

FILM REVIEW ESSAY

HUMAN RIGHTS IN CHINA

The Search for Common Ground

A FILM BY RAYMOND OLSON

SACRED MOUNTAIN PRODUCTIONS

VHS. 50 MINUTES. COLOR. 2004

DVD. 114 MINUTES. COLOR. 2004

ENGLISH ONLY (NO SUBTITLES, OCCASIONAL TRANSLATIONS AS VOICEOVERS)

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Sociologist Raymond Olson uses recorded interviews and striking video footage from contemporary China to take the viewer inside one of the most fascinating intellectual arguments and most frustrating political conundrums in modern China studies. The question at the core of this video is whether human rights are “universal” as defined by the 1948 Universal Declaration of Human Rights and the nascent human rights regime being developed under international law, or whether the very concept of human rights is a Western conceit imposed on a culturally diverse world where the value systems that undergird human society and social order are sometimes quite different from those that shaped the rights-based American and French Revolutions. The Confucian moral order, based on right relationships within the Chinese community, becomes the test case for this intellectual premise that argues a kind of cultural relativism; the often lamentable human rights record of the Peoples Republic of China and the Communist Party leadership becomes the counterpoint that argues for the universal application of absolute principles of human rights.

The source of this debate is the “Asian values” argument put forth most forcefully by Lee Kuan Yew, the first Prime Minister of Singapore and now “Minister Mentor” to that state’s leaders.

Asian societies are unlike Western ones. The fundamental difference between Western concepts of society and government and East Asian concepts . . . is that Eastern societies believe that the individual exists in the context of his family. He is not pristine and separate. The family is part of the extended family, and then friends and the wider society. There is a little Chinese aphorism which encapsulates this idea: *Xiushen qijia zhiguo pingtianxia*. Xiushen means look after yourself, cultivate yourself, do everything to make yourself useful; Qijia, look after the family; Zhiguo, look after your country; Pingtianxia, all is peaceful under heaven.¹

This statement of Confucian values leads to an Asian expression of communitarianism that argues for the place of the individual in the context of multiple obligations to family, community, and state, and by contrast sees the Western concept of the morally autonomous individual (what one voice in this film calls the “Lone Stranger” model) as social pathology. In such a context conformity may be a

higher value than dissent and freedom of speech, economic well-being may take precedence over political freedoms, and order must take precedence over chaos.² Asian leaders translated these ideas into what has become the classic statement of human rights relativism in Article 8 of the 1993 Bangkok Declaration: “. . . while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.”³

Universalist critics of this “Bangkok objection” argue that cultural relativism represents little more than a philosophical rationale for evading human rights obligations, and they see in the Bangkok Declaration an atavistic reassertion of national sovereignty defined as “non-interference in the internal affairs of states.” Such human rights advocates point to the suppression of political dissent in China and elsewhere in Asia as clear evidence of human rights violations and denounce any justification for stifling political dissent in the name of social order as kowtowing to political thuggery. Chinese leaders, often in concert with other Asian heads of state, reject Western criticisms of so-called repressive actions as evidence of cultural imperialism, moral hypocrisy, and thinly veiled hegemonism on the part of the United States and others.

By taking students inside this often heated argument, Ray Olson vividly illustrates that discussions of human rights and contemporary China are not only philosophical discourses, they are also infiltrated by highly charged political agendas. While a wide range of scholarly voices is included in this video, the dialogue takes shape around the intellectual conflict between Confucian philosopher and China scholar Roger Ames (University of Hawai‘i), who argues that the cultural uniqueness of political orders must be taken into account in the human rights debate, and international relations scholar Jack Donnelly (University of Denver), who argues that human rights are absolute and universally applicable. Indeed, the packaging for both the VHS and the DVD versions of the film features competing “sound bites” from these scholars. Ames opines, “I don’t believe that the Universal Declaration of Human Rights is entirely congruent with Chinese culture.” Donnelly retorts that, “We should not accept the idea that cultures are free to treat people any way they want.”

This may not be the stuff of dueling pistols at fifty paces, but it is serious intellectual exchange and there is considerable potential for students to learn from it, especially when they can be pushed beyond the inevitable tendency to polarize intellectual positions to see the conversation as offering a range of insights into Chinese behavior and the highly politicized nature of the human rights debate.

There are actually two quite different video products here. The first, a fifty-minute video “documentary,” attempts to capsuleize the China and human rights debate by juxtaposing a dialogue between China scholars and human rights advocates of varying opinions with exquisitely photographed scenes of life in contemporary China cut, occasionally, with historical footage. The second, an extended DVD format, includes the documentary and adds more than sixty minutes of additional material: extended interviews with the principals in the documentary, statements from Chinese leaders, more detailed explorations of controversial issues such as the “one child only” policy and China’s “floating population” of displaced rural dwellers, and thoughtful discussion questions posed by the filmmaker.

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Both the documentary and the extended DVD are broken into five topical sections, which permits compartmentalizing the dialogue itself and facilitates more focused exchanges for classroom discussion. The first section rehearses the history of the Universal Declaration of Human Rights and introduces the conflict between the relativist and universalist positions. This is followed by a discussion of the uniqueness of Chinese culture, an exploration of the argument that China's size and population, when coupled with rapid economic and social change, require that maintaining order must take precedence over protecting human rights, and examination of the argument that economic growth and trade will facilitate an improved human rights climate in China more than will critical rhetoric and the threat of economic sanctions. A final section introduces Beijing's repression of the Falun Gong movement as a mini-case study in US-China human rights discourse and asks whether this is a religious movement, whose followers' right to practice their faith should be protected, or whether this is a nascent political movement that threatens the stability of the Chinese regime, a phenomenon Beijing describes as "using a cult to sabotage implementation of the law."

Despite all the care that has gone into collecting interviews, assembling visual images, and editing disparate points of view into a compelling reconstruction of a complex and emotional debate, there is an unfortunate misstatement early in the limited narration of the documentary that can make for serious historical misunderstanding. The assertion that "China was not included in this agreement [the Universal Declaration of Human Rights] until 1971 when the People's Republic of China replaced Taiwan in the General Assembly," is factually incorrect. The Universal Declaration of Human Rights was drafted in 1947–48 and was approved without dissent by the fifty-eight members of the United Nations General Assembly on December 10, 1948, including the approval of the Republic of China then represented by the Nationalist government of Chiang Kai-shek, still resident on the mainland.⁴ China's representative on the Human Rights Commission, P. C. [Peng-Chun] Chang, served as one of two vice-chairs of the Commission under its Chair, Eleanor Roosevelt, and was a leading member of the drafting committee for the proposed statement of human rights. Indeed, Chang is said to have been fond of reminding the drafting committee that "Confucius as well as Thomas Aquinas" should be included in their deliberations.

At one point in the documentary, Roger Ames observes that the Universal Declaration of Human Rights "is not culturally innocent," by which he means to say that the doctrine of human rights is heavily infused with Western philosophical insights. While that is surely true, it is also fair to say that the Universal Declaration is far from being culturally naïve.⁵ When French representative René Cassin's

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initial draft for the critical first article of the Universal Declaration was submitted, it read: "All men are brothers. As human beings with the gift of reason and members of a single family, they are free and equal in dignity and rights." P. C. Chang is said to have insisted that it was necessary to add the Confucian concept of "two-man-mindedness" (the concept of *rén* as benevolence, compassion, or humanness) as a complement to the emphasis on reason in order to underscore that man should act in consideration of his fellow human beings. The British and Lebanese representatives, accepting Chang's insight, then suggested that the English word "conscience," not implying some internal moral voice but rather the emotional and sympathetic basis of morality "which reason must cultivate" should be added to Article 1.⁶ The final version of that article now reads: "All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." This version comported perfectly with Chang's statement before the drafting committee:

. . . [the Chinese] have ideals and traditions different from those of the Christian West. These ideals include good manners, decorum, propriety, and consideration for others. The second sentence of Article I calls upon men to act toward one another in a spirit of brotherhood. That attitude is perfectly consistent with the Chinese attitude toward manners and the importance of kindly and considerate treatment of others.⁷

Chang's use of Western philosophical language represents an accommodation with the broadly international context of the then newly-established United Nations and the desire for broad-based support for the document, but it makes his voice and opinions no less culturally Chinese. Beijing may well argue that the voice of the People's Republic of China, which was not proclaimed until October 1, 1949, was not present at the drafting of the Universal Declaration of Human Rights, but it is simply wrong to say that no Chinese voice was present or that Chinese cultural values were ignored.

Though the production values of this video compendium are commendably high, the filmmaker is presented with a difficult dilemma. To his credit, Olson wants to allow the voices of the China experts and their differences of opinion to speak for themselves. This is an admirable goal, but it is a method that leaves the editors of the documentary searching for video footage that can "cover" the proverbial "talking heads" and illuminate the thoughts expressed in what is really a series of expert monologues. The functional solution to this problem is found on the DVD: produce a documentary replete with beautiful images of China, even when the images on the screen only occasionally inform the intellectual discourse, and produce an extended discourse that makes no excuses for its idea-laden but visually limited stream of challenging conversation. Despite these difficulties, it is nevertheless true that intellectual argument takes on far more compelling dimensions for students when it comes from identifiable speakers on the screen than do the same differences of opinion presented on the faceless, voiceless page.

While the shorter VHS-formatted "documentary" fits temptingly into a fifty-minute class period, its use in that framework cannot be recommended. The VHS "start to finish" documentary format inevitably creates a narrative drive that tends to tip the balance from reasoned, if contentious, discourse toward intellectual jousting

between adversarial positions personified by Ames and Donnelly. Without intending to do so, the momentum of the documentary pushes more toward an either/or resolution of this intellectual dispute, and invites stereotyping of positions and those who hold them as either apologists, insufficiently sensitive to the human rights abuses of the Beijing regime, or human rights absolutists, insufficiently sensitive to China's rich cultural heritage and the complex inconsistencies international politics requires of policymakers. By contrast, the DVD format, because it includes the documentary and the extended material, and because that material can be accessed in a start-stop-searchable mode, encourages a more historicized, problematized, and richly nuanced approach to both the philosophical dialogue on human rights and the complexities of US-China relations. That will require an investment of time: time well spent both in framing central human rights issues, helping students understand how human rights questions may look very different from the perspectives of Beijing and Washington, and in developing students' critical thinking skills.

Olson attempts to frame the China human rights controversy in terms of a "search for common ground," but a dialectical approach to the wide-ranging opinions presented in the film may pay greater dividends in understanding. Somewhere between the thesis of rights universalism and the antithesis of cultural particularity (I am here intentionally avoiding the term "relativism") there must be a new synthesis in the form of what Roger Ames calls "inclusive pluralism" that will permit "a basis for mutual critique."

In a post-9/11 world, neither the United States nor China should be exempt from searching criticism of their human rights records. What should be clear is that the terms of the universalist vs. cultural values debate cannot be distilled into a simplistic dichotomy with the United States as the advocate of universalism and China as the recalcitrant defender of relativism. Whatever the merits of the philosophical debate, neither the United States nor China has hesitated to assert the primacy of sovereignty over the development of international human rights law. Where the two key pieces of international human rights law—both promulgated in 1966—are concerned, the positions of the United States and China are mirror images of each other. The United States has ratified the International Covenant on Civil and Political Rights, but not the International Covenant on Economic, Social, and Cultural Rights; China has done exactly the reverse.⁸ Neither state has allowed international human rights law to interfere with its continued use of capital punishment, though both have accepted the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment.

Ironically, if there is common ground between China and the United States on human rights, it is in both states' persistent and selective assertion of national sovereignty over the development of human rights law.⁹ The selective application of human rights law by China and the United States, in turn, alternates between a politically weighted cudgel aimed at demonizing the other party and righteous rationalization of self-serving legal interpretation.¹⁰ There, unfortunately, the ground between China and the United States is all too common. ■

NOTES

1. Fareed Zakaria, "Culture Is Destiny—A Conversation with Lee Kuan Yew," *Foreign Affairs* (March/April 1994).

2. The human rights debate often makes the distinction between first-generation rights, which focus on personal, civil, and political rights, and second-generation rights, which focus on social and economic well-being. This distinction, while not named in the Universal Declaration of Human Rights, is enshrined in that document as the melding of two different rights agendas advanced by the United States and the Soviet Union. Articles 3–21 represent civil and political rights, while Articles 22–27 introduce the idea of economic and social rights. Article 29 introduces the idea of reciprocal duties, a notion that was a persistent undercurrent in the drafting of the Universal Declaration and a particular concern of the Chinese Vice-Chair of the United Nations Human Rights Commission in 1948—P. C. Chang, diplomat, Confucian scholar, and western-trained philosopher.
3. “Final Declaration of the Regional Meeting for Asia of the World Conference on Human Rights” (29 March–2 April, 1993). See: <http://law.hku.hk/lawgovtsociety/Bangkok%20Declaration.htm>. The Bangkok meeting was one of three preparatory conferences (Bangkok, Thailand, Tunis, Tunisia, and San Jose, Costa Rica) held prior to the World Conference on Human Rights that met in Vienna, Austria. While that conference “took into account” the work of the regional conferences, by no means did it accept the “Bangkok objection” or the cultural relativist position. Instead, the Vienna Declaration presents a strong reaffirmation of the universal human rights ideal. “All human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms (Vienna Declaration I.5).” See “Vienna Declaration,” World Conference on Human Rights, Vienna, 14–25 June 1993, UN Doc. A/CONF.157/24 (Part I) at 20 (1993). An electronic version of this document is available through the University of Minnesota Human Rights Library at <http://www1.umn.edu/humanrts/instree/11viעד.html>.
4. The UDHR was actually approved by a vote of forty-eight member states in favor, including the Republic of China, eight abstentions—six Soviet bloc states as well as Saudi Arabia and South Africa—and two absences. Because the UDHR is an aspirational document, a statement of goals, and not a treaty, there was no formal signature process.
5. The drafting committee for the Universal Declaration of Human Rights included representatives from Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom, and the United States of America. Dr. John Humphrey of Canada headed the United Nations staff supporting the work of the drafting committee.
6. This account of P. C. Chang’s influence on the drafting process is found in Pier Cesare Bori, *From Hermeneutics to Ethical Consensus Among Cultures* (Atlanta, GA: Scholars Press, 1994) as cited in Sumner B. Twiss, “Discussing Confucianism and Human Rights,” in Wm. Theodore de Bary and Tu Weiming, eds., *Confucianism and Human Rights* (New York: Columbia University Press, 1998), 41.
7. See P. C. Chang, “Chinese Statements During Deliberations on the UDHR (1948),” in Stephen C. Angle and Marina Svensson, eds., *The Chinese Human Rights Reader: Documents and Commentary 1900–2000* (Armonk, NY: M. E. Sharpe, 2001), 206–213. These statements are taken from the notes of a rapporteur to the sessions and are hence always rendered in the past tense. I have revised the entries by employing the present tense to give P. C. Chang’s statements an active voice. So, too, the use of male gendered pronouns to stand for supposedly gender neutral language is a product of the times, the late 1940s, and has been left unchanged for the sake of historical accuracy.
8. Data on United States and Chinese participation in the growing international human rights regime, including status of treaty obligation and dates of accession or ratification, can be found on the Web site of the United Nations High Commissioner for Human Rights, www.unhcr.org.
9. Julia Ching, Professor Emerita of the Study of Religion at the University of Toronto, has skillfully pointed out that, far from rejecting human rights language, the Chinese government has often been quite willing to adopt the rhetoric of human rights, though with a Chinese interpretation applied. She quotes a 1991 Chinese government White Paper on Human Rights which begins by adopting the stance that, “It has been a long-cherished ideal of mankind to enjoy human rights in the full sense of the term,” and then continues to examine both the Western-developed concept of human rights and a variety of Chinese traditions, some more accommodating to the ideals of human rights than others. Ching also notes that the Chinese tendency to see human rights rhetoric more in political than philosophical terms is reinforced by the fact that Chinese does not have an exact equivalent for the word “rights”; instead, the term is translated as *renquan* (human power). This reinforces the concept of human rights as a power struggle, which in turn is understood as a threat to the establishment, i.e., the central role of the Communist Party. See Julia Ching, “Human Rights: A Valid Chinese Concept?” presented at the March 1995 NGO Forum of the United Nations Summit on Social Development, at <http://www.religiousconsultation.org/ching.htm>.
10. One of the more interesting responses to the question of how to deal with human rights in terms of once universal and uniquely Chinese comes from historian Jeffrey Wasserstrom, who suggests that the way to deal with China is to stop confronting the country with “vaguely defined international standards” and “to take as their starting point Beijing’s own claims about history and politics.” The US “should abandon the language of one-upmanship (which often comes across as patronizing) and adopt instead the language of shaming (which takes the Chinese government as much as possible at its own word).” Such a culturally nuanced point of view would accept the Chinese government’s statements of principle as both valid and congruent with emergent international human rights law and then suggest that the Chinese are failing to meet their own stated standards of good government. See Jeffrey N. Wasserstrom, “Beyond Ping-Pong Diplomacy: China and Human Rights,” *World Policy Journal*, Volume XVII, No. 4 (Winter 2000/2001).

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