten, p. 146-153.
- TAYLOR, C. 2007. *A Secular Age*, Cambridge/London, The Belknap Press of Harvard University Press, 874 p.
- THE CONFUCIAN ANALECTS. 2009 [1893]. *The Great Learning & the Doctrine of Mean*, IX, New York, Cosimo, Inc., 503 p.
- WEI-MING, T. 1997. *Confucian tradition in East Asian Modernity*. Cambridge, Massachusetts, Harvard University Press, 418 p.
- YUKICHI, F. 2005 [1872-1876]. *Gakumon no susume (An Invitation to learning)*, Iwanami-shoten, 206 p.

Submitted on February 10, 2012

Accepted on November 1, 2012