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THE CHALLENGES OF BIOETHICS IN ASIA: A NATURAL LAW PERSPECTIVE

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Introduction

Asia is not a homogenous entity, its vast geography and cultural, religious and ethical traditions embrace Confucianism, Hinduism, Buddhism, Islam and Christianity. The challenges facing bioethics in Asia are manifold. Bioethics began in the West as a discipline that has developed over the past forty years. Even though its roots are in the Christian moral tradition, bioethics today is predominantly secular.

Two contrasting images mark the encounter between East and West—the sad memory of colonization and the recent phenomenon of economic, military and technological growth. This rapid growth has been seen by some as an attempt to restore the ancient Asian empires — in particular China and India — to their proper places on the world stage by overcoming poverty and backwardness. The attempt to catch up economically and technologically has however

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created certain unease. Technology and free market economics are not value-free. They often come with a worldview that champions liberalism, individualism, unfettered capitalism, scientism and a blind trust in technological solutions. Modernity is at the same time attractive to Asia and at odds with its time-honoured values.

This brings us to the challenges of ethical behaviours in a global village. In some Asian countries, the practices of medical tourism, organ trafficking, selective abortion based on gender, and lack of individual informed consent are seen as violations of universal human rights by international standards. At the same time, many of these practices are economically driven because of the availability of relatively inexpensive medical services, body parts, or wombs-for-rent in some countries. Due to the general underdevelopment of local bioethical reflection, it is not uncommon for academics and governing ethical bodies to adopt wholesale secularized bioethical principles. Nonetheless, some scholars have raised the question of whether or not global ethics of universal human rights might not be neo-colonialism in disguise. They appeal to Asian values based on traditions, familial relationships and religion which they claim are more compatible with local customs and superior to the Western rights- oriented self-centeredness.[1]

How can the natural law tradition shed light on these challenges? The recent International Theological Commission document *The Search for Universal Ethics: A New Look at Natural Law* seeks to address the perennial problem of universality and particularism in ethics. It proposes rationality as the common ground to deduce the universal basis for human rights and dignity, thus avoiding the danger of consensus ethics prevalent in the secularized West on the one hand, and the danger of conflating multicultural and multi-religious settings with ethical relativism on the other. This paper will analyze the strength and weaknesses of some Asian philosophy regarding the human person, ethics, science and nature from this perspective.

Last but not least, the paper will look at the question of the *incommensurability* of ethical traditions with a look at the response of Alasdair MacIntyre. While shunning cultural relativism, he recommends mutual understanding of rival moral traditions through

[1]See Hyakudai Sakamoto, "Towards a New Global Ethics," *Bioethics* 13 (1999) 191–197; Widdows, Heather. "Is Global Ethics Neo-colonialism? An Investigation of the Issue in the Context of Bioethics," *Bioethics* 21, 6 (2007) 305-315.

in-depth rational debates and encounters in order to arrive at the most valid moral system.

Bioethics in Asia or Asian Bioethics

Bioethics as we know it began in the USA, but suffered a process of secularization that I have described earlier, with priciplism becoming the dominant approach in policymaking and at the bedside.[2] This secularized version of bioethics was eventually exported to the rest of the world as part and parcel of Westernized medicine. The Asian response has been ambivalent. First, there is a general suspicion of imperialism inherited from its historical past. Since Asians in general understand ethics in the context of religious traditions, this difficulty is further compounded when Western bioethics is perceived by the East as Christian-based, when in fact it is a secularized counterfeit. Moreover, Asians initially incorporated Western bioethics in their desire to join the civilized world and conform to international human rights standards. But this practice was a double-edged sword, since economic success at times was made at the expense of ethical concerns.[3] Some of the more notorious examples are the creation of hubs for medical and reproductive tourism, illegal trafficking of organ, gametes and womb-for-hire that exploit the poor. China has also been put under the spotlight for the tainted milk scandal, the availability of stem cell treatments of unproven efficacy and safety, and the harvesting of organs from inmates. The fraudulent research of Hwang from Korea who made international news regarding human cloning exemplifies the difficulties facing bioethics in Asia.[4]

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[2]See Joseph Tham, "The Secularization of Bioethics," *National Catholic Bioethics Quarterly* 8, 3 (2008) 443-453.

[3]See Norio Fujiki and Darryl R.J. Macer, *Bioethics in Asia*, Christchurch: Eubios Ethics Institute, 1998, 296. http://www.eubios.info/ASIAE/BIAE296.htm

[4]See, for example, Shree Mulay and Emily Gibson, "Marketing of Assisted Human Reproduction and the Indian States," *Development* 49 (2006) 84-93; Dean Menchavez, "The Philippines' Ethical Time Bomb," *Mercator Net*, May 9, 2008, http://www.mercatornet.com/articles/view/the_philippines_ethical_time_bomb; Nirmala Carvalho, "India on the Trail of Doctor at Head of Kidney Traffic Ring," *Asia News*, January 2, 2008, http://www.asianews.it/index.php?l=en&art=11411&size=&_sm_au_=iVV0f7TSKDbVRQKH; A. Saniotis, "Medical Bioethics and Medical Tourism in Thailand," *Eubios Journal of Asian and International Bioethics* 18 (2008) 150-151; Andy Coghlan, "China Cracks Down on Stem Cell Tourism," *New Scientist*, September 4, 2009, http://www.newscientist.com/article/dn17725-china-cracks-down-on-stem-cell-tourism.html; David Matas and David Kilgour, "Bloody Harvest: Revised Report into Allegations of Organ Harvesting of Falun Gong

In the last twenty years or so, in part due to the economic boom in the Asian Pacific region, there has arisen a greater assertion of its unique identity. The establishment of the Asian Bioethics Association (1995) which has held eleven Asian Bioethics Conferences since 1995, the launching of *Eubios Journal of Asian and International Bioethics* (1995) and *Asian Bioethics Review* (2009), and the proliferation of literature all attest to this growing phenomenon.[5] While the awareness of the need to reflect on its own ethical tradition and not copycat the West is good news, there is a certain identity crisis regarding Asian bioethics.[6] The title of a recent article by Hans-Martin Sass "Asian and Western Bioethics: Convergence, Conflicting, Competing?" is indicative of this dilemma. She did not, however, reach any real conclusions other than reiterating that there is complex interplay of issues without evident consensus other than a common rejection of torture, terrorism, and slavery.[7]

Asia is a huge continent, home to many cultures and religions including Buddhism, Daoism, Hinduism, Confucianism, Sikhism, Islam, and Christianity. Even Asians are unsure what Asian values are. It is amusing to note an Indian scholar who believes that Asian bioethics should exclude contributions from the Chinese culture which is too "monolithic" and the Japanese society because it is too "Western."[8] Perhaps because of the residue of anti-colonial sentiments, some authors define the Asian approach to bioethics as anything that is opposed to the West. They argue, for example, that informed consent is primarily a familial and not an individual concern in Asia; brain death definition is rejected while euthanasia is acceptable in Japan; and the preference for different standards of healthcare distribution.[9] Yet, when one compares some of these differences carefully, one discovers that the importance of family in decision-making and truth telling is also present in Southern Italy,

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Practitioners in China." 31 January, 2007, http://organharvestinvestigation. net; Chei Song Gretchen Vogel, "Hwang's Stem Cell Claims Further Discredited," *Science Now*, December 29, 2005, http://news.sciencemag.org/sciencenow/ 2005/12/29-01.html

[5]See http://www.eubios.info/; www.asianbioethicsreview.com

[6]See Norio Fujiki and Darryl R.J. Macer, *Bioethics in Asia,* 66-69, 86-91, 98-99.

[7]See Hans-Martin Sass, "Asian and Western Bioethics: Converging, Conflicting, Competing?" *Eubios Journal of Asian and International Bioethics* 14 (2004) 12-22.

[8]See Fujiki and Macer, *Bioethics in Asia*, 70-73, 102.

[9]See Fujiki and Macer, *Bioethics in Asia*, 300; Renee C. Fox and Judith P. Swazey, "Medical Morality is not Bioethics — Medical Ethics in China and the United States," *Perspective in Biology and Medicine* 27, 3 (1984) 336-360.

Africa, and Latin America, and the discrepancies between the East and the rest of the world may not be as drastic as they first appear.[10]

The more positive approach describes the oriental way as being more holistic, religious-based, placing the family before the self, the community before the individual, and seeking the virtues of harmony and tolerance. This is contrasted with the occidental emphasis which tends to be dualistic, secular, individualistic and overly logical.[11] Some of these authors interestingly believed the Asian approach can even resolve the interminable debates that have plagued the West, offering an alternative and less conflictive process to address the current interrogatives on sustainability and human dignity.[12]

A third approach is characterized by Michael Tai's *The Way of Asian Bioethics* which unapologetically imports Western bioethical methodology in local Asian setting. He interprets humanization as the aim of medicine that is found in all major Asian religions — harmony among human beings (Confucianism, Hinduism, Buddhism), between humans and nature (Hinduism, Daoism, Shintoism, Confucianism), and between humans and God (Hinduism, Shintoism, Islam). This novel approach reinterprets the four principles of Childress and Beauchamp in the Asian context, deemphasizing the individualistic aspects and exalting the communitarian elements. In this manner, nonmaleficence is understood in light of the Hindu and Buddhist teachings of *Samsara* and *Ahimsa* which regard all life — human or otherwise — as One and sacred while advocating non-violence towards them. Beneficence is identified with compassion in Buddhism and *ren* in Confucianism as the most humane virtue that guides all human relationships and affirms human dignity. Autonomy is mitigated to mean respect. In Confucian thought, the creation of a good society is based on harmonious human relations. Thus, filial piety toward the elders

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[10]See Mark Aulisio, "Bioethics in a Global Village," *The American Journal of Bioethics* 6, 1 (2006) 1-4.

[11]See Kam-por Yu, "The Alleged Asian Values and Their Implications for Bioethics," in *Asian Bioethics in the 21st Century*, ed. Sang-yongSong, Young-Mo Koo and Darryl R.J. Macer, ChristChurch: Eubios Bioethics Institute, 2003, http://www.eubios.info/ABC4/abc4232.htm

[12]See Ravichandran Moorthy, "Eastern Worldviews of Bioethics," *Eubios Journal of Asian and International Bioethics* 20, 4 (2010) 104; Soraj Hongladarom, "Asian Bioethics Revisited: What is it?, and is there Such a Thing?" *Eubios Journal of Asian and International Bioethics* 14, 6 (2004) 194-197.

(*xiao*) can be analogously applied to create a harmonious doctor-patient relationship. Likewise, the principle of justice is softened from being rights-oriented to mean correct actions, duty and sacrifice. This is comparable to the Buddhist *Dharma*, the embodiment of law, custom and religion not dissimilar to the notion of natural law; and the Confucian virtue of righteousness (*yi*) and correct relationships among societal members (Rectification of names). According to Tai, *Moksha* in Hinduism, *Dharma* in Buddhism, and *ren* in Confucianism are the basis of Asian bioethics.[13]

As we shall see, there is an open debate on whether the claim of global ethics — including natural law approaches — is necessarily commensurable with Asian traditions. Certainly, local characteristics vary a great deal from place to place within this huge continent. Therefore, it is more appropriate to use the more descriptive terms "bioethics in Asia" than "Asian Bioethics" which implies the existence of a well-defined entity.[14] The reality of cultural diversity, however, does not necessarily infer the inevitability of moral pluralism that is sometimes conceded, for instance, by denying a single outlook but affirming "a collage of culturally informed perspectives built upon an ever-increasing aggregate of shared experiences."[15]

Challenges of Bioethics in Asia

Bioethics faces many challenges today. In Asia, the particular questions deal with the role of religion in ethics, the concept of the human person, and the proper relationship between ethics and science. All these challenges converge on Asia's particularity in the greater context of global ethics.

Asian countries did not have the same experience of secularization that took place in the Western hemisphere.[16] Traditions, especially

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[13]See Michael Tai, *The Way of Asian Bioethics*, Taipei: Princeton International Printing Co, 2008. Also see Daniel F.C. Tsai, "Ancient Chinese Medical Ethics and the Four Principles of Biomedical Ethics," *Journal of Medical Ethics* 25 (1999) 315-321

[14]See also Alastair V. Campbell, "Mad Dogs and (Arguably) Madder Scotsmen: Biomedical Ethics in an Asian Context," *Clinical Ethics* 4 (2009) 57-58.

[15]Leonardo D. de Castro, "Is there Asian Bioethics?" *Bioethics* 13, 3/4 (1999) 183-190.

[16]See, for example, Rodney Stark, "Secularization, R.I.P." *Sociology of Religion* 60, 3 (1999) 249-273; Hsinchih Chen, *The Development of Taiwanese Folk Religion, 1683-1945*, Washington, DC: University of Washington, 1995; Graeme Lang and Lars Ragvald, *The Rise of a Refugee God: Hong Kong's Wong Tai Sin*, Oxford: OUP, 1993; John Nelson,

religious ones, still have a great hold shaping societal values, norms and ethical behaviours. Asians are known to be spiritually inclined and religion has provided them with meaning on the mystery of life and death, health and sickness, suffering, vulnerability, sexuality, generation and family. Even though modernization and democratization has taken its toll on the ethical realm, Asians continue to esteem religious sources as valuable guides to right living. Religious ethics, however, do not provide ready answers to the complex issues provoked by the fast-paced advancement of biomedicine. Thus, faith-based ethical traditions are facing the methodological problem of what scriptures or writings to employ, how to interpret them, how authoritative are the writings and traditions, and if there can really be normative claims of moral truth at all.

At the centre of the debate is the concept of the human person. The Western accent on the individual, endowed with inalienable freedom and rights, is the basis of modern democracy. Yet, certain Asian beliefs and practices, such as the caste system in Hinduism and the primacy of the family in Confucian thought, is posing a challenge to the universality of these claims.[17]

Ancient civilizations were not devoid of important scientific discoveries. The Chinese invented gunpowder, paper, printing, and the compass and the Indians were the first to use the decimal system. However, Asians placed a greater emphasis on the humanities than on the sciences, with a consequence that many of these discoveries did not fully realize their potentials. Modern science as we know it today came from the West with the commencement of the Industrial Revolution. To a great extent, this empowered the rise of the West in the world, both economically and politically.

With the globalization of science and technology, the Orient has had to struggle between playing catch-up to the West and a worldview that underscores our harmonious relationship with nature and frowns upon its exploitation. As one author notes: "[W]hat the moderns know as the method of scientific discovery and

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"Shinto Ritual: Managing Chaos in Contemporary Japan," *Ethnos* 57, 1/2 (1992) 77-104.

[17]See, for example, Ole Doering, "China and Eugenics — Preliminary Remarks Concerning the Structure and Impact of a Problem of International Bioethics," in Fujiki and Macer, *Bioethics in Asia*, 86-91.

technological innovation seems inimical to the mystical and occult practices of Daoism and Buddhism and to the hierarchical social philosophy of Confucianism."[18]

Daoism in particular rejects interference with and manipulation of the natural cycle, especially when it deforms nature for the sake of profit. Buddhism, other than employing technology to engineer construction projects of shrines and temples, may want to engage science on the questions of causality and embryology, as the latter is an important concern for the doctrine of reincarnation.[19]

This brings us to the question of how these religious traditions interpret new scientific findings. Some authors take the pragmatic approach, believing that science and technology are value-neutral and can be exported and adopted anywhere without fuss.[20] To achieve the top spot in the global arena through excellence and often fierce and cutthroat competition is what really counts! As one speaker from Japan — the first technologically advanced country in Asia — affirms, what matters most is to "become a science and technology based country in the 21st century."[21] Similarly, many Chinese intellectuals look upon scientific proficiency as the ladder of success to attain high living standards, thereby once more reclaiming China's reputation and relevance. Nevertheless, Western science and practices come with definite prejudices — logical positivism which overestimates the power of science, technological imperative which trumps ethical concerns, and blatant commercialization of biotechnology. The recent abuses found in many parts of Asia make it evident that science without ethics can be catastrophic.

As Asia gain prominence on the international scene, the ethical mandate becomes more urgent. Yet, several questions remain unsettled. Is there such a thing as global ethics that all nations must subscribe to? What is the basis of this ethics? Would it suppress regional, cultural, ethnical, religious or traditional sources of wisdom? Isn't this a type of ethical neo-colonialism? Bioethics in Asia

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[18]Ted Peters, "Science and Religion" in *Encyclopedia of Religion*, ed. Lindsay Jones. Vol. 12. 2nd ed., Detroit: Macmillan Reference USA, 2005, 8180.

[19]See Richard Payne, "Buddhism and the Sciences," in *Bridging Science and Religion*, ed. Ted Peters and Gaymon Bennett, London: SCM Press, 2002, 153–172, cited in Ted Peters, "Science and Religion," in *Encyclopedia of Religion*, 8180.

[20]See Fujiki and Macer, *Bioethics in Asia*, 290-292.

[21]See Fujiki and Macer, *Bioethics in Asia*, 6.

within the global village forces us to confront the dilemma of how to accommodate cultural diversity while avoiding ethical relativism.[22]

Natural Law and Global Ethics

The 2008 International Theological Commission (ITC) document *The Search for Universal Ethics: A New Look at Natural Law* addresses the possibility of global bioethics.[23] The beginning of this document highlights the need for an awareness of a global solidarity and calls for the "search for common ethical values" amid current challenges. Most interesting is the recognition of the presence of natural reason in "the wisdom traditions and religions of the world" — *Dharma* and *Ahimsa* in Hinduism; the five ethical precepts or *sila* of Buddhism; the *Tao* or the Way in Daoism; the harmonious virtues indicated by the way of Heaven (*tian dao*) of Confucian thought; the ethics of life in traditional African religions; and the morality of obedience in Islam.[24]

The ITC document recognizes far-reaching applicability of natural law in the global context of bioethics and human rights. It traces the historical development of this from Greco-Roman sources, especially their legal tradition, with enrichment from Christian thought and finally the Catholic magisterium. Roman law, Francisco de Vitoria, and Grotius have made important contributions to the notion of natural rights that prepared the way for modern human rights. However, without a firm acknowledgement of human nature, human rights in the absence of duty and limits can be abusive.[25] On the other hand, it protects individual conscience in face of unjust laws:

> [F]acing the menace of the abuse of power, and even of totalitarianism, which juridical positivism conceals and which certain ideologies propagate, the Church recalls that civil laws do not bind in conscience when they contradict natural law, and asks for the acknowledgment of

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[22]See Jayapaul Azariah, "Asian Bioethics in Global Society: Affirms the Challenges," *Asian Bioethics in the 21st Century*, http://www.eubios.info/ABC4/abc4219.htm

[23]The original document in Italian can be downloaded from http://www.vatican.va/roman_curia/congregations/cfaith/cti_documents/rc_con_cfaith_doc_20090520_legge-naturale_it.html The observations and quotations is taken from an unofficial English translation downloaded from http://www.pathsoflove.com/universal-ethics-natural-law.html

[24]See *The Search for Universal Ethics*, no. 12-17.

[25]See *The Search for Universal Ethics*, no. 18-35. See also Joseph Ratzinger and Jürgen Habermas, *The Dialectic of Secularization: On Reason and Religion*, San Francisco: Ignatius Press, 2007, 53-76.

> the right to conscientious objection, as also the duty of obedience in the name of obedience to a higher law.[26]

Confronting relativistic individualism — in which every subject decides for himself what is good and right — and cautious about democratization of ethics based on consensus, natural law proposes objective moral truths knowable by human reason. Natural reason can engage secular positions in public debate by presenting non-sectarian arguments, which are also directed towards individual and common good.[27]

Grounded on our natural capacity to reason, it can concurrently counteract the claims of cultural relativism while permitting intercultural and interreligious dialogue. According to Joseph Ratzinger, a healthy tension between faith and reason, avoiding the extremes of fideism and rationalism, takes on an intercultural dimension as the debates within Christian, Buddhist, Hindu and Islamic cultures become more frequent. In the Regensburg address, the Pope recognizes that faith and reason can purify each another from extremism:

> We will succeed in doing so only if reason and faith come together in a new way, if we overcome the self-imposed limitation of reason to the empirically verifiable, and if we once more disclose its vast horizons… Only thus do we become capable of that genuine dialogue of cultures and religions so urgently needed today. In the Western world it is widely held that only positivistic reason and the forms of philosophy based on it are universally valid. Yet the world's profoundly religious cultures see this exclusion of the divine from the universality of reason as an attack on their most profound convictions. A reason which is deaf to the divine and which relegates religion into the realm of subcultures is incapable of entering into the dialogue of cultures.[28]

Nevertheless, many challenges lie ahead as the recent commentary on the ITC document from the Pontifical Academy of Life *Bioethics and Natural Law* realizes.[29] First, there are the oppositions from modern and postmodern deconstructionist philosophy, some of

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[26]*The Search for Universal Ethics*, no. 35, see also no. 91-92; John Paul II, Encyclical *Evangelium Vitae: On the Value and Inviolability of Human Life*, 1995, no. 73-74.

[27]See *The Search for Universal Ethics*, no. 35.

[28]Pope Benedict XVI, Address at University of. Regensburg, September 12, 2006, http://www.zenit.org/article-16955?l=english

[29]See Pontifica Academia Pro Vita, *Bioetica e Legge Naturale: Atti della Sedicesima Assemblea Generale dei membri, Città del Vaticano, 11-13 febbraio, 2010,* Lateran University Press: Rome, 2010.

which we have already mentioned. Scientific or logical positivism denies any source of truth outside of empirical science, whereas legal positivism places truth at the mercy of societal consensus.[30] Natural law has unfortunately been misconstrued as equivalent to the laws of nature, physical or biological laws. This "physicalist" interpretation leads to the accusation of committing the *naturalistic fallacy* of G.E. Moore or the *is-ought* problem of David Hume. The latter complained of invalidly deriving normative statements (what *ought* to be) from descriptive statements (about what *is*). A simple response to this critique is that while natural law reasoning takes biological data as a starting point, this does not exhaust the totality of the human person — a physical and spiritual unit — with finality, rights and duties written within.[31]

A related complication is the fact that natural law language has become unintelligible in contemporary culture. Pope Benedict XVI recognizes this difficulty in a 2007 address:

> This word for many today is almost incomprehensible due to a concept of nature that is no longer metaphysical, but only empirical. The fact that nature, being itself, is no longer a transparent moral message creates a sense of disorientation that renders the choices of daily life precarious and uncertain. [32]

In his earlier encounter with Habermas, he observed that the problem lies with the victory of evolutionary theories which makes it difficult today to discern the presence of rationality within nature. In other words, it is difficult to see purpose and finality (teleology) if nature has evolved and constantly evolves, and when these occurrences are contingent, casual, and random. It is not easy to find or develop a new language that is clear and intuitive, accessible, capable of engaging secular arguments and scientific reasoning, and address the variability and complexity of cases.

Finally, there is the question of historicity of natural law. The specific question here concerns the tension between universalism and particularism, between the application of universal norms and

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[30]See *Bioetica e Legge Naturale*, 61.

[31]See *Bioetica e Legge Naturale*, 57-61, 117-124, 155-158. Citing *Gaudium et Spes*, no. 51; *Veritatis Splendor*, no. 47, 50.

[32]Address Of His Holiness Benedict XVI To The Participants In The International Congress On Natural Moral Law, February 12, 2007, http://www.vatican.va/holy_father/benedict_xvi/speeches/2007/february/documents/hf_ben-xvi_spe_20070212_pul_en.html

particular situations. Some critics of natural law highlight the fact that certain practices such as usury, slavery, and death penalty have been justified by natural law reasoning in the past but are now shown to be untenable. Others oppose universal claims with cultural diversity. A third challenge regards personal choices in applying universal norms in concrete, varying situations, or in philosophical terms, between deontology and teleology. These apparent oppositions are resolved with universality of the first principle of the natural law — "One must do good and avoid evil" — and the application of the common precept to achieve a concrete good *hic et nunc* that varies through time and place.[33]

The Incommensurability of Cultures

We now reach the crux of the problem: Can any type of universal ethics — including natural law — resolve incompatible views on a particular bioethical issue due to cultural differences? This question has been amply analyzed by philosopher Alasdair MacIntyre who approaches the question of moral inquiry as "tradition-constituted" in *Whose Justice? Which Rationality?* According to this fascinating work, one cannot be an independent observer beyond a particular tradition speaking to all parties, but can only inquire from within a particular moral tradition to which one belongs.[34] This contrasts with the customary mode of comparing different cultural or religious traditions from an independent perspective of human rights or natural law, as if one were exterior to these traditions rather than recognizing that every critique comes from a particular tradition.[35] MacIntyre claims that there is no such neutral ground. He applies this paradigm in an article entitled "Incommensurability, Truth and the Conversation between Confucians and Aristotelians about the Virtues. These two virtue-based traditions are compared precisely because the many commonalities mistakenly lead many scholars to gloss over their incommensurable differences. For example, he cites a strong interdependence among Aristotelian virtues which is absent in the Confucian view; and the Confucian prerequisite of performing

[33]See *The Search for Universal Ethics*, no. 36-54.

[34]See Alasdair MacIntyre, "Incommensurability, Truth and the Conversion between Confucians and Aristotelians about the Virtues," in *Culture and Modernity*, 104-122; *Whose Justice? Which Rationality?* Notre Dame: University of Notre Dame Press, 1988.

[35]See Amartya Sen, "Thinking About Human Rights and Asian Values," http://www.cceia.org/resources/publications/dialogue/1_04/articles/519.html

exterior rituals (*li*) in the practice of right action (*yi*) would not make sense for Aristotle or Aquinas.[36]

Yet, for MacIntyre this incommensurability does not lead to relativism. "Incommensurability, it turns out, does not preclude rational debate and encounter."[37] Likewise, he dismisses the claim that incommensurability is merely a problem of translation, even though many concepts and terms do depend on a cultural milieu.[38] To enter the conversation, what is required — other than being sufficiently fluent in the languages of both traditions — is that the inquirer must be fully immersed in his own culture and history in order to accurately represent it. The first stage requires scholars to write a critical account of their own tradition, the development and history of its theory and practice, its successes and failures, challenges and crises. Rational encounters with rival civilizations take place in every authentic tradition throughout history, when coherence of customs and ethos are measured and tested, resulting in processes of adaptation, absorption and purification.[39] The second stage involves the more serious task when inquirers of one moral tradition write the history of the rival moral tradition from that rival tradition's point of view, "employing the standards of rational success or failure internal to that other's point of view."[40] Two conditions are necessary for this to happen. One must be prepared to expose one's own tradition with intellectual honesty and "maximal vulnerability" without hiding defects. Second, one must recognize that there is not a neutral, independent standpoint to judge between rival traditions. In this sincere conversation, such exchanges and comparisons would allow the rival traditions to see their weaknesses and strengths, and

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[36]See MacIntyre, "Incommensurability…," 106-107.

[37]MacIntyre, "Incommensurability…," 118

[38]See Donald Davidson, "On the Very Idea of a Conceptual Scheme," in *Inquiries into Truth and Interpretation.* Clarendon Press: Oxford, 1984, 183-198. MacIntyre claims on the contrary that, "Incommensurability may, but need not, be associated with and arise from untranslatability." Macintyre, "Incommensurability…," 111.

[39]See Jing-Bao Nie and Alasdair Campbell, "Multiculturalism and Asian Bioethics: Cultural War or Creative Dialogue?" *Journal of Bioethical Enquiry* 4, 3 (2007) 163-167.

[40]"Aristotelians need to understand the history of Confucianism as a form of moral inquiry and practice, as it has been, is or would be written from a Confucian point of view, in order to be able to learn to identify those epodes in which Confucianism becomes in some way problematic for a sufficiently tough minded and insightful Confucian." And *vice versa* for Confucians to understand Aristotelians. See MacIntyre, "Incommensurability…," 119.

rationally recognize their own incoherence and the superiority of their rival, with the possibility of abandonment of their own tradition.

Even though bioethics is still a new kid on the block, we can analyze some recent Asian writings to discover the trends and difficulties of moral conversation with the West. One journal issue on "Studies in Chinese Bioethical Traditions: Confucianism, Buddhism, and Daoism" offers a good example of the struggles of Chinese scholars to fully engage the Western moral tradition. In these articles (written in Chinese with English abstracts), there is a general over-simplification of Western civilization as egotistic or autocratic. Many of the critiques indiscriminately conflate liberal ideals with the Judeo-Christian tradition. They claim that the interminability of the abortion debate is caused by a dualistic concept of the body (citing Greek, Descartes and liberal sources), but do not do justice to the Judeo-Christian tradition that explicitly rejects dualism.[41] They have a misguided view of Christian creationism that emphasizes human dominion of animals while ignoring the biblical vocation of human stewardship of creation.[42] They claim the superiority of the Buddhist understanding of death over the Western secularized paradigm as a solution to the question of euthanasia, though this overlooks the Christian understanding of death not and as end but the beginning of New Life.[43] The small sample of articles available indicates the interest of Chinese bioethicists to compare their moral tradition with that of the West. However, their interpretation of Western tradition is often inadequate if not superficial, perhaps because what is presented to them in the academies is only part of the picture. It would be most helpful if Chinese scholars could have greater access to and familiarity with the long moral and religious tradition of the West and not only its recent secular manifestation. This is a precondition for a fruitful conversation.

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[41]See Jue Wang, "The Issue of Body and the Contemporary Dilemma of Abortion. A Critical Remark form a Traditional Chinese Perspective," *International Journal of Chinese and Comparative Philosophy of Medicine* 5, 2 (2007) 39-64.

[42]See Ruipeng Lei, "The Issue of Human-to-animal Relationship from a Chinese Perspective: The Case of Xenotransplantation," *International Journal of Chinese and Comparative Philosophy of Medicine* 5, 2 (2007) 79-91.

[43]See Kai Chen, "Euthanasia. A Buddhist View," *International Journal of Chinese and Comparative Philosophy of Medicine* 5, 2 (2007) 93-104.

Modern China is facing a dilemma. It desires to recuperate civic values and virtues so very necessary for the stability and prosperity of a country. It is looking for values that conform to international standards as much as possible but at the same time reflect its rich moral tradition. Can Confucian virtues serve this purpose without its corresponding hierarchic social structure or rites? A prolific writer on the subject is Ruiping Fan, who proposes a "reconstructionist" Confucianism that is antagonistic to Western liberal and secular bioethics.[44] He provocatively argues that Confucian ethics offer a more consistent virtue-based tradition centred on the family than the liberal one centred on individual rights. His account of Confucianism, with an emphasis on family and interpersonal relationships, is based on a substantial understanding of the divinity (*tien*) and the practice of religious rites (*li*). According to Fan, Confucianism is a religion and not just a humanistic philosophy. He chastises the neo-Confucians for buying into the liberal human rights language in an attempt to modernize Confucian thoughts. As the Chinese Rites controversy of the Catholic Church demonstrated in the 17th Century, whether Confucian rites carry religious significance has long been highly contentious. The question is not indifferent to our discussion. In my opinion, the majority of Chinese does not see or practice Confucianism as religion but as a philosophy of life. Fan's appeal to religion can be a way to justify certain idiosyncrasies and protect certain (family) values from "liberal" critiques. However, it may close the door on the rational conversation with the rest of the bioethical world, since helpful insights on relationality and familism could only be meaningful to adherents of the Confucian faith.[45] It also fends off critiques against the family piety system's unequal treatment of persons within and outside the family unit, which is not only a question of rights but also that of justice and dignity.[46] Fan's insistence on Confucian religiosity may to a certain extent radicalize the dichotomy between reason and faith, positing faith as the only

[44]See Ruiping Fan, *Reconstructionist Confucianism: Rethinking Morality after the West,* London / New York: Springer, 2009.

[45]See Ruiping Fan, "A Confucianism Reflection on Genetic Enhancement," *The American Journal of Bioethics* 10, 4 (2010) 62-70; "Confucian Familism and its Bioethical Implications," in Shui Chen Lee, ed., *The Family, Medical Decision-Making, and Biotechnology,* New York: Springer, 2007, 15-26.

[46]See Po-Keung Ip, "Confucian Personhood and Bioethics: A Critical Appraisal," in Ren-Zong Qiu, ed. Bioethics: Asian Perspectives: A Quest for Moral Diversity, Dordrecht: Kluwer, 2004, 53-61.

valid source of bioethical knowledge and praxis. While Fan's reconstructionist Confucian moral rationality offers a critique of Western liberalism, it tends to ignore its Christian and Aristotelian underpinning which, if MacIntyre is correct, is the more authentic moral tradition which can be recuperated.

Remarkably, the Jesuit missionary Matteo Ricci saw a great deal of compatibility between the Confucianism of the 17th Century and European Christian humanism. Originally, he entered China donned in a Buddhist habit, but soon he changed his appearance to that of Confucian literati. While he held sympathies with Confucian doctrines, he wrote polemically against Buddhist and Daoist doctrines. He identified the Confucian *ren* with the Christian notion of universal love, a position with which Fan would certainly take issue.[47] It is therefore quite a surprise to read Damien Keown's *Buddhism and Bioethics.* This work readily identifies natural law rationality with the Buddhist *Dharma* as the bioethical method. He rejects the common belief that the Buddhist ethical system is centred on rewards and therefore consequentialist, but claims that it is based on the pursuit of basic human goods. Taking this idea from John Finnis, Keown identifies three fundamental goods in Buddhist ethics — Life, Knowledge and Friendship-Compassion. In spite of the diversity between the sources of Buddhist bioethics and the Christian ones, this methodology allows a great deal of convergence on a wide spectrum of bioethical issues: abortion, brain death, euthanasia, IVF, etc.[48] Keown is definitely well-versed in the Buddhist monastic tradition. His sympathies with Catholic natural law tradition, however, make him bypass the commensurability question altogether. Natural law theorists tend to see their methodology as universal, independent and neutral, found in all rational human beings, and all other ethical reasoning must be measured against it. The question remains, in light of MacIntyre's tradition-constituted intercultural conversation, whether such a neutral ground truly exists and coincides with the natural law tradition.

Buddhism as a religion rose from Hinduism. In some way, Hinduism poses the greatest challenge of intercultural dialogue with the West because its religious culture and mentality are quite foreign

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[47]See Fan, *Reconstructionist Confucianism*, 28-32.

[48]See Damien Keown, *Buddhism and Bioethics,* London / New York: Macmillan / St Martin's Press, 1995, 20, 55.

to the Western mindset. In fact, there are very few works on bioethics from a Hindu perspective except an older work by Prakash Desai. He writes as a Hindu raised in that tradition who now practices medicine in America. For an Indian, experience is more important than essence, and truth is not merely logical or rational deduction, but more like a way to travel on, or a river that flows. As Desai says,

> Unknown facts are filled in, and the accounts become richer as they pass from mouth to mouth and generation to generation. As every Indian will say, "Don't confuse me with facts; the ones I don't know; I will make up." This attitude has resulted in flexible roles of ethical and moral conduct… The result is a profound conviction that "truth" or self-realization is discovered through many paths, and a simultaneous rejection of absolutes in considerations of personal morality.[49]

Syncretism is norm in Hinduism which is more of a tradition than a faith. It can be likened to river that absorbs different stories, traditions, cultures and even religions. Hindu ethics is primarily subjective, related to the attainment of one's spiritual goal. Objective ethics relate to the need of social organization and are taken up by *Dharma*, or duty, which lays down rules and ordinances of action related to one's position in society and his stage in life. According to Hindu conception of the universe and humanity, the differences in people according to their caste are unalterable. It is part of their makeup and fate and is not only a social construct. As a consequence, "the perspective of equality is not Indian."[50] In spite of its intrinsically religious nature, the caste system has been abolished in the modern Indian state. The encounter of Hinduism with the world made India realize the importance of human dignity, natural rights, and equality, which resulted in the abolishment of an essential religious tenet expressed in the caste system.[51] Could this be an example of intercultural encounter where rationality triumphs without a significant scholarly input? In part, the syncretic nature of Hinduism may account for this relatively easy transition. Human rights still has a long way to go in this country. As an Indian scholar notes, the countryside is still replete with entrenched superstitions and related

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[49]Keown, *Buddhism and Bioethics*, 10, 11.

[50]Prakash N. Desai, *Health and Medicine in the Hindu Tradition*, New York: Crossroad, 1989, 23.

[51]See S. Panneerselvam, "A Philosophical Discourse on Human Dignity," in *Eubios Journal of Asian and International Bioethics* 20, Suppl. A (2010) 202; Fujiki and Macer, *Bioethics in Asia*, 70-73.

practices such as dowry deaths, human sacrifices, Sati practices (immolation of the widow at husband's funeral), untouchables, etc.[52]

Concluding Remarks

The problem of the "one and the many" has no easy answers. It is certainly a generalization that Western philosophical tradition had sought the unifying principle of being, essence, and truth whereas the East is more at home with a changing and mystical reality of harmony in diversity.[53] The fact that Christians remain a minority in Asia (with the exception of the Philippines) is an indication of the difficult task of penetrating this oriental mindset.

As a result of secularization, the current postmodern culture has turned its back on the search for universal ethics which it considers too totalitarian and authoritarian. The fragmented moral tradition prefers now the language of diversity and tolerance. This poses a great challenge to Christianity which is universal in its doctrine, scope and ethical demands. The Christian faith does not extinguish cultural diversity, but is capable of purifying some of these elements.

Secularization also makes engagement with Asian cultures difficult, since secular liberalism is broken within and antagonistic to religious input. Joseph Ratzinger, in a famous interchange with German philosopher Jürgen Habermas, points out the fact that secularization which marginalizes the place of religion in society and politics in the West is in fact an anomaly compared to the rest of the world. He believes that secular rationality without any limits is not comprehensible to all humanity. Global ethics derived from this "remains an abstraction." This hubris of reason is dangerous and threatens humanity, as the atomic bomb and the treating of humans as products have shown.[54]

Natural reason can certainly lend a hand, but it must effectively engage science and become comprehensible once again to modern men and women. There is a great need of natural law theorists trained in both modern science and Thomistic philosophy to engage

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[52]See V. Balambal, "Religion-Identity-Human Values-Indian Context," in *Bioethics in India: Proceedings of the International Bioethics Workshop in Madras: Biomanagement of Biogeoresources,* ed. Jayapaul Azariah, Hilda Azariah and Darryl R. J. Macer, http://www.eubios.info/india/BII19.HTM

[53]See Bernstein, "Incommensurability and Otherness Revisited," in *Culture and Modernity*, 85-103.

[54]See Ratzinger and Habermas, *The Dialectic of Secularization*, 76.

the different fields of science in order to clarify, adapt, rethink and even modify the natural law language in accord with the latest discoveries.[55] There is a need to find a new language that is clear and intuitive, accessible, capable of engaging secular arguments and scientific reasoning, and address the variability and complexity of cases. One such option proposed is the language of "natural kinds" from analytic philosophy, but I am skeptical that it can avoid the same problems associated with the language of nature mentioned already.[56] One interesting and noteworthy comment that emerges is the language of authentic Christian witness, in caring for all human persons, which perhaps can turn out to be more effective than philosophical musings or finding a new terminology.[57]

MacIntyre's tradition-constituted conversation with well-versed scholars is an arduous but necessary task, and responds to what Benedict XVI's call for the intercultural dimension of natural law. Since natural law is not closed to religious input, it can dialogue with ease with bioethics in Asia. This engagement is possible when reason is open to faith, while faith-based assumptions are also open to the critique of reason, thus faith and reason purify each other from possible excesses.

Natural reason can thereby appeal to the conscience of all individuals to discover the good and avoid evil. In bioethics, there are substantial agreements on many issues — rejection of: human or sex trafficking, using humans as products or body parts, female genital mutilation, etc. Other issues must still be debated. Similarly, the tenet of natural reason that all persons have intrinsic equality can challenge the defects of the caste system and some extreme aspects of Confucian familism.

For Christians, since Christ is the *Logos* Incarnate, faith itself cannot be *illogical*. Even though natural law finds its fulfilment in the new commandment of charity of Christ, it does not exclude dialogue with other groups on a common basis that is above cultural and religious

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[55]Some of these questions were debated in the III STOQ International Conference "Biological Evolution: Facts and Theories. A Critical Appraisal 150 Years after *The origin of Species*" held at the Pontifical Gregorian University in 2009. http://www.evolution-rome2009.net/.

[56]See Daniel P. Sulmasy, "Diseases and Natural Kinds," Theoretical Medicine and Bioethics 26 (2005) 487-513; *Bioetica e Legge Naturale*, 91-95.

[57]See *Bioetica e Legge Naturale*, 74-82.

differences.[58] *Caritas in Veritate*, the encyclical on charity in truth, expresses the attitude we should possess entering into this conversation:

> In all cultures there are examples of ethical convergence, some isolated, some interrelated, as an expression of the one human nature, willed by the Creator; the tradition of ethical wisdom knows this as the natural law. This universal moral law provides a sound basis for all cultural, religious and political dialogue, and it ensures that the multi-faceted pluralism of cultural diversity does not detach itself from the common quest for truth, goodness and God. Thus adherence to the law etched on human hearts is the precondition for all constructive social cooperation. Every culture has burdens from which it must be freed and shadows from which it must emerge. The Christian faith, by becoming incarnate in cultures and at the same time transcending them, can help them grow in universal brotherhood and solidarity, for the advancement of global and community development.[59]

[58]See *Bioetica e Legge Naturale*, 74-82; *The Search for Universal Ethics*, no. 103-116.
[59]Benedict XVI, *Caritas in Veritate*, no. 59.