

## Individual Freedom and Human Rights Community: A Sociological Intervention\*

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*Regaining access to the social within human rights discourse requires a new sociological imagination. This paper formulates the concept of human rights community and, with this, attempts to grasp the social dimension of human rights which diminishes significantly today as overshadowed by increasing individual empowerment. The social here refers to the process in which individuals are transformed from a legally entitled yet socially isolated rights-bearer to an active participant in constructing community life through collective collaboration. Although not opposed to individual empowerment, this interactive dimension of human rights development is more complex and calls for careful attention. The social means that citizens shape the community in a way that is democratic and communicatively open and inclusive. This aspect of human rights development has been built into the classical concept of popular sovereignty and institutionalized into political democracy via representation. Recent experiences of human rights cities tend to revitalize this dimension within the context of local politics. However, sociological imagination remains to be fully further explored to grasp genuinely bottom-up aspect of human rights development in everyday life. With this objective, this paper attempts to clarify the concept of a human rights community and potential tension by examining freedom of expression as epitomized by the example of the Jyllands-Posten Muhammad cartoons controversy of 2005. A discussion follows to show the main characteristics of the social constructionist approach to justice and human rights and the affinity between the idea of a human rights community and Asian culture, particularly a hidden assumption of Chinese discourses on human rights. Based on these reflections, an attempt will be made to examine the conditions and characteristics of the school as a human rights community and to explore the significance of recent experiences of a human rights city as well.*

**Keywords:** *individual freedom, human rights community, Jullands-Posten Muhammad Cartoons Controversy, human rights city, sociological intervention, social construction of justice and human rights, Asian culture, Chinese focus on human rights, school as human rights community*

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## Introduction

The key objective of this paper is to formulate the concept of human rights community and, with this concept, explore the social dimension of human rights development, which is suggested to be more complex and balanced than the overall focus on individual empowerment. Reinserting “the social” into human rights discourse calls for a new sociological imagination. This paper is intended to be a critical intervention to explore the active side of citizens’ participation in creating a community they want. Individuals can claim the right to a healthy community as its member. This aspect of human rights development indicates that an individual can act not only as a legally empowered yet socially isolated (self-centered) subject seeking his/her personal (private) interests but also as a subject pursuing collective (public) interests to make their communities healthy and thriving. Although not opposed to individual empowerment, this interactive dimension of human rights development is more complex and calls for careful attention.

This paper begins with conceptual clarification: 1) the notion of a human rights community is defined in a preliminary way; 2) two dimensions of the human rights community are distinguished; 3) tension and conflict within human rights discourse is illustrated through freedom of expression as epitomized by the example of the *Jyllands-Posten* Muhammad cartoons controversy of 2005, and three relationships are formulated between these two dimensions. Internally, the human rights community demands an approach to justice and human rights, which is more sociological than legal. Thus, a discussion follows to show 4) the main characteristics of the social constructionist approach to justice and human rights, and then 5) affinity between the idea of a human rights community and Asian culture is revealed. Further, the possibility of Chinese contributions to human rights is investigated through 6) a sympathetic reading of Chinese discourses on human rights, especially of those scholars who break from the typical Chinese emphasis on China-specific situations and support the idea of universal human rights. Based on these reflections, a final attempt is made 7) to examine the conditions and characteristics of the school as a human rights community, and 8) to explore the significance of recent experiences of a human rights city. In conclusion, 9) the meaning of sociological intervention is reiterated.

## What is Human Rights Community?

Human rights community may refer to several possibilities. It may imply a group of people who are armed with the value of human rights and are actively engaged in spreading this value throughout the world. They may be geographically separate and do not know each other personally. Yet one may say that they form a transnational human rights community by committing themselves to the fundamental value of human rights. As a Christian or Buddhist community can be formed beyond national borders, so can a human rights community perform beyond nationalities, races, or religions.

Formally speaking, human rights community implies the process in a community in which social relationships are guided and regulated by the basic principle of human rights. It can also be implied that the members of this community, regardless of race, age, sex, ethnical background, and social and economic status, are fully engaged in shaping community life to reflect what they want in accordance with human rights principles such as non-discrimination, participation, empowerment, transparency, and accountability. It can also refer to human rights governance in the context of the given community where local leaders, experts, and other stakeholders work together to improve the quality of lives of its members in the spirit of partnership based on human rights norms.

A radical version of a human rights community can also be explored. In my previous work (Han 2010) on the short-lived experience of self-rule during the May 1980 Kwangju uprising, I attempted to conceptualize this experience as an absolute human rights community aspired to by the participatory *minben* tradition. In this paper, I start from the premise that human life is a delicate balance between individuality and sociality as two equally important conditions of self-realization. Further, I attempt to show 1) why individual sovereignty is crucial for the human rights discourse; 2) where the significance of the Confucian challenge for an excessive level of individual-focused human rights lies; and 3) how the shortcomings of traditional communitarian approaches can be overcome. I then draw attention to Xia Yong's reconstruction of the *minben* tradition in China and, in line with this, interpret self-rule in Kwangju as a concrete manifestation of the participatory approach toward a human rights community. As is well known, self-dignity of citizens, fraternity, community order, and mutual care blossomed fully in spite of a high level of uncertainty created by the collapse of security forces.

However, this paper is not concerned about the human rights community with such a radical or liberal orientation as implied above. Rather, this paper deals with a human rights community composed of ordinary men and women in daily life in the context of family, school, friends, work place, and town or city. Although this paper does mention the global norms of human rights embodied in the UN Charter, Universal Declaration of Human Rights (UDHR), and international covenants and treaties of various kinds that offer guidelines for a human rights community, the main purpose of this paper is to bring human rights values into our everyday life as members of local communities. The social constructionist perspective will be used to explore how a human rights community can be constructed from below. Particular attention is paid to the interaction of multiple actors who form such communities. Crucial for human rights community is a balanced realization of individual freedom and thriving community. Balancing is not a new phenomenon in human rights provisions. Balancing in this paper, however, is not “balancing human rights and communal interests” (Cali 2007, p. 251) but balancing two claims to rights. Attempt is made in this paper to demonstrate that one-sided preoccupation with one of these won't do justice to the idea of a human rights community.<sup>1</sup>

## Two Dimensions of Human Rights Community

In today's world, however, such balanced development is increasingly difficult to realize due to the neo-liberal trend toward individual empowerment and market fundamentalism. To be sure, individualization is a global trend supported by many factors such as cultural democracy, IT revolution and internet communication, participatory politics, legal transformation towards individual entitlement, and consumption power. It is true that conventional collectivities represented by the state, the school system, and patriarchal kinship have often relied on power to oppress individual freedom. This is why human rights activists defend individual rights against various forms of collectivism, firmly postulating that everyone innately has individual sovereignty. Unless harming others, everyone has the right to make a decision on his/her own problem, and no one else has the

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<sup>1</sup> The idea of human rights community presupposes that multiple actors with different orientations are interacting with their claims to rights and that there are mechanisms of balancing between competing rights claims.

right to interfere. The principle of individual sovereignty can be said to be crucial for human rights community.

Priority of human rights on individual self-determination is evident in the recent development of international law. Until recently, individual rights were conventionally assumed to be promoted and protected by state power. Prior to 1945 it was assumed that “human rights were implemented by the states and all matters were basically and crucially within the domestic affairs of states” (Sevastik 2011, p. 7). Individuals could not file petitions against the state. However, along the evolution of international law, particularly through the 1993 Vienna Declaration and Program for Action and the 2005 World Summit Outcome, it became possible for individuals to file petitions against states committing human rights violations such as genocide, crimes against humanity, and war crimes. “Where a state is committed to protect individuals under international procedures, a state cannot therefore claim that the exercise of such rights constitute interference with domestic affairs” (Sevastik 2011, p. 21). Furthermore, the United Nation can take responsibility to protect victims through due process of decision making if the concerned state is unable to act properly. Sevastik (2011, p. 25) argues that “the international community has developed an impressive normative framework of minimum standards and procedures for the universal and regional protection of human rights[...]empowering the individual the very essence of human rights, as rights holders and duty bearers.”

Contrastingly, the social dimension of human rights development has not received comparable attention. The meaning of “the social” here is not identical to the social and economic rights legally entitled to individuals. Rather, the social means active realization of community life through joint collaboration. The Individual as legally entitled right-bearer refers to an independent self-centered subject, and furthermore, individuals can act in the capacity of members of a community to jointly define community life as they want according to the principles of human rights. The latter is as crucial as the former in human rights development.

Human rights development in terms of individual empowerment, as referred to above, may be, at least tacitly, based on the view of collectivities as intrinsically repressive. Individual empowerment is defended to counterbalance the repressive power of traditional collectivities; it should be kept in mind, however, that atomized individual freedom or autonomy isolated from social relationship is nothing but a fiction. It is an ontological condition of human life that people live and form a variety of social relationships. It is not clear whether individual empowerment alone will

make social relationships healthy and thriving. On the contrary, living together in peaceful coexistence may become increasingly difficult (De Bary and Tu 1998; De Bary 1998).

The social dimension of human rights development is related to the question of collective interests, public interests, or the common good. Given the fact that a community is composed of multiple actors with different orientations, the question is who can decide this value, and how. In a conventional model, the leader makes all decisions. Varieties of experiences can be confirmed. Leadership may be based on traditions, religions, revolutions, or election. In any case, however, as Chua (1995, p. 191) argues, the technical difficulties of soliciting opinions from every interested and affected party tend to be resolved in such a way that the given political leadership assumes the position of defining collective interests. This model is likely to preserve and reinforce the entrenched centralized power.

The second model is characterized by democratic procedures of decision-making. As the key to human rights, the idea of self-determination has been institutionalized not only in the individual domain but also in the public domain. A political community can make a collective decision based on the rules of representative democracy, and this principle can be applied to all public domains from national to local governments. However, participation is only indirect and the extent of a bottom-up community based on voluntary cooperation among its members is limited. Compared with the national or international community, local communities like the family, school, town, and city make it easier for its members to collaborate with each other. In this case, the idea of transforming these communities into a human rights community may be plausible even without relying too much on the role of representative mechanisms.

These considerations lead us to the third model, that is, a communication-oriented and participatory pathway of constructing a human rights community based on cooperation among its members. The aim of this community is to live together in peaceful coexistence according to the principles of human rights. Citizens make the human rights community enforce the right to a healthy and thriving community. Because the government is obligated to provide citizens with equal treatment and equal opportunity, local government can join in this process. But the pathway that this paper focuses on is more bottom-up oriented than top-down. It has also often been said that individuals as right bearers have an obligation to be tolerant of others and respect the rights of others. This moral or ethical consideration is important in qualitative practice of human rights. Yet this

paper wants to examine this issue from the perspective of a right that an individual can claim in his/her capacity as a member of a community.

### Three Relationships

The two modes of rights claims can be explored with regard to freedom of expression as a fundamental right. An interesting case in point is the *Jyllands-Posten* Muhammad cartoons controversy that was sparked off when *Jyllands-Posten*, a Danish newspaper circulating 157,000 copies daily, published 12 cartoons on September 30, 2005, with the headline “Muhammeds ansigt,” meaning the face of Muhammad, and the announcement that the publication was intended to contribute to the debate on criticism of Islam and self-censorship. Soon the cartoons began to be reprinted either in whole or part in numerous newspapers and magazines in more than 50 countries around the world. In Germany, for instance, such diverse media as *Frankfurter Allgemeine*, *Ketzerbriefe*, *die Tageszeitung*, *Berliner Zeitung*, *Die Welt*, *Die Zeit*, *Tagesspiegel*, *Focus*, and *Der Spiegel* published them. In the Netherlands, *Elsevier*, *De Volkskrant*, *NRC Handelsblad*, *Het Parool*, *Trouw*, and *De Telegraaf* reprinted these. The cartoons thus rapidly became an international event. As the cartoons ridiculed and insulted the symbol of identity of Muslims, wild protests, some of which escalated into violence, soon broke out in many Islamic countries. As police fired on the crowd, more than 100 people were reported to be killed altogether. Fire was also set to the Danish Embassies in Syria, Lebanon, and Iran (cf. [www.Wikipedia.org](http://www.Wikipedia.org)).<sup>2</sup>

This tragic event sensitized attention to the nature and condition of freedom of expression. One might say that publication of these cartoons is a legitimate exercise of freedom of expression. Given the fact that similar cartoons about other religions were frequently printed, one can say that Muslims were not targeted in a discriminatory way. Another may say that these cartoons were blasphemous toward the people of the Muslim faith, intended to humiliate a Danish minority, or a manifestation of ignorance about the history of Western imperialism (cf. [www.Wikipedia.org](http://www.Wikipedia.org)).

Plugged into the topic of this paper, we can find two competing rights claims. One defends these cartoons as the exercise of freedom of expression,

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<sup>2</sup> The source of information is from Wikipedia, the free encyclopedia. [http://en.wikipedia.org/wiki/Jyllands-Posten\\_Muhammad\\_cartoons\\_controversy](http://en.wikipedia.org/wiki/Jyllands-Posten_Muhammad_cartoons_controversy).



whereas another claims the right to self-dignity, the right to be recognized as equally deserving person as other members of the community, is seriously damaged by the cartoons insulting the very essence of the religious identity of Muslims. How can we resolve such a conflict? The same phenomenon can be seen as the legitimate use of freedom of expression in one (Western) cultural context but as destroying the self-dignity of negatively affected group in another (Islamic) context. An important fact is that freedom of expression does not require any consideration of community. But the right to self-dignity here presupposes a community in which Muslims live together with Christians. Problem emerges only if one cultural presupposition is taken as universally valid and imposed upon others; the basic premise we hold is that a community is composed of multiple actors with different orientations. We should consider this challenge seriously. Living together in peaceful coexistence, as an aim of human rights community, can make sense only when multiple actors with different orientations can equally enjoy their rights.

The conventional way of solving this issue, however, is to reconfirm the importance of freedom of expression as a fundamental right and then emphasize the moral duty of the right-bearer. In this context, attention is paid to ordinary Muslims who are likely to see the cartoons as insulting the Prophet who embodies everything that represents their faith and religious tradition. It is also mentioned that these people are often helpless in debates on freedom of expression. These negative images may be interpreted as a provocation “comparable with the anti-Semitic pictures of Jews in *Der Stuermer* and in the *Protocols of the sages of Zion*” (Ecko 2006). Therefore, exercising freedom of expression should be accompanied by great responsibility.

My central argument is that we should go beyond this moral consideration. However paradoxical it may be, freedom of expression exercised above damaged the equally important right of other members of the community. As Brems (2005, p. 294) notes, “the proliferation of human rights claims increases the occurrence of situation in which two or more distinct human rights enter into conflict.” Therefore, due processes and protocols are needed to resolve this kind of situation and, in the case of the human rights community, social construction of rights may be more appealing than legal solutions. The starting point is a dual mode of raising rights claims by individuals. One can act in one’s capacity as an independent person to pursue what is considered to be worthy and important for realizing individual dignity. At the same time, one can act in one’s capacity as a



member of the community where one belongs, pursuing what is considered to be worthy and important for realizing the common good of the community. The question of how to keep a community healthy and thriving is important because individual life is sustainable only when well grounded in a thriving community (Han 2010, p. 130). If an individual claims the right to a healthy community, open communication and deliberation are needed to jointly explore conditions for living together in peaceful coexistence. A healthy community differs from a community torn apart by mistrust and conflict. A healthy community means that multiple actors can equally enjoy their rights with full respect for others.

The debate between liberalists and communitarians within the human rights discourse is well known (De Bary and Tu 1998; Angle 2002). Largely preoccupied with individual freedom, the former tends to reject any claims to the right to define collective interests, with an argument that this claim may lead to an authoritarian leadership which prefers order and stability (Donnelly 1999). The latter, on the other hand, argues that the liberal version of human rights, when pursued one-sidedly, destroys community insofar as it fosters ego-centric pursuit of interests (Chan 1999). However, a simple dichotomy of “individual” versus “community” is inapplicable and misleading, as de Bary (1998, p. 156) emphasizes. Different relationships resulting from these two dimensions can be explored in the following three ways.

The first relationship is complementary. Individual rights can become real in a socially significant way only when socially well supported. Someone may pursue the right to self-expression in a completely isolated, idiosyncratic way, but legal, institutional, and social conditions are to be supported, such as free access to information, a vibrant public sphere, educational opportunities, cultural infrastructures, and so on in order for all members of the community to enjoy their rights. Likewise, the right to work can be meaningful only when there are good opportunities for training and education along with access to information about job openings and the labor market. Privileged minorities may enjoy individual rights solely through their own resources. But the majority of the population needs social inputs, services, and provisions as a condition for realizing individual rights in a socially meaningful way. Otherwise, inequality in the social structure may seriously distort the social consequences of individual rights. Community here serves as the enabling condition of individual rights.

The second relationship is constraining. The basic premise is that if a community becomes extremely fragmented and degraded, individual

freedom itself is likely to be threatened by the negative consequences of this. One can pursue individual rights when community is able to retain the respect and allegiance of everybody. Once a sense of embattled grievance begins to irrupt, undermining the sense of common allegiance and solidarity, the whole system of freewheeling rights enforcement is in danger (Taylor 1999, p. 131). If the individuality-centered practice of human rights goes too far and becomes blind to the social basis of individual rights, some dangerous consequences become unavoidable. Individual rights cannot be absolute.

The third relationship is material. Human rights are sustainable only when all members of the community, without exception, are invited to enjoy a certain level of socio-economic life as an important condition for living together. The social dimension of human rights draws the most emphatic attention to the material conditions for living together.<sup>3</sup> Thus, the issue of equality as well as security of a person against burdens, dangers, and suffering imposed from outside is crucial for a human rights community (Taylor 1999, pp. 141-42).

## Social Construction of Justice and Human Rights

The very idea of a human rights community can be explored better from a social constructionist approach to human rights (justice) than a legal approach. Human rights may then be seen to be more socially constituted than legally stipulated. I shall illustrate this point by the example of transitional justice as an issue of human rights. The issue of justice and human rights emerges out of the historical contexts of democratic transition from authoritarian regime. This transition can be either the result of an international war as faced by Germany and Japan after 1945 or the consequence of political negotiation among major actors in democratic transition (many new democracies in the world, including South Korea, Taiwan, the Philippines, South Africa, Argentina, Brazil, and Chile). Transitional justice presupposes that serious wrongdoings were committed by past authoritarian regimes. In transition, it invites sensitive questions like how to establish truth, punish perpetrators, make compensations to victims, educate younger generations, and so on. Overall, however, transitional justice is more complex than punishment since it is aimed at reconciliation and

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<sup>3</sup> Human rights in North Korea can be considered from this perspective especially when South Korea approaches North Korea within a framework of national community (Han 2007).

rebuilding a political community.

The mainstream view in this regard may be called a justice-centered legal approach which presupposes a clear-cut binary opposition between perpetrator and victim, between wrongdoers and suffering innocents, between the criminal and the humane, and between good and bad. Justice means victory of good will over bad will and requires punishment of the bad. Reconciliation is regarded as a consequence of fair punishment of perpetrators and of offering appropriate compensation to victim. Any attempt at reconciliation is ill-founded when truth does not remain fully disclosed and offenders not fairly punished. Likewise, perpetrator can be forgiven only when retributive justice is fully realized.

However, a sociological model may put more emphasis on the reciprocal process of communication rather than applying the law against perpetrators. Crucial for this interactive approach is not a fixed legal standard of justice but reciprocal accounts of the participants in discourse through which truth and reconciliation emerge as a practical accomplishment.<sup>4</sup> In this model, reconciliation is seen not as a consequence of justice but rather as a dynamic reciprocal performance. In the legal discourse of the hard-line approach, it is not of methodological significance to hear the voice of the perpetrators. In the interactive model, however, their voice is invited to take part in the process of public deliberation as well. In other words, this model invites the offenders to express their inner feelings about their actions, such as how they understood the situation in which they acted, why they acted in the way they did, what kind of action manuals they undertook, and so on. This model does not underestimate the importance of establishing justice; it recognizes that the idea of justice may be more complex and multi-dimensional than the legal administration of laws. Justice here is more sociological than legal. The merit of this model lies in regarding a wrongdoer not simply as an evildoer to be punished but as a potential member of a new community that has to be reconstituted. Justice can be better established in a more sustainable form

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<sup>4</sup> The philosophical basis for an interactive approach to justice can be found in the discourse theory of law and popular sovereignty advocated by J. Habermas (1996). His theory of justice is full of innovation in the sense that 1) it goes beyond pursuing an objective criterion of justice from which a welfare institution, for example, can be derived by legal experts; 2) it also breaks away from any collectivist approach to justice which presupposes common good as a given; 3) it suggests a framework of communication in which all actors are to join in with no exception; 4) the principle of radical openness is applied not only to agency but also to the substance of issues, which means that discourse must be radically inclusive; and finally, 5) justice moves along the discursive processes of social construction in a radically open and inclusive way. Here we find a new sociological imagination of popular sovereignty and justice backed up by communication theory.

when common efforts are made by members of a community that includes past offenders.

The social constructionist approach to justice may be more plausible when and where deep-rooted communitarian culture operates at the heart of the people. South Africa offers an excellent example. The country has long been deeply torn apart by Apartheid,<sup>5</sup> with blacks totally excluded from the mainstream. Fortunately, along the process of political transition under the leadership of Mandela, the Truth and Reconciliation Commission (TRC) was formed, and it was effective in reuniting the nation by way of reciprocal processes of disclosing of the truth, sincere remorse, and forgiveness. This success owed much to the local communitarian tradition called "*ubuntu*" which emphasized symbiotic interconnectedness of all within the community (Venter 2004). This tradition enabled citizens to see the offender who wronged them not simply as an enemy to be eliminated, but fundamentally as a potential member of the new community to be created.

As Schaap notes, "... it was not the acknowledgment of wrongdoing by perpetrators, which opened the way to forgiveness. Rather, it was the disposition to forgive, a willingness on the part of those wronged to defer the right to just retribution, that cleared the way for perpetrators to publicly disclose the wrongdoing they were involved in" (Schaap 2003, p. 84). In TRC, as a court-like body assembled after the abolition of apartheid, witnesses who were identified as victims of gross human rights violations were invited to give statements about their experiences, and some of these were selected for public hearings. Perpetrators of violence were also given a chance to give their testimony and, upon doing this, many perpetrators requested amnesty from both civil and criminal prosecution. As Moon (2009) emphasizes, this process had something to do with the therapeutic function of post-conflict reconciliation.<sup>6</sup> South Africa's TRC was distinctive in that it applied therapeutic assumptions and methods to redressing past violence. TRC officials and many victims and perpetrators who spoke before the TRC articulated national and individual suffering through expressing popular psychotherapeutic metaphors such as "healing," "trauma," and "wound." Truth-telling was the key "therapy" by which the TRC sought to address national and individual trauma: the TRC aimed to "give voice" to victims in

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<sup>5</sup> Apartheid refers to a system of legal racial segregation enforced by the National Party government in South Africa between 1948 and early 1994.

<sup>6</sup> Moon (2009) argues that war-torn societies "require therapeutic management if conflict is to be ameliorated. An adequate and timely therapeutic intervention may prevent traumatized victims from becoming future perpetrators. In this sense, perpetrators can also be seen as victims."

order to provide a cathartic space in which the pain of the past might be purged and transformed. A perpetrator's confessions played a crucial part in victim healing because this made it possible for a fuller picture of an event to emerge, sometimes relieving a victim from distress caused by previous official denials, revealing the location of human remains which allowed families to bury and honor their relatives properly.

## Human Rights Community and Asian Culture

The social constructionist approach to justice presupposes the profound function of communication in society. In the Confucian tradition in East Asia, particularly Korea and China, where justice was seen from early on as evolving along the public sphere as a crucial component of Confucian politics, not only officials and intellectuals but also ordinary people were normatively treated as capable of taking part in the process of the public sphere. Truth and justice were seen as emerging from the process of what Confucian scholars called "language roads." Government could claim its legitimacy only when it protected people from life's dangers like hunger, diseases, crimes, and accidents. Governments have long projected themselves not simply as the defender of law but as a vehicle of justice by advocating a people-centered view of politics, that is, "*minben*."<sup>7</sup> This sensitizes attention to the relationship between human rights community and Asian culture.

Needless to say, looking back in history, individual freedom has been suppressed systematically by various forms of collective power in Asia. Disguised as economic growth or national security, developmental dictatorship has trampled human rights in fast developing Asian countries. In addition to the political suppression of civil rights, the rights of females and children have been oppressed under the legacy of the patriarchal power structure of family. The authoritarian pedagogic culture emphasizing a hierarchical relationship between teacher and students has violated students' rights. For that reason, the younger generation that grew up in that atmosphere tends to believe that all communities are inherently suppressive of individual freedom. They argue that individual freedom should be radically expanded. This argument is compelling since there is no reason to

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<sup>7</sup> The reality of East Asia is full of risks that threaten life-security. These high-consequential risks pose a serious challenge to justice. Preventing these risks from arising is an important task for developing a human rights community.

justify any authoritarian relationship which threatens individual freedom.

However, a question arises if binary opposition between the individual and the collective life is posited as an assumption of human rights thinking. In this case, people would only advocate individual freedom and have a negative attitude toward community life. Individual rights would increase rapidly at the expense of disappearing social dimension of human rights. However, an indisputable fact is that individual freedom can be sustained when it is well grounded on a thriving community, as has been pointed out above. In this context, we need to draw attention to the cultural emphasis on living together in peaceful coexistence, which seems to have been better preserved in Asia than in the West. Being interested in human rights, therefore, does not always mean that Asians become westernized. Rather, we need to consider the cultural potential of Asia for constructing a human rights community.<sup>8</sup>

Korea, for example, was once infamous for having a dictatorial regime that oppressed human rights. However, since democratization started in 1987 and especially after the peaceful turnover of political power in 1997, Korean human rights situation improved greatly in terms of legislation, human rights institutions, and social consciousness. Moving beyond previous achievements and foreseeing the future from a broader perspective, however, it may be necessary for Korea to explore how to develop human rights communities through a balance between individual freedom and thriving community (Han 1999, 2010). The first condition for this is intimately related to the prevention of human rights violations as a negative task for constructing a human rights community. The second issue is to positively ask how individual freedom can be further promoted in all aspects of society. The last question is on fostering a human rights community by way of wide social participation and cooperation.

The transformation of the family, school, friends, neighbors, and cities into human rights communities cannot be achieved through the efforts of a couple of responsible leaders. It is everyone's task to acquire and develop human rights in daily life. Just following the West will not do, either. Rather, broadening the human rights perspective by embracing the Asian cultural tradition may be needed for constructing a human rights community.

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<sup>8</sup> However, the cultural identity in human rights discourse is still lacking in Asia as can be seen in the fact that Asian human rights activists and specialists are busy using Western standards of human rights. This problem can be overcome not by schematically distinguishing Asia and the West but by attempting to sort out cultural resources in Asia in support of the human rights community.

## How to Read Chinese Discourses on Human Rights

Above discussion has revealed that 1) self-determination as the core principle of human rights involves individual (private) and collective (public) dimensions; 2) the latter can be best grasped by an approach that is discursive and democratic; 3) while Western liberalism presupposes the individual to be an absolutely independent and autonomous existence, Confucianism sees the world as constructed through communication; and 4) human dignity lies in the realization of human potentialities and capabilities which make possible not only individual sovereignty but also a healthy and thriving community. Individual empowerment is not enough for comprehensive understanding of human rights. On the contrary, it is crucial that dual aspects of human life, namely individuality and sociality, are organically balanced so that individual freedom and the community's well-being can develop together. The community's well-being may be measured by the extent to which its members participate in shaping their community life and develop their potentialities with equal opportunity. If one person's interests are flourishing at the systematic expense of others, we are living in a world that is far from being a healthy community. Therefore, the key question is how to pursue balanced development of individual freedom and thriving community.

Having thus summarized this discussion above, I would like to explore the significance of this perspective when applied to the Chinese discourses on human rights. Needless to say, the Chinese discourses are various depending on who speaks in which context. Human rights activists, governmental officials, NGOs, and engaged scholars in support of the rights of grassroots take different stances from each other. Representing suppressed human rights activists in China, Liu Xiaobo's critique of the Chinese government as well as his uncompromising demand for human rights reform are clear-cut and must sound compelling to those who accept Western standards of human rights as obvious (Liu 2011). Likewise, there is no serious difficulty in understanding what the official governmental discourses want to say. The question is not about these statements, but about where you stand.

What may deserve sympathetic attention in this context is the attempt to break away from typical Chinese preoccupation with China-specific characteristics, which can often be found in pro-governmental discourses, and the attempt to explore possible Chinese contributions to enriching



human rights as a universal value.<sup>9</sup> Because these discourses are new, still emerging, and challenging against many assumptions hitherto taken for granted, care should be taken to catch the hidden assumption underlying these discourses.<sup>10</sup>

An interesting case in point is Xu Xian Ming (2006) who has proposed the right to harmonious development as representing the fourth generation of human rights discourse. He argues that all previous human rights discourses have been predicated more on a model of struggle than on reconciliation. He thus raises the question of how coexistence and co-prosperity as an aim toward human rights development can be fostered. Though this discourse sounds ideological and seems to defend the governmental catchphrase of harmony, it offers observations that can be reinterpreted from the perspective of human rights community which is missing this discourse.

Xia Yong (2004) probably shows the most comprehensive efforts to reinterpret Chinese history and philosophical tradition to construct a new framework for the cultural core of human rights, which he calls the new *minben* theory. The aim of this theory is to offer a neo-communitarian paradigm of self-rule by the people in line with the reinvented *minben* tradition. The theory regards the people as the root of a country, rights as the root of the people, and virtue as the root of rights. Critically confronting political romanticism as well as cultural skepticism in China, he explores the possible trajectory that China can take to develop the rules of procedure as an institution in order to realize a self-rule founded upon the Chinese tradition of human rights.

The best example of this is Zhao Tingyang, who has emphatically argued that “the value system that does not recognize universalism cannot be a universal norm and is unable to discuss about world affairs.” While

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<sup>9</sup> An example of this is the public lecture given by Professor Tang Yijie on the topic of “Confucianism and Universal Value” on March 31, 2011, which attracted wide attention from students of Peking University. In addition, at a forum on Chinese human rights held at Seoul National University in May 2011, Professor Bai Guimei (2011), deputy director of Human Rights Center at Peking University, explained how the institute had survived to manage human rights education program at Peking University despite unfavorable conditions for sustaining the space for academic discourse on universal human rights.

<sup>10</sup> Chinese discourses can be made more intelligible when properly placed upon this hidden assumption. It does not mean, however, that this assumption can be easily understood. It can be seen only when one goes out of the framework in which these discourses unfold and discover the potential significance of these discourse from another framework that is missing. This may call for symptomatic reading.

committing himself to a universal theory of human rights, he is deeply critical of the Western way of conceptualizing human rights because the tradition of natural rights treats an individual as the basis of human rights. Note his observation:

The system of human rights recognized by the West underscores individual life, private property and individual liberty (especially political freedoms). The first value in the rights system based on the individual is liberty, with equality coming second. Liberty and equality not only prevail over justice, but even alter what justice means in the first place. Modern theory often interprets justice in terms of liberty and equality, squeezing out thereby the original meaning of justice and reducing it to a mere form of combination of liberty and equality. Thus justice ends up left out, giving rise to many self-destructive evils. Rights mean the space of sovereignty for the individual's free will. Where are the boundaries of this space? That is the question. Once justice is not regarded as the supreme criterion for judgment, no standards are available to determine these boundaries, and among different subjects there always remains room for dispute, as happens at all times in the international arena (Zhao 2007, p. 19).

Zhao (2007, p. 25) here notes "self-destroying logic of rights against rights." This is not accidental and requires a fundamental solution because this tendency makes the Western conception all the less mature as a universally valid theory of rights. "Due to the hegemony of Western discourse, the concept of human rights shaped by biased Western values now serves as the only framework in vogue for interpreting what human rights are all about. This framework is tacitly acknowledged all over the world, for lack of a better theory of human rights. Therefore, even objections to Western criticisms concerning human rights have to be presented in the form of justificatory attempts within a Western-defined framework" (Zhao 2007, p. 14).

Zhao has made an ambitious attempt to counteract against this tendency. The suggested philosophical solution is to ground human rights on the ontological condition of human life, that is, social relationship, and the concept of justice which can provide space for balancing or limiting individual-centered rights (Zhao 2007, p. 15). He argues that "What we call human rights is the space of liberty allowed by a relationship of justice, rather than the space of liberty claimed by the individual" (Zhao 2007, p. 20). Deeply concerned about the increasing collision of rights claims by legal subjects, destroying the moral fabric of a community, he is eager to find "a

non-Western theory of universal human rights” by suggesting what he calls “credit human rights.”

All these attempts can be interpreted as a painful search for the missing social ground of human rights community. From the point of view of intercultural dialogue, one can understand why Chinese scholars are reluctant to accept the Western focus of human rights development on individual empowerment. They may have good reason to pursue a new framework in which their cultural identity can be better expressed (Angle 2002). But they still seem to be far from comprehending the missing assumption, that is, the concept of a human rights community, as a potential key to their painful search.

### School as a Human Rights Community

In the following pages, I would like to exemplify the idea of human rights community firstly by examining the conditions upon which school can be reconstructed as a human rights community in Korea, and secondly by reviewing the significance of the recent experience of the human rights city. School represents a genuine community of learning in the Confucian worldview. As the family is the most primordial community of affection, school is the most outstanding community of open-ended discourse. Nevertheless, asymmetries are deeply built into the relationship between teachers and students. Therefore, Confucian heritage offers both enabling and constraining factors to the idea of school as a human rights community.

Needless to say, the school is composed of multiple actors such as students, teachers, parents, administrators, alumni, and local communities. Each can make its claim as a member of school community, albeit the potentially significant differences in their scope. As an institution, the school contains various aspects, including a hierarchical relationship between teacher and student overshadowed by expectations of obedience on the part of students. For this reason, students have often been denied their rights. The right of students, therefore, is to be strengthened as the rights of teachers and parents. School can be transformed into a human rights community when students, teachers, and other members of the community equally enjoy their legitimate rights.

The most fundamental condition for transforming the school into a rights-friendly place is the lack of violations against human rights on school grounds. National Human Rights Commission and human rights NGOs in

Korea have compiled a complex list of violations of students' rights in the school system. All efforts and measures are to be used to protect children from discriminations of various kinds, abuse of power, neglect of proper attention, and, above all, violence and bullying. Given the fact that school violence is a result of the authoritarian culture of schooling, developing a human rights culture implies the dismantling of authoritarian school cultures (Carter and Osler 2000; Harber 2004).

At the same time, fostering human rights culture, education, and learning programs is also important as a positive step towards constructing a rights-friendly school. The aim of human rights culture is to draw "citizens and elites together in terms of shared values" (Nash 2005, pp. 337-39) in such a way that "values of both solidarity and diversity are shared," and individual freedom, minority rights as well as democratic decisions that lead to majority voting are respected and accepted as legitimate. As Nazzari et al. (2005, pp. 171-86) emphasizes while drawing attention to the works by Mezirow, the most significant learning in human rights education occurs in the communicative domain which involves "identifying problematic ideas, values, beliefs and feelings, critically examining the assumptions upon which they are based, and testing their justification through rational discourse." This process is characterized by "the importance of participation, dialogue, respect, a listening attitude, accountability of educators and participants, small group work, learning by doing and feedback." Crucial for the human rights community is open communication in which teachers, students, parents, and other members of the community can freely participate in shaping school life with which they concur.

Students' right to dignity implies a relationship between teacher and students characterized by the absence of abuse of power on the part of the teacher and full respect of students toward the teacher's own right. More often than not, teachers have been reluctant to discuss rights with students because they are afraid of this would lead to undermining of their authority. However, experience shows that having discussions about rights provides students with better opportunity to understand the rights of the teachers, too. Furthermore, it is essential to recognize that diversity is an essential characteristic of all human communities. To order students to become reflective and constructive global citizens, schools must thoughtfully address diversity. Schools denying diversity are likely to discriminate against those who do not fit the presupposed norm. This point is of utmost importance today when we are to live together with many immigrants and their children (Osler and Starky 1999, 2005).

It is also essential to identify structural obstacles built into school curricula, classes, and other school-related activities. Of particular importance is the excessive preoccupation of school systems, especially in high schools, with college entrance examination. This obstacle makes it systematically difficult for the fruits of human rights culture such as freedom of expression, respect for differences, tolerance, and participatory shaping of common interests to blossom. This obstacle makes students and teachers as well as parents become subject to a certain functional imperative of schools to survive. What follows is a full-scaled, all-court-pressed mobilization of time and energy for such preparation, which makes it almost impossible to initiate communication in support of free self-expression and diversity insofar as it is perceived to be not functional for achieving the main objective of schools.

Here we are faced with the reality of schools as “an excessive examination and testing regime.” Due to the fact that test results are made public, parents are eager to identify the best schools with outstanding academic records. “Rather than parents selecting schools, the reality is that schools are often selecting their pupils, with the most popular schools hugely over-subscribed. These arrangements tend to favor wealthier middle class parents who are best placed to play the system, with greater material resources and access to information” (Osler 2007, p. 45). Preoccupied with providing certain types of knowledge to students, schools find it exceedingly difficult to pay adequate attention to students’ social and emotional well-being, development of such democratic values as respect for the human rights of others, tolerance, listening, cooperation, and peaceful resolution of conflicts, which are all essential for living together as equal members of a community. This makes us see how important it is to develop sustainable programs for human rights education and culture in schools. School rules can be democratic and effective when they are introduced in cooperation with students rather than imposed from above.

My experience of human rights education in college is suggestive. Students were asked to form sub-groups to study specific issues together. One of these groups was to examine the school system by drawing and comparing various experiences from many countries where they had lived long-term. What came out of this intercultural discussion was that the most basic condition for a rights-friendly school is open communication. Freedom of expression, of conscience, of religion, and of rally and assembly can flourish on the soil of open communication. Communication requires reciprocity, meaning that not only asserting but also listening is crucially important.

Student discussion went further to touch upon the emotional basis of community. Given the long-held authoritarian legacies in schools, it was reasoned that intimacy plays an important role in opening up the space of communication. The terrain of intimacy remains almost suffocated by the prevailing imperative of competition among students, among schools, and among parents in terms of examination and tests. In this context, a person can express him/herself better when s/he feels close to someone else, or when s/he becomes free from internal censorship. This implies that the right to communication needs to be supported by the shared feeling of intimacy which releases individuals from internal barriers.

School as a densely interwoven network of relationships may be characterized by reciprocal interaction among its members in terms of their rights and emotional ties as well. In other words, schools cannot be reduced to the community of legally entitled right-bearers but involves in the aspect of emotional community that binds its members in terms of care and respect. Based on this, the key to constructing rights-friendly schools lies in self-rule of schools which can be realized in two ways. One is representation. Students can express their opinions and preferences through student council as teachers do through teachers' union. Another is direct participation. In the setting of school almost all students and teachers can have free access to the Internet. They can get to know each other, exchange ideas, and make joint decisions without much difficulty if school governance is democratically open-minded.

All these discussions point to the primordial importance of open communication backed up by intimacy for constructing a human rights community. Since communication presupposes reciprocal actors, it cannot be performed by expressing one's view alone, but should properly include the act of listening to others. One-sided talking is not communication. The key to communication is reciprocal understanding under the premise that everyone is different. To the extent to which communication invites all members of the community to participate, a healthy and active community will likely emerge. On the contrary, human rights community can hardly prosper if anyone is forced to keep silent and finds it difficult to raise his/her voice.

There are several advantages to identifying communication as an important empirical indicator of human rights community. To start off, this strategy avoids putting emphasis on all values of human rights over individual rights. Since communication is a way of balancing individual freedom and healthy community, we can carefully examine the degree of open communication to check the conditions of the human rights

community. Some argue that communities are a sum of individuals, and therefore, their decisions form communities. However, individual freedom will prosper if only individual decisions are highlighted, but paradoxically, the role of the community may diminish. Because of this, it is necessary to emphasize the structure of open communication as a characteristic of human rights communities. The fact that we are making human rights as a way of life is well related to how we will communicate with others. If we can create communities with open communication, there is higher potential for the rights of their members to develop equally. This paradigm differs significantly from the old paradigm in which leaders with authority made decisions.

The relationship between intimacy and human rights community deserves attention, as already mentioned. Communication often expresses secret feelings, emotions, expectations, and wishes through various symbols such as body language. Besides, communication is often subject to taboo and censorship, whether explicit or implicit. Mental disability can be overcome by strengthening the emotional resource of intimacy. It is indeed paradoxical and revealing as well that transforming schools into a human rights community requires open communication which, in turn, depends on the emotional basis of intimacy.

### The Experience Of Human Rights City

Recent experiences of human rights cities can also be interpreted from the perspective of human rights community. World Human Rights Cities Forum (hereafter WHTCF) held in Kwangju, Korea in May 2011 demonstrates this point clearly. To begin with, there are several connotations attached to a human rights city. Formally, it refers to an urban community in which human rights play a key role as a fundamental value and guiding principles in social relationships. It also implies that “all residents and inhabitants, in particular, minority groups who are socially vulnerable and marginalized, regardless of race, sex, color, nationality, ethnic background and social status can participate fully in decision-making and policy-implementation processes that affect their lives in accordance with human rights principles such as non-discrimination, participation, empowerment, transparency and accountability, etc.” (Kim Dae-jung Convention Center 2011, pp. 10-11). It can also refer to “human rights governance in an urban context where local government, local parliament, civil society, private



sectors and other stake-holders work together to improve quality of lives of all urban inhabitants in a spirit of partnership based on human rights norms.” (Kim Dae-jung Convention Center 2011, p. 11). Although relatively new in Asia, the idea of a human rights city has progressed considerably in Western countries as can be seen in several networks or coalitions of human rights cities such as UN-Habitat sponsored World Urban Forum, UNESCO-led International Coalition of Cities against Racism (ICCAR), and Global Charter-Agenda for Human Rights in the City by United Cities and Local Governments (UCLG), and international civil societies are also active. Human rights INGOs have initiated movement toward human rights cities in a participatory manner using the concept of “the right to a city,” stressing either the participatory dimension of local politics or human rights education as essential for a human rights city.

Two approaches have been interacting in this new experience. One is top-down in the sense that exploration begins from using international conventions such as Global Charter-Agenda for Human Rights in the City (2011), Recommendation for the World Summit of Local and Regional Leaders (2010), Urban Policies and the Right to the City: Rights, Responsibilities and Citizenship (2009), Human Rights Cities: Civic Engagement for Social Development (2008), Charter for Educating Cities (2004), and European Charter for the Safeguarding of Human Rights in the City (2000). The main purpose of this approach is to legitimize and strengthen the duty or obligation placed on the government (national or local) by international law to promote and protect human rights. The top-down approach can affect the whole range of policies formulated and implemented by the local government to provide inhabitants with equal opportunities in many respects.<sup>11</sup>

The second is a bottom-up approach to human rights city, and this is more significant and consequential. Its main driving force comes from voluntary participation of citizens. Ordinary citizens, NGOs, civic groups, and engaged experts cooperate together to identify the problem to be tackled and launch campaigns to promote human rights cities. There is no doubt that living together in peaceful coexistence, as the goal of human rights communities, calls for responsible political leaders who promote and protect the human rights of citizens in terms of fair treatment and equal opportunity. Yet citizen participation and the bottom-up strategy are more crucial because

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<sup>11</sup> A good example is the city of New York which paid crucial attention to reducing ethnic and racial discrimination from its criminal justice policies.

the participatory and democratic engagement of ordinary citizens in shaping city life is more practically effective than the provision of equal treatment administered by the local governments to the citizens. Only in this sense can citizens claim their right to the city. In other words, living together in peaceful coexistence is more than fulfilling the obligation placed upon the government, as it is more than the moral consideration that individuals are expected to pay. Recent experiences of human rights cities embrace this idea which needs to be fully explored and developed.

## Conclusion

Sociology can make fruitful intervention into human rights studies. Distinguished from jurisprudence, sociology can ask many pertinent empirical questions concerning social relationships between offenders and victims, for instance, which are mediated by law. By making use of the social constructionist approach to justice and human rights, sociology also can make intelligible how legal institutions are concretely shaped and functioning in society. Based on this spirit, this paper has attempted to grasp the social dimension of human rights which diminishes significantly today as overshadowed or overwhelmed by increasing individual empowerment. It is crucial for sociology to regain access to the role of “the social” in the human rights discourse. The social here refers to the process in which individuals are transformed from a legally entitled yet socially isolated rights-bearer to an active participant in constructing community life through collective collaboration. The social means that citizens shape the community in a way that is democratic and communicatively open and inclusive. This aspect of human rights development has been built into the classical concept of popular sovereignty and institutionalized into political democracy via representation. Recent experiences of human rights cities tend to revitalize this dimension within the context of local politics. However, discourse sounds more rhetoric than substantive, and thus, sociological imagination remains not fully explored. Genuinely bottom-up aspect of human rights development has never been given proper attention. Regaining access to the social within human rights discourse requires a new sociological imagination. It is not by chance that the Western reflection on the limits of modernity has given rise to a communicative theory of justice and rationality. Confucian tradition also embraces rich imagination and sensibility to the communicative understanding of the world. Here we find an important task

of intercultural dialogue.

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