If society is to teach, what should it be teaching?

A Confucian outlook on the moral teachings of Western society

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INTRODUCTION

Motivation

The outset of this paper is a general concern of the status of the moral environment in today’s Western world. One source for this is all the little things in everyday life that has made me wonder such as, the way we still have to deal with cleaning up after people littering society with their garbage on streets, in parks and such; people playing loud music in busses and trains seemingly without ever considering whether it might disturb others. The fact that more and more of the elderly is more or less abandoned in their last years and ends up living and dying alone. Stories of traffic accidents where more people than what can be excused for decide to speed away as if nothing had happened.

On a different level other recent events in the world have further supported this belief. The financial crisis that hit in late 2008 was in large part a consequence of the excessive greed of especially the people at Wall Street who demonstrated (and continue to do so) a remarkable indifference to the consequences of their actions. The continued lack of taking responsibility for the ecology of the planet is another example which is treated by politicians as another matter of ‘getting the best deal possible’ – with less concern for the seriousness of the matter under discussion. Where does this indifference and cynicism come from? How can people become so preoccupied with getting what they want that they can ignore how their actions and doings are having a severely negative impact on lives of billions of people across the world?

The right not to care?

Another recent but very different event that show similar signs of indifference to the interests of others, was the controversial crisis of the ‘Mohammed drawings’. This was what let me on the way for what I will focus on here. This event stands as a showcase example of two things. Firstly, how the language of rights seem to trump any other concern and also the fact that not everyone may place similar significance to these ‘universal rights that people do in

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1 Naturally other factors contributed heavily in bringing this situation about – the most important of which being a lack of control with the capitalistic system).
the West. The drawings were made in the name of the right of free speech and free expression which to the creator of the drawings meant a right to make these drawings and a similarly a right to disregard the fact that the content expressed might offend other people. The drawings had exactly this reaction and resulted in offending a whole religious culture which led to massive demonstrations throughout mainly the Middle-east where embassies were burnt to the ground and the Danish flags likewise set on fire by angry mobs. Additionally the man responsible for the drawings was by some celebrated as a hero since it was a shared view that the right of free speech is a human right and therefore to be treated almost as sacred; far over-trumping religious sentiments and prescriptions that state, that the prophet Mohammed may not be depicted.

This incidence puts into question this basic idea of rights, since if our rights and the rights of others are largely what set the criteria for what it is and it is not morally permissible to do, something seems to be missing. For what happened with being under responsibility for your doings and about showing concern and respect for the interests of others? Logically rights imply certain corresponding duties but the talk of duties seem to have been forgotten in recent times\(^2\). In effect a culture has been created which is more concerned with what can be demanded and what one is entitled to than what is required of everyone in order to contribute to the well-being of society and its members. If this rights-discourse is unilaterally concerned with rights and neglects the principle of duty it can be questioned if the West has become unbalanced in between the two poles of rights and duties. I wish to explore further what it means to possess rights and how Western culture and society has been shaped morally by thinking in rights.

**Rights talk**

This is at least so from the point of view of several authors (Mary Ann Glendon in Rights Talk, David Selbourne in The Principle of Duty, Amitai Etzioni in The Spirit of Community, Henry Rosemont Jr. in A Bill of Worries) who have commented on how this rights-discourse has penetrated Western society and has become dominating in setting the moral standards of society.

\(^2\) David Selbourne has argued for this in depth in his The Principle of Duty".
According to this position the general support for rights and in particular the human rights, has had an impact in how our moral culture has been shaped and has further developed – especially in the years since WW2.

In celebrating the invention of rights, (and in particular human rights) rights has become a domesticated and a very familiar concept whose value is generally taken for granted and rarely contested. Because of this people in the West often raise some eyebrows and get suspicious if anyone questions the value of rights. This appears to me to be an additional incentive for undertaking this endeavour. Henry Rosemont Jr. is however one who shares this view: “Just as one can be sceptical of Christian theology without endorsing old scratch, so too, I believe, one can be sceptical of a rights-based conceptual framework,…, without giving any aid or comfort to the Hussein’s, Milosevic’s or Li Peng’s of this world” (Rosemont, 2009, 53.54).

The high esteem that is generally placed on rights is not without any substance either. Rights and especially the human rights have been celebrated as one of the big achievements of humanity – as what has come to finally recognize the substantial value of any human being. Rights are the last line of defence against tyranny for the oppressed and what according to Joel Feinberg enables people “to stand up like men”, to look others in the eye and to feel in some fundamental way the equal of anyone’ (Ihara, 21). Having rights gives a man the chance to protest and appeal when his most basic liberties and his dignity are violated. It gives everyone a chance to be heard and to say his opinion.

This generally popular view of rights as what secure the basic value and dignity of every human being is hard to argue against and probably should not be argued against. In order to eradicate any possible confusion at this point let me make it clear that I do not dismiss that rights do indeed carry these qualities. Nor do I believe that rights are ‘bad’ in any sense of the term or any other indication that goes against the view that rights viewed as such are undeniably of great value. My worry is however that the success of the concept of rights in consequence has become its own worst enemy in the sense that rights have entered into certain realms of public life and debate where they might not be very suitable and had thus had an influence on ways of thinking about moral issues and responsibilities for other people in Western society.
As it might be guessed at this point the critical view on these aspects of rights are at the same time also critical about several of the values central to liberalism – especially those concerned with individualism and with (the relentless aim of maximizing) liberty for everyone. It is hard to talk about rights without also talking liberal values since the idea of rights is based on the idea of the free and liberal human being.

I believe it to be worthwhile to look into a (from a Western perspective) foreign ethical tradition where the balance between rights and duties have been markedly different and where very different mechanisms were used in order to govern the behaviour of individuals.

Confucianism?

One may ask oneself of what particular use it could be to look into the ancient Chinese philosophical tradition, Confucianism? I believe that the most comprehensive way of revealing one's taken-for-granted ideas about a certain thing is to show a contrasting picture where a certain practise or phenomenon is perceived under different circumstances. Confucianism conceived as a socio-political ethics is directed towards promoting a vision of society where people act towards one another through compassion and benevolence by cultivating moral sentiments in people without using coercive measures. The thought is that if you seek to build people's characters morally it is not necessary to govern society by rights and laws to the extent it is done in the West³.

At the basis of Confucian ethics is the thought that if left to himself without guidance or direction a person will in time become selfish, possessive and self-centred. In order to achieve harmony⁴ in society (the ultimate goal in Confucianism) people has therefore to be led and directed; they have to be reminded of each other’s humanity and what is required of oneself in order for harmony to prevail.

Confucianism is a tradition that is very socially oriented, where people are not seen as individuals but as living in multiple relations to other people. These relations consist in

³ The understanding here of Confucianism is portrayed in a positive light with focus on its positive sides by mainly Western authors such as: Tu Weiming, William Theodore de Bary, Roger Ames and Daniel A. Bell)
⁴ See appendix 1.2 for an explanation of The Three Ultimates: the Way dao, Heaven tian and harmony he.
responsibilities between the two parties that are always mutual, always binding but rarely equal and never a matter of choice.

This implies that Confucianism is based on very different values that most often do not resonate well in typical Western-liberal ears. Social in-equality is a basic principle of Confucianism which has been the main target for the critics. Confucianism is similarly at odds with certain core values held especially by many Westerns who consider the maximization of freedom and autonomy intrinsic goods for the individual. As a consequence Confucianism has been accused of being elitist, conservative and overly coercive in controlling human behaviour\(^5\). This has led some to believe that Confucianism has outplayed its role long time ago.

These are naturally serious issues that require serious attention since applying equal worth to all human beings and treating everyone the same in many ways stand out as one of the greatest humanistic achievements of Western civilization. Replacing these with anything else would seem at the least, irresponsible. On the other hand it would be equally blind-sided to believe that we now have reached a point where our values signify ‘the best that we can possibly get’. The contemporary ethos of rights in the Western world should be questioned just as past societal paradigms have been put the test to the past. Confucianism stands in this regard as a tradition that could provide as a useful resource for changing the direction of Western society towards an ethics of responsibility.

It does not, however, have to be a matter of choosing one over the other, choosing rights over duties or vice versa. When considered in isolation the two perspectives are not necessarily mutually excluding, but could perhaps be complimentary. But it does seem, however, to be a matter of perspective, of what is considered as primary: Rights or duties? What are we entitled to claim and what are we required to do?

**Analytical framework**

The main theoretical frame of the project is comparative ethics and the object is a dichotomy between Western society and Confucianism here conceptualized as embodying two very different approaches to governing human behaviour in society and consequently also different views on what should be the aim of doing so. There are two objects of analysis in

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\(^5\) Especially Randall Peerenboom and Daniel W. Y. Kwok are representatives for these critiques.
this project. One of these is here broadly defined as ‘Western society’. By this concept I include those parts of the world that can be considered to be (1) economically highly developed (relatively), (2) capitalistic, (3) informed by libertarian values, (4) stable democracies. The specific countries in mind are more or less made up by the countries on the continents of: North-America, Europe and Australia (incl. New Zealand).

The other object of analysis is Confucianism which in this framework is perceived as an ethical tradition that once worked as a model for governing society. The relation between these objects is such that Western society is the analytical object of reference as it is here, where there is perceived to be a problem. Confucianism is an analytical resource in its capacity to provide a contrasting viewpoint and ideas for how to think society, individual and morality together in different ways and so provide as an inspirational ‘mirror’ for Western society.

Naturally Western society and Confucianism ethics and not only conceptually different from each other. They are also separated both idealistically, culturally, and not the least – through hundreds of years in time which naturally makes direct comparative study difficult. What makes a comparative study possible is that Confucian ethics present a complete model for society which, when has been described and analysed, can be compared to Western society. This is why this analysis will be taken in parts by treating each object of analysis separately and present findings subsequently thereafter.

Having studied Confucianism in detail for some time I have come to find it necessary to present a relatively thorough account of what Confucianism actually is and how it served as a model for a society in order to give a fuller understanding of Confucian socio-politics and ethics. Confucianism is culturally very distant from at least this author’s cultural frame of reference which presents serious epistemic challenges. Attempts in understanding a complete model for society perceived through culturally foreign terms will fail if bracketed into concepts that merely fit one’s own epistemic categorization. Confucianism is additionally holistic in its view of the individual, society and the world and the tradition as a whole serves as inspiration in its own right.

In the treatment of the perceived decline of morality in Western society the focus will be on two factors: rights; which will be conceived of as both a legal and a normative concept that

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6 All depending on how far one would consider it necessary to go back in time to find a society that would considered authentically Confucian.
set rules and boundaries for how people can behave and interact and also constitute a
morality for what is considered rightful and wrongful behaviour. Rights will furthermore
also be conceived as discourse that has come to influence on political and argumentative
discourse I Western society. Community; considered as a concept that in certain ways is
claimed to have an impact on how people in Western society behave morally. The definition
of the concept will be discussed in the analysis.

Delimitation
I am aware that other factors also are determinant in setting the moral course on Western
society such as how especially economic factors and capitalism as the economic paradigm
have steered society in a certain direction and have had an impact by leaving lasting changes
that undoubtedly have had an impact on morality. I will only include such factors
sporadically in the project such as in considerations over society’s transition from
Gemeinschaft to Gesellschaft\(^7\).

Although it is not a specific focus of the project to criticise the ideology of liberalism, as
such, it is impossible to avoid doing so in a criticism of rights since rights are based on
liberal ideals. Liberalism is thus irreducibly ‘part of the problem’ and will therefore be
criticised as such throughout the project.

A delimitation for the analysis of Confucianism is a consideration on the relation between
the normative view of the authors on Confucianism and their cultural origin – coarsely
defined as either ‘Eastern’ or ‘Western’. This would be interesting as there seems to be a
certain asymmetry here. I have chosen not to engage in this as it would broaden too much the
scope of the project.

One flaw in the analysis of Confucianism is a lack of material covering facts of what impact
the Confucian form of government actually had on society; whether or not the idea of
Confucianism actually worked according to the intent. On some points there appears to be a
noticeable difference as to what were the thoughts and intentions of Confucius et al. and
what seemed to be the reality in the Confucian inspired society. This imbalance could be
analysed more thoroughly. This would however change the direction of the chapter
substantially as it would close the analysis more around itself. As a compromise I am
covering both the more positive and the more negative interpretations of the tradition.

\(^7\) See pg. 19
Problem statement

It is my interest to explore the concept of responsibility, in the sense of ‘an awareness of the impact of one’s actions and in-actions on the rest of society’. It is my belief in general that the Western world is imbalanced in how the average citizen considers the extension of the rights he enjoys and what consequently can be expected of him regarding responsibilities to co-citizens and to society in general.

I wish to support this assumption by approaching the concepts of rights and responsibility in three different ways:

Sociologically, through an investigation from within Western society, of the sociology of rights and, a claimed concomitant decline in the sense of responsibility. This perspective will identify what causes have contributed to this development and how rights as a discourse and a claimed ‘corrosion of communities’ have contributed actively in inhibiting people’s senses of responsibility. I will investigate this empirically by analysing the claims of Mary Ann Glendon in her Rights Talk: The impoverishment of political discourse and Amitai Etzioni in his The spirit of Community: Rights responsibilities and the communitarian agenda. I will specifically consider the claims that rights have developed into a discourse of its own which has had the effect that Westerners in general have a reduced sense of responsibility. Also I will consider the claim that there has been a development on the West causing a certain ‘corrosion of communities’ which also have had an effect in how people feel a ‘a sense of responsibility’.

Culturally, by looking into Confucianism as a non-Western ethical tradition one can gain an insight into different ways of organizing and governing a society where the weight is rather on the fulfilment of duties than on ascribing rights. The recent renewed interest in Confucianism has let some authors to consider Confucian ethics and politics as being of possible interest to Western society where, some claim, morality and litigiousness is in decay. These authors include Daniel, A. Bell, Henry Rosemont Jr. and Wejen Chang. I will enter into these discussions in the light of my findings from the previous analysis and consider the reasonableness of the views.
Philosophically, through an examination of the concepts of rights and duties which will be related to the notion of justice on one side and the notion of virtue on the other. By loosely identifying The West as a society of justice and Confucianism as an ethical tradition based on virtue, the limitations to each perspective will be identified and the possibility of integration between the two will be examined. This approach will be based on Onora O’Neill’s “Towards justice and virtue: A philosophical account of practical reasoning”. I will follow O’Neill in her considerations on identifying principles of required ethical action that go beyond the bounds of justice. This will illustrate the significance of viewing either agency or recipiency as ethically primary and point out where a term of ‘a sense of responsibility’ fits in, in an account of ethical consideration.

My working phrase is henceforth:

I wish to investigate if there is a certain imbalance as to how people in the Western world, in general, consider what responsibilities they owe to the rest of society in return of enjoying certain rights. This perceived imbalance will be relativized against a different model of governing society (Confucianism) and against a principle of required ethical consideration established by Onora O’Neill.

This claim will be investigated trilaterally from perspectives of, respectively: Confucianism, (Western) sociology and philosophy. To each perspective is connected a question to give direction to the analysis:

1. In what ways have rights and a claimed ‘corrosion of communities’ each been contributing factors for diminishing a sense of responsibility in people in Western society?
2. How would Confucianism respond to the purported problems endemic to governing society and social behaviour primarily with rights?
3. What are according Onora O’Neill the bounds of required ethical consideration that goes beyond the bounds of justice in her integrated account of justice and virtue?
Methodology

Sociological approach

My fundamental claim of there being ‘a moral deficit’ in some sense in the Western world rests on an empirical assumption about a certain development that has taken place in the United States the past 50-60 years. The specific focus on the United States is a required fixation due to the theoretical decisions. The best descriptions of this development that I wish to investigate are to my knowledge those by Mary Ann Glendon and Amitai Etzioni. This choice of authors have however some theoretical and methodological consequences for the project.

One crucial methodological point is that Glendon and Etzioni both are Americans and write specifically within an American context. The rights movement have traditionally been stronger in the States than it is has been elsewhere in the Western world and the concomitant rights dialect is equally sharper and more far reaching in the States. This explicit focus on developments in the States challenges the broader Western society/Confucianism dichotomy which is the elementary frame of the project. A certain development that takes place in the States is naturally not representative for the whole Western world in general.

I will however stay with the working definitions of ‘Western society’ and ‘Confucianism’ throughout the project because although it appears that this rights dialect has manifested itself much more vigorously in the States than in Europe this does not imply that rights have not had a similar (but perhaps slighter) effect in Europe and in other parts of the Western world. Although Glendon explicitly separates the developments in Europe and in the States I believe that any differences between the two cases will merely be a matter of degree. This assumption is based on the fact that basically any Western society today is based around the same (or at least similar) liberal values that constitute the basis for having a society based on rights and laws, people will be conditioned in similar ways but perhaps to varying degrees according to cultural, social and perhaps legislative variations between different societies. The point being, that living in a society controlled and governed by rights and laws that are derived from liberal ideals will in any case make a certain effect on the moral dispositions of the citizens. To reiterate - my interest is to identify any possible ill effects on the moral

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8 Glendon distinguishes the uniqueness of what she calls the American rights dialect and how it historically became distinct from the European counterpart, in chapter two in Rights Talk.
9 This is especially so since Glendon has pointed out that the rights dialect developed differently in the States than elsewhere.
dispositions of individuals living in Western societies as a result of being conditioned to think morality in terms of laws and rights. I do however acknowledge that some of the examples used might be rather typical examples of a somewhat more particular American rights dialect and might not be representative for other parts of the Western world. These are however only illustrations of a phenomenon and as such are not at odds with the general conclusions of the analysis.

**Theory of science**

I will treat Glendon and Etzioni’s claims as the empirical foundation of the project. The analysis will be based on identifying what are exactly the claims for this development and with what documentation and arguments are these claims supported. The arguments will be critically analysed by philosophical reasoning to verify if the arguments are consistent and if necessary further documentation will be included in order to verify the validity of the claims. The political viewpoint of the two authors is also of importance here. Both Glendon and Etzioni write from the theoretical position Communitarianism. Communitarianism is a political position that is based around certain so called Communitarian values. These values can be viewed as reactions to certain aspects of liberalism that the Communitarians believe need to be balanced with opposing values. These include (but are not exhausted by): focus on responsibility rather than on rights, communities as the essential way of creating a functional civic society, the nuclear family as the basic social unit in society, the fulfilment of civic duties, less state control (depends however on the fulfilment of these civic duties) etc. Communitarians are specifically anti-universalistic as they believe that traditions and local norms may be better suited at governing and legislating behaviour than principles of supposed universal applicability, such as rights for instance (Bell, Stanford Encyclopaedia). Although this explicitly normative view of the authors invites for criticism from a liberal viewpoint this is not what is the aim of the analysis. The reason for choosing a viewpoint informed by Communitarianism is that certain aspects of the Communitarian agenda are quite similar to the aim of this study. This means in effect that if some of the arguments of Communitarianism can stand scrutiny – then the further analysis can continue and the project go on.

I want however to remark that I do not write in favour of Communitarianism as a politics nor as an ideology. My own thoughts and possible sympathies for Communitarianism are not
relevant here and I treat the accounts given by these authors purely as claims that require analysis in order to for the purported problems of rights and responsibility in Western liberal democracies.

**Cultural approach**

Confucianism being a non-occidental tradition has the implication that occidental derived conceptual frameworks, such as my own, will have a challenge in capturing the epistemic basis of a tradition as Confucianism. This is an aspect to point out since many misunderstandings and premature judgements may be avoided if one keeps this in mind. I will follow Henry Rosemont and his methodology in his essay *Whose democracy?, whose rights?* (Rosemont 2004) which is conveniently arguing much along the same lines as the present project. Rosemont points in this article to the most crucial aspects in this regard. Most importantly is the lack of the basic vocabulary needed for discussing political issues (from a liberal-democratic background, that is) such as rights\(^{10}\), democracy, justice, autonomy, choice, private, public, dilemma, ought and obligatory. According to Rosemont these concepts simply does not exist in Confucian discourse. This can be said to offer either one of the following two conclusions. Either this foreign tradition have not discussed ethics and politics in any serious or useful way, or it gives a hint that the Western way of discussing politics and moral matters is but one out of many ways. Most Westerners would find it practically impossible to engage in serious discussion without the use of such central terms but this does not necessarily mean that it therefore is not possible. In order to look at a tradition as Confucianism one has to render oneself critical to many taken-for-granted notions about how we in the West have come to perceive the individual as free and autonomous and how human rights are helpful moral tools that secure first and foremost these two concepts. Other traditions may not view the individual quite as free and autonomous as we do in the West and they may not share the belief that the promotion of these is of in-questionable importance in shaping a body politic for a society (ibid).

In a similar vein the style of writing are also very dissimilar where in the West analytical philosophy is supposed to follow what Rosemont terms a 'hypothetico-deductive, adversarial

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\(^{10}\) It should be granted that it is a matter of controversy whether or not there is a term that *share* or can be said to sufficiently *cover* the meaning of 'rights'. This partakes in a particular viewpoint on Confucianism that will be treated later on. It does seem though that Rosemont is right when he insists that a single term that has a corresponding meaning to 'rights' does not exist in Confucianism.
style of discourse’ (Ibid, 51) whereas classical Confucian texts not only are alien to this kind of formula but often carry a distinctive narrative tone to them where theory is often mixed with comments on current events and personal anecdotes (Ibid). Additionally Confucianism's essence (if one exists) is difficult to establish – especially for a Western mind-set – since it does not respect the Western taxonomy of the various academic disciplines.

**Theory of science**

The amount of contributions on comparative ethics where Confucianism is one viewpoint is rather generous. Most of this is regarding the confrontation of Confucianism and the human rights which has recently received a lot of attention. Major specialists in Confucianism are Daniel A. Bell, William Theodore de Bary and Tu Wei-ming who all have published material on the question of Confucianism and Human rights. I have made extensive use of an anthology by de Bary and Weiming with essays especially concerned with the different concerns regarding the meeting between Confucianism and the human rights. The high degree of specialization on this topic has meant that both the account of Confucianism and the following discussion of Confucianism and HR are done based on material with this particular focus. Although my aim is different these discussions have nonetheless proved very usable and relevant. First of all due to the matter at hand which is made up in the conceptual field of confined by rights, Western society (human rights are commonly viewed as a product of the West) and Confucianism. Secondly the comparative nature of this approach is also shared and some writers actually consider, in addition to considering how human rights could be grounded in Confucianism, also how elements from Confucianism can have relevance in the West.

Generally questions here are concerned with either interpreting Confucianism in a certain way with the aim of either proving or disproving the prevalence of what is considered to be *sufficiently similar* early versions of the human rights. Sumner B. Twiss, Julia Ching and Irene Bloom argues each in their own way for how human rights can be interpreted from within Confucianism. Another set of authors with similar intentions do not find this endeavour plausible but find instead other points for inspiration that rather suggest a symbiosis of Confucian and Western
moralities. Randall Peerenboom, Wejen Chang, Seung-hwan Lee and Chung-yien Cheng propose such points of views.

Others again are very critical to the basic idea of rights and argue that a modernized version of Confucianism in many ways would be advantageous to a rights-based system. Despite this rather extreme point of view this usually gets modified to look more like the above suggestion where Confucianism adopts a more complimentary role to the Western rights-based approach. The distaste of rights and their deleterious effects are however what dominate their position. Henry Rosemont Jr. and Craig K. Ihara argue for such points of view.

I have made use mostly of material from the two last described groups. It has been here I have found material that additionally was concerned with looking towards the West from a Confucian-based point of view. The distribution of writers from Eastern and Western perspectives seem well-balanced throughout - although with a little gain of Western writers, judged from what the writers’ names’ indicate.

**General approach**

In answering this assumption and the three sub-questions in a comprehensive manner I have deemed it necessary to treat these one by one. This entails that structure of the thesis will divided into three areas and each conceptual strand will be treated independently. Although such an approach often has the consequence that the thesis might seem fractured as a whole due to a lack of cohesiveness. The idea of the project is however that each part will be the natural succession to the previous one. The hope is therefore that there will seem to be a natural progression between the parts.

As my basic assumption rests on a presumed diminished ‘sense of responsibility’ I will start out with putting this assumption to the test. I will follow two authors, Amitai Etzioni and Mary Ann Glendon who are largely supporters of this assumption. By identifying their main empirical arguments for supporting their convictions I will analyse these in a philosophical systematic manner and thereby see if there is hold to the claims. I will subsequently also analyse one normative argument which require consideration in isolation from the empirically based reasoning.

In the following section on Confucianism I will relate my findings of the previous section to an account of the political program of Confucianism. This will be done by first carefully
present a thorough account of Confucian ethics with special emphasis on the social, political and moral aspects of this tradition. I will then look into some suggestions by other authors of how certain elements from Confucianism potentially could be of interest to the problems that the West is dealing with.

In the last section I will identify what the relations are between rights and duties which will provide useful to understand an elementary difference between justice and virtue ethics. Henceforth I will follow English philosopher Onora O’Neill in her account of integrating an account of justice and an account of virtue ethics. O’Neill operates within a rather complicated framework between concepts of: justice and virtue, rights and duties and agency and recipiency. O’Neill attempts to identify which principles of ethical consideration will come out of integrating justice and virtue. The approach will be systematic philosophical and will be based on the approach taken by philosopher O’Neill herself. This account is be based on ethical requirements and will so incorporate elements from both justice defined by what is just and from virtue defined by what should I do? O’Neill’s approach is naturally of great relevance to the aim of this project and I will consider its reasonability in relation to my previous findings.
The decline of morality in the Western world

In this section I wish to investigate certain claims that are concerned with the current state of Western civic morality from three specific areas each which are: Rights, responsibilities/duties and community. Throughout the last 50-60 years changes have occurred regarding how Western societies position themselves within the spheres of these concepts; furthermore, it is believed by certain authors that they have had an effect on 'the average Western citizen's sense of responsibility towards his surroundings'.

I will base this analysis on two specific works by two authors who treat these concerns in quite different ways but with similar political intentions. One is Amitai Etzioni whose *The Spirit of Community: Rights, Responsibilities and the Communitarian Agenda* I make use of here, and the other is Mary Ann Glendon and her *Rights talk: The impoverishment of Political Discourse*.

I have identified one main thesis that I believe both Glendon and Etzioni wish to defend. It can also be said to be a claim of the Communitarian position in general. In support of this claim I have found two arguments that the two authors use as justification for this claim. My approach to this is then to analyse these two arguments in a philosophical systematic manner to see if they hold as justification for the main thesis.

The main thesis for both authors is:

*Certain developments in Western society have had the effect that people living in these societies have had their ‘sense of responsibility’ diminished*.  

What is meant by the term ‘sense of responsibility’ is ‘an awareness and concern for the impact and the consequences of one’s own actions and in-actions, for the general well-being of the wider society’. This definition is my own and I will treat this as being a main thesis that both authors seek to defend. I will qualify this in the following.

This claim is supported by two empirical observations and by one normative arguments.

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11 This notion will be qualified more precisely later on.
12 The term ‘sense of responsibility’ is actually Glendon’s which she uses on page xi. As I argue later she does not use it analytically or define it more carefully. My use of it is therefore an adoption that is done because I find it suitable for what I find central in both Etzioni and Glendon accounts and for my own purposes. I will furthermore use the term throughout the project as a reference that points in the direction of what I am searching for.
1) **One cause for the postulated effect in the main thesis is a certain ‘corrosion of communities’ characterised as being a certain way of living together. Most importantly, this has caused the loss of a self-sustaining communal ‘moral voice’**.

2) **Another cause is that rights have come to infiltrate society to such an extent that these have rooted out the traditional sense of responsibility and of civic obligation. This has caused a certain rights discourse to develop which has had a devastating effect on how people discuss what they believe they are entitled to and how they perceive the extension of their rights.**

   In addition to this Glendon believes that a certain omission in American legislation has caused the further diminishing of this sense of responsibility.

3) **Related to this is the normative argument that people are confusing their rights with ‘rightness’ which suggests that they equate having rights with having an ultimate right to use these, disregarding all other concerns.**

The first claim is mainly Etzioni’s and it constitutes the main thesis in *The spirit of community*. Since his intent and approach is explicitly political the book is quite reader-friendly and consequently not very heavy theoretically based. I am aware that writings with such a specific political profile and limited theoretical reasoning can be academically dubious. Etzioni’s writing is however quite sober in this regard and provides a sufficiently supported account of the state of contemporary Western social morality. He gives an interesting perspective which is mainly a critique on the current state of (American) society with special emphasis on the current (anno 1995) state of morality, responsibilities and individualism.

**Corrosion of communities**

Etzioni delivers his argument in the form of a narrative, rather like a long speech, where he presents various observations about society that mainly revolve around the idea that Western/American society today has lost its way morally due to various empirical circumstances. Etzioni’s main argument about this ‘loss of communities’ is intuitively

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13 It is not entirely correct to call these arguments empirical since Etzioni is not basing his claims on descriptive accounts of developments but rather on somewhat biased interpretations of state of affairs in the past and in the present which are being connected inductively. Etzioni’s empirical arguments are by other words not entirely empirical but quite affected by subjective idealization. This will become apparent in the analysis.
appealing since it is common knowledge that the ways of the Western world have gone steadily in favour of increased individualism, mobility and urbanization throughout the last 50-60 years. In this sense the communities, in the traditional sense, where one knew and interacted with one’s neighbours is not to be found to the same extent today where more than half of the world population live in big cities. Two things are however determining the validity of the thesis. It is first of all crucial what exactly is meant by the term ‘community’. Many different kinds of social living arrangements can potentially be considered to be communities and as such ‘communities’ are to be found everywhere at all times. Secondly it is a matter of opinion when it can be said that ‘a corrosion’ has taken place and cannot be determined precisely.

Although the term ‘community’ is used frequently throughout, Etzioni fails to provide a precise definition and instead he usually refers to it as; ‘something shared’ (p. 14), where people know one another, help one another, look after one another and most importantly, where a set of moral norms are in place to direct and correct social behaviour. One suspects that the lack of a precise formulation of ‘community’ serves to highlight what Etzioni perceives to be the most important aspect of communities – the thriving of moral norms through the common efforts of the community-members. Daniel A. Bell\textsuperscript{14} has suggested viewing the concept of community instead as a normative ideal as he has also criticised the lack of definite explanation of the term. It is easy to reach the conclusion that Etzioni’s ideal of community is to undo society to the way it was in the sixties, characterized by the husband being the sole family supplier and the wife consequently being a ‘house-wife’ (Etzioni, 25). This is precisely the critique given by Ben Saul in an article from 2001. Saul believes that Etzioni’s idealisation of communities of the 1950s is rather a romanticization and he even questions if such a moral ‘golden era’, as he terms it, ever existed (Saul, 570)? In this sense Saul reads Etzioni as being a conservative who is rather suspicious of change in general. Saul suspects Etzioni of having lost faith in youth today because of the excesses of freedom, dutileless and a lack of respect for authorities which is responsible for young people's carelessness towards drugs, sex and their duties toward society (Saul, 568-571). Etzioni does show an attitude of hopelessness towards the youth of today (1995) which makes him appear quite conservative and pessimistic: “Millions of teenagers see little

\textsuperscript{14} Bell, Daniel, "Communitarianism", The Stanford Encyclopedia of Philosophy (Fall 2010 Edition), Edward N. Zalta (ed.)
meaning in life other than to have a child, without having a serious commitment to their infants” (Etzioni, 27). This pessimism could also serve as another explanation for Etzioni’s constant references to the past and how things were better back then.

As Saul rightly points out it is easy to perceive Etzioni as a conservative who became disgruntled after ‘the spiritual liberation of man’ in the end of the 1960’s. What Etzioni saw as an era of civility, genuine neighbourliness and moral uprightness was to Saul probably an era of frustration, claustrophobia and illiberalism. These are normative viewpoints that say nothing about matters of fact. In extension hereto I believe that Etzioni is not quite as conservative and backward-looking as Saul makes him appear. Etzioni clarifies that he does not wish to return to the communities as they existed in the 50’ies. He believes that these communities were over authoritative and too constraining (Etzioni, 122). Secondly Etzioni not only admits that his thesis of the corrosion of communities only entails communities in the above-mentioned traditional sense but also affirms that communities in different shapes and forms do exist today. Etzioni refers to Herbert Gans, an American sociologist who observed that in big cities communities also existed and were reported to carry many of the same features as the more traditional communities and suburbs such as good neighbourliness, and a common concern for common areas and facilities (Etzioni, 120). Also, Etzioni talks about various kinds of communities such as work-based and professional communities (p. 121) urban, social initiatives such as the YMCA (Young Men’s Christian Association) and the newer non-geographically based communities which, as we now see, have grown significantly since the publication of The Spirit of Community to become very influential with important developments such as Facebook and Twitter.

One might sensibly ask then where is this alleged ‘corrosion’ to be found? Although it seems that Etzioni has disproved his own claim Etzioni sticks with his claim about the corrosion of communities. Over a few pages he covers the development of what is now usually referred to as the transition from Gemeinschaft to Gesellschaft. Etzioni believes that the modern era of

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15 A distinction between two different kinds of human association developed by the German sociologist Ferdinand Tönnies. Literally it means community and society and it was developed to explain the very different ways of human socialization as to when people lived rather in communities that were characterized through kinship, common mores and common beliefs and a certain ‘unity of will’ as Tönners described it. Gesellschaft is on the contrary characterized by people associating though similar self-interests and similar goals such as what you find in a modern business where people associate with the common purpose of
Gesellschaft for decades has been embraced rather blindly. The wonders of mass society and big cities where people were finally completely free to choose their fate was viewed unconditionally positively as progress and in contrast to Gemeinschaft which was viewed as something backwards that confined behaviour and so had to be overcome (Etzioni, 116-117). Etzioni mentions the process of modernization where people moved from the countryside and villages to big cities which were considered important in ‘setting people free’ since little villages were considered as backward and claustrophobic places. However, when people started to be removed from villages where they had been working on farms and where there had been strong communities they were often moved to cities to work in factories and to suffer a more isolated way of life (Etzioni, 116 - 117). Etzioni also mentions how the free market system increasingly pushed for further individualization and that the development of the welfare state made people become more dependent on the state than on their human relations in times of need (Ibid). Etzioni believes that people in general looked at this development too uncritically and were blinded by the “bright shining science and technology” (Etzioni, 117). Etzioni seems a bit biased in making this assumption since what caused people to move from ‘their communities’ to find their ideal life in the big city just as well was a question of needs to find jobs and make money. The process of industrialization, as is well known, forced many people to move to the cities. Either way the result stands the same. People were in either case moved from smaller communities into bigger anonymous urban areas where communities did not exist in the same sense.

It is, however, not these sociological factors that are of the biggest interest to Etzioni. His interest is in the community as a concept and is specifically centred on its ability to provide and maintain a moral order of sorts through what he has termed ‘a moral voice’. “Our focus here, though, is on another element of community, crucial for the issues at hand: Communities speak to us in moral voices. They lay claims on their members. Indeed, they are the most important sustaining source of moral voices other than the inner self” (Etzioni, 31). The term ‘moral voice’, just as with Etzioni’s idea of a ‘community’, is not clearly defined. Etzioni refers to various instances where other people from the same community brought attention to deviations from a moral code by gently giving hints to the action in

question. He mentions specifically how he himself was given a recommendation for ‘a good gardener’ when he for some time had neglected his garden in an American suburb. It was considered important in this neighbourhood to keep up the appearance of the community to avoid declining property values (Etzioni, 33). In another example Etzioni explains how the residents in a cooperative building passed around memos to remind people to ‘sort their garbage’ (Ibid). A ‘moral voice’ thus seems to connote a shared morality of the community that directs people to pursue certain kinds of behaviour and to abstain from other kinds.

Etzioni’s concern about the community is to be found in the ways that a community is able to provide a moral platform that can guide people to behave more responsibly towards each other and the society at large. Since Etzioni has admitted already that communities also exist today (although maybe not to the same extent or in the same form) one can suspect that what he believes has been ‘corroded’ is not the existence of communities as such but rather the inherent morality that he believes are an integral of these. Etzioni can then be said to believe that there exists a certain connection between the presence of a community and a concomitant development of a moral code that does not exist outside of this community on the same terms.

Steven Brint has analysed the concept of communities in depth in an article where he looks at the research carried out in the past. In the article Brint identifies eight different types of communities by drawing a typology and which consists of various variables such as: existential basis of relationship ties; primary reason for interaction; frequency of interaction and so on (Brint, 10). It should be safe to conclude that Etzioni’s traditional community is of the kind where face-to-face interaction and geographical proximity is high. Brint terms these kinds of communities as “Small–scale communities of place, neighbourhood, and groups”

16 Cooperative housing corporations where individuals or families work together to directly construct their own homes in cooperative fashion (www.wikipedia.org)

17 I am aware that this concept that Etzioni describes is highly normative and can easily be attacked for leading to a ‘moral police of a kind’. I am aware of this and the two examples above were chosen to show two different varieties and ‘degrees’ of phenomenon. Room does not allow me to discuss this normativity which forces me to have to settle to conclude somewhat dissatisfyingly that a moral voice can potentially be an effective means to keep up a moral environment but at the same it can easily become overly coercive and set demands too high causing uniformity and intolerance. This will be discussed in some detail in the following)

Furthermore, it should be uncontroversial to say that Etzioni is right that these types of communities were a lot more predominant in the 1950’ies and 60’ies than they are today – at least in the Western world given the before-mentioned development that the Western world has undergone.

In another typology, Brint then hypothesizes and ascribes certain virtues and vices to the different kinds of communities based on the available literature on communities. Although Brint does not include a particular category for ‘morality’ or for tendencies towards ‘moral speech’ he does include a category called Fraternalism and mutual support to which he ascribes, among others, the following features: “(1) as a prior predisposing factor, high levels of participation in community life; (2) the development of interpersonal obligations and practices of mutual support” (Brint, 14). I will not propose that these descriptions might have a similar meaning to Etzioni’s ‘moral voice’ but I will however suggest that a community where there are ‘high levels of participation in community life’ and a community that is similarly characterised by ‘interpersonal obligations and practices of mutual support’ is at least indicative of the prevalence of Etzioni’s description of a moral voice, as I understand the term. A community characterised by people helping each other out and perform interpersonal obligations is a community that is concerned with the welfare of each other and therefore can be thought to have established a framework of moral norms in order to increase the general welfare of the community members. If this assumption has merit then Brint’s study seems to provide support to Etzioni’s claim about the moral voice. This can be shown in the following observation: “expectations for high levels of active participation and for responsiveness to interpersonal obligations are greater in communities involving continuous face-to-face contact. Only in these circumstances can group social control be exercised on inactive or irresponsible members. Therefore we should expect higher levels of participation and interpersonal obligation in communities of place” (Brint, 15).

Throughout the article Brint makes additional references to the ability of these face-to-face communities to establish a moral order. In analysing Durkheim he noted: “Durkheim’s conceptual approach was to see community not as a social structure or physical entity but as a set of variable properties of human interaction that could be found not only among tradition-bound peasants of small villages but also among the more sophisticated denizens of modern cities … Durkheim was impressed by the importance of community relations for equipping human beings with social support and moral sentiments” (Brint, 3).
Similarly, Brint also notices that communities that do develop such moral frameworks (which Brint occasionally describes rather negatively as ‘monitoring for conformity to group norms’ (p. 19)) at the same time are also more inclined to ‘illiberalism and intolerance’ (Brint, 19, 20). So even though there seems to be some truth in the idea that these kinds of traditional communities tend to come with systems of morality and higher degrees of fraternity and mutual support than other types of communities, the other side of the coin is that these communities are just as frequently characterised by inequality, struggles over power and conformism. On the contrary he found out that “friendship networks, activity-based elective communities, non-ideological virtual communities are examples of communities in which they¹⁹ typically are not linked (Brint, 20).

Although Brint does not engage in a discussion about how he estimates the condition of a moral voice in communities today he does propose an answer to the related controversy between liberalists and communitarians on the basic value of having communities. Brint accepts here both the case of the defenders of communitarianism and the critique from the liberalists (such as Saul, referred to above) in his final verdict of the traditional community. In acknowledging arguments from both sides he recognizes the possible value of communities but also asserts that these however come with a price.

What Etzioni wishes is (naturally) to import all the positive aspects of the traditional communities, such as the moral voice, and leave all the other things (which coincidentally are those which the liberalists normally criticise in the communitarian agenda) behind (Brint). Etzioni’s claim about the corrosion of communities (and so of morality) can then be said to be partially true. There are undoubtedly fewer of the communities that Etzioni has in mind today (or in 1995) and it is possible to ascribe to it a tendency to develop an environment of mutuality, reciprocity based in a normative framework that gratifies and restricts certain types of behaviour among the community members. At the same time there are certain negative consequences with these kinds of communities due to a higher tendency toward social stratification, inequality, illiberalism and intolerance. According to Brint, both the positive and negative sides are part of most of these kinds of communities.

¹⁹ Relations between fraternity and illiberalism.
So where does this leave us? Since Etzioni appears to be rather reminiscent of the past in his view of communities and as is often the case in comparisons between present and past Etzioni has an idealized view about the past and about the reality of communities. The little space offered on the harmful sides to communities leaves an impression that this is not a representative picture of what it means to live in a community. A notice of warning is given but no careful treatment of this risk is to be found. The concept of a community is therefore at one and the same time able to create a communal atmosphere of solidarity and empathy which potentially can provide a moral climate but can in a similar fashion provide the grounds for gang-culture to take root as well as create a community that leads to extreme conformism and intolerance for both difference and for change.

Rights infatuation
One of Glendon's purposes in *Rights talk* is to defend the claim that rights have invaded Western society (in particular the United States) to an extent that it has developed into a discourse of its own as to how people argue and discuss politics in general. Additionally this new rights discourse has come to replace what Glendon calls ‘our traditional sense of responsibility’ with the result of making people more careless about the welfare of other people and of society at large. I do not intend to analyse both of the two claims exposed above. I will focus on the latter claim suggesting that a discourse of rights has become so pervasive that the population's natural sense of their responsibilities has become corroded. Glendon herself expresses this claim as follows:

“Rights talk itself is relatively impervious to the other more complex languages we still speak in less public contexts, but it seeps into them, carrying the rights mentality into spheres of American society where a sense of personal responsibility and of civic obligation traditionally have been nourished” and shortly after continues “...a near-aphasia concerning responsibilities makes it seem legitimate to accept the benefits of living in a democratic social welfare republic without assuming the corresponding personal responsibilities and civic obligations” (Glendon, x-xi).

There are two aspects in this claim. First, that at an earlier time, which Glendon refers to as 'traditionally', people had a stronger sense of responsibility, personal and civic; secondly, that a rights mentality has come to occupy this place to a given extent.

Somewhat surprisingly, Glendon does not spend much time (if any at all) in explaining how people at some point in the past possessed a greater sense of responsibility nor does she
explain what is meant by ‘a sense of responsibility’. Glendon's main occupation seems to be instead to render support to the view that today rights are everywhere and responsibilities are few and far between. One could assume that Glendon might take it for granted that there existed an earlier period where people had a higher sense of responsibility and so bases her own account on Etzioni’s arguments, since they share a quite similar agenda. The disposition chosen here in this present study makes it reasonable to suggest that Etzioni’s arguments can also apply for Glendon’s claim. It is nonetheless problematic that Glendon leaves this claim unsupported. The central claim, once again, is that at an earlier stage people possessed in higher degree ‘a sense of responsibility’ that has now been taken over/replaced by/with a certain rights mentality.

First it has to be determined what is meant by the term ‘sense of responsibility’ as this is a term that can suggest various things. Unfortunately, Glendon does not define more clearly what it means to have a sense of responsibility. Initially it seems obvious that the term is normatively counterpoised to the term ‘rights mentality’ where the former represents an ideal, and the latter a perversion of this ideal. The word ‘traditionally’ furthermore suggests that the former is what was the norm, and the latter how this norm was replaced by something different. Calling it ‘a sense’ is decisive here as it is thus no longer a question of actually having a responsibility in the sense of being held responsible for a certain state of affairs. ‘A sense’ rather suggests a feeling or emotion as awareness of being concerned with the impact of one’s actions on one’s surroundings. If it is such an emotion how can it then be characterised? Initially it must be a rather resident emotion, meaning that it must be part of one’s character in some way and not just an emotion that comes and goes like bliss or shame. In order to estimate the degree or reach of one’s responsibility in a given situation i.e. the lengths one will go to in meeting one’s responsibility for sorting one’s garbage, a rational estimation will be required which indicates that this ‘sense’ is also a consideration or an awareness of how to act in certain situations. This further indicates the necessity for action (or inaction) of some kind since if this ‘sense’ is not followed up with action of some sort it will not be of much use. So another characteristic of a sense of responsibility is that it must be motivating for action or in-action in some way. The motivation for action or in action must furthermore be chosen freely by being un-coerced in order to truly be ‘a sense’ of anything. If one 'acts responsibly' only because the law says so, it cannot be considered to derive from one’s sense of responsibility but instead from a sense of fear of punishment. On
the other hand it seems that one can have a genuine sense of responsibility if one meets one’s actual responsibilities (as defined by law) such as paying one’s taxes for instance, both because the law says so and because one finds it agreeable and thus acceptable. This brings up the question of what actually motivates this sense of responsibility? It is very likely that what Glendon has in mind is that this sense is caused by a general concern for one’s surroundings and a respect for other people.

In one chapter in Rights Talk Glendon actually discusses one such potential motivator for increasing one’s sense of responsibility. The object for this discussion is the missing law to rescue in American legislation and the implication it has for people’s sense of responsibility. Glendon believes there to be a connection between legislation of the duty to rescue a person in peril (given that performing the rescue would not be overly risky for the rescuer) and how the population in general view what is to be considered to be morally required in such a situation. Glendon explains her claim as follows: “law, especially criminal, family, and constitutional law, is aspirational and educational, expressing something about what kind of people we are and what kind of society we are in the process of creating” and later continues “…there is reason to believe that public discourse, in neglecting responsibility, is doing less than it might to encourage fairly widespread American attitudes about duty and obligation (Glendon, 104-105).

Glendon believes that the law is or can be motivational and educational as to the degree of sense of responsibility we have for one another in society. This means in other words that Glendon claims that people derive, at least in part, their moral standing on certain issues from what the law has to say about it. Here the issue is 'easy rescue' and Glendon believes that people are more inclined to perform an easy rescue where the law says that this is everyone’s duty provided the circumstances are in place. One important aspect here is that...
such a law does not have the purpose of motivating good samaritanism by fear of punishment if people do not perform this duty as required. Glendon remarks that in Europe where these laws are being used in most countries the fines for violating the law are set very low “to emphasize that the purpose of the legislation is largely hortatory” (Glendon, 84). To back up this claim Glendon presents some rather disturbing courtroom cases where people in various situations failed to perform such an easy rescue. These cases are quite extreme and Glendon admits that fortunately they are also rather rare. In all of the cases the unfortunate incident was followed by a lawsuit on the part of the person that had needed the rescue. In addition to this Glendon also comments on one American study on the subject that discovered that if people who were asked to evaluate certain scenarios in which people needed to be rescued, beforehand were told that there was a legal requirement of assistance, they tended to judge the morality of conduct in such situations much more severely than when not told that there was such a legal requirement (Glendon, 88).

Glendon also quotes several scholars, lawyers and jurists who argue in favour of her conviction: “For good or ill, our government is the potent, the omnipresent teacher” (Glendon, 85). A French scholar said in a similar vein: “...the rescue laws serve as reminders that we are members of society and ought to act responsibly” (Glendon, 85).

One factor that plays a crucial role in modern times is, however, the claim discussed earlier regarding the disappearance of community as argued for mainly by Etzioni. Glendon who as earlier stated also subscribes to this notion explains how this greatly changes the situation. “In places and times where law is only one of many coexisting systems of social norms – and not the most important one among them – the silence of the law on many subjects is of no particular importance... In heterogeneous modern states, however, common values are harder to identify, while law and its official enforcement apparatus are more universal and highly developed than other forms of social regulation... law is now regarded by many Americans as the principal carrier of those few moral understandings that are widely shared by our diverse citizenry. In these circumstances, legal silences can acquire unintended meanings” (Glendon, 87). “Traditionally, it may have been a sufficient explanation of the

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23 ‘Of an encouraging nature’.
24 One such case involved a boat rental company that had rented out a canoe. At some point the canoe tipped over and the man cried for help to the people of the company sitting on the shore of the lake and could hear him clearly. They did not react but simply watched the person slowly losing his grip on the canoe and drowning (Glendon, 79).
25 Olmstead v. United States, 277 U.S. 438, 482 (1928)
no-duty-to-rescue rule that the approval or disapproval of the community could be counted on to see that most people did the right thing most of the time … As social norms become weaker, a kind of moral vacuum arises. We need therefore, to be aware, when we restate traditional legal norms, that law has a tendency in our society to move into this vacuum” (Glendon, 102).

The claim about the disappearance of the community is of fundamental importance to Glendon as the factor that has caused such silences in law to actually become problematic.

Glendon’s claim here seems quite plausible. Legislation and morality are interconnected in a way which affects people’s behaviour and judgement on moral issues. Some things require clarification though. The study that Glendon refers to is not necessarily very supportive of her claim. When people in a situation are being told that a duty to rescue is/is not part of legislation the question becomes overly suggestive. The necessity of actually having to inform the test subjects on the actual situation regarding legislation on the duty to rescue is telling of a problem with the test itself and with a presumed relation between morality and legislation. How many people are aware that there is or is not such a duty in the legislation? If such a law is meant to only have a hortatory purpose it must be crucial that people are aware of its existence. Glendon contends that in the United States (the country with the most law students in the world) the law students are taught about this rule and about the important differences between legality and morality in American legislation (Glendon, 80-81).

Glendon also mentions throughout the chapter that the public is informed about this rule through court-room decisions not just between private individuals but also how social workers, police and other public officials on several accounts that Glendon mentions have failed to meet responsibilities. Glendon believes in general that

“The principal changes that have produced this effect are the greatly increased power and pervasiveness of law and central governments … law for better or for worse now penetrates deeply into every aspect of life. Government whether pursuant or not plays an ever greater role in the lives of individuals as a source of support and security” (Glendon, 101-102).

That government has grown in most Western countries in parallel with the development of the welfare state is probably quite undeniable but one can still question to what extent people are exposed to and informed about the presence or absence of a law about the duty to rescue. As already mentioned Glendon herself admits that the cases she uses in the chapter are quite
rare (and quite extreme) so a higher degree of law and government in the general citizen’s life does not need to involve a general familiarity with this duty. One can also question that if this claim carries merit there might have been conducted a study that would show the consequences of having or omitting this duty in legislation. A comparative study between one nation with this law and one without would be able to demonstrate clearly the effect of such a law and thus to confirm or deny the claim that the law counts as a factor in shaping our sense of responsibility.

The discussion of the reasonability of claiming that communities were something that mostly belonged to the past proved that the definition of what a community is, is very important to support such a claim. But the one element of Etzioni’s argumentation to which I gave most credibility; the presence of a moral voice in this context could render support to Glendon’s claim that this aspect of a community could have an insulating effect on people’s sense and extension of responsibility. This is to be understood in the sense that it seems likely that in a society (or community) where people are generally unafraid and in fact motivated to speak out when a certain moral code is broken these people can be said to be more aware of what is considered to be moral behaviour and thus less affected by the presence or absence of this duty to rescue. It makes sense that the tendency to perform such an easy rescue potentially could be higher if one comes from a place in which there is a natural climate for being more morally aware and acting out one’s sense of responsibility rather as a matter of instinct. And in the absence of such a climate it could be argued that people will need to look elsewhere i.e. to law in order to find a source for one’s basic moral framework.

Glendon's point in addition to this was that the place where these responsibilities were nurtured earlier has now been taken over by a certain 'rights mentality'. Although not being a term that Glendon neither defines in detail nor one she uses throughout I believe this term is fitting for what I wish to analyse in Glendon's theory of rights. I will not treat this claim as literally meaning that rights are now occupying a certain place where there used to be a sense of responsibility as I do not believe Glendon intended it to be understood literally. What is meant is probably just that the sense of responsibility that used to exist has been corroded and a different mentality more concerned with rights has in effect gained more momentum.
The term *rights mentality* suggests a certain way of thinking which is based around the concept of rights. Glendon argues that this is in fact the case and she explores this particular ‘rights talk’, as she calls it, in depth in her book. As already noted Glendon takes as a given the breakup of communities and the increased individualization in society. Her argument is therefore based on viewing rights as a sociological phenomenon which has changed the way people think about what they are entitled to. Glendon underlines that it is fundamentally a change in our political discourse as to the way people argue for their beliefs that has undergone a change with a new rights discourse where needs and wants become expressed through a language of rights. This has at the same time had an influence on how people in society consider their position in between what they can claim and what they deserve from society.

At the centre of this claim is the argument that rights are often perceived to be absolutes in the sense that rights can be used at any time and in any situation and nothing or anybody can get in the way of this (Glendon, p. 18-19). It is here important to note that this absoluteness is merely perceived and is therefore not an essential characteristic of rights. Glendon illustrates this with a telling example of a courtroom case where two tenants had a dispute over issues of noise. Since they were neighbours one was complaining over the noise that the other made and, in referring to the lease, stating that *any* disturbing sound provided grounds for throwing a person out of the apartment (Glendon, 19). The noisy tenant claimed on the other hand that since his apartment was his home, no one was to tell him what to do there (Glendon, 18). This shows that both positions, equally extreme, are such that they leave no room for further debate as it will have to be either one way or the other. Every reasonable urban dweller is well aware that neither can you 'do whatever you want in your own home' nor can you ever expect complete silence living in an apartment where the roofs, floors and walls are shared with other people. It is Glendon’s conviction that rights have come to dominate discourses of these kinds of disagreements over the last few decades and so has the ability to divide disputants by creating mutually unrealistic expectations on both sides of the disagreement. “Absoluteness is an illusion, and hardly a harmless one. When we assert our rights to life, liberty, and property, we are expressing the reasonable hope that such things can be made more secure by law and politics. When we assert these rights in an absolute form, however, we are expressing infinite and impossible desires – to be completely free, to
possess things totally, to be captains of our fate, and masters of our souls” (Glendon, 45). Although the above illustration might be a bit exaggerated (it is hard to believe at least that anyone would believe that any disturbing sound would provide a ground to kick anyone out of their apartment) it seems familiar how people sometimes act in these and similar situations. One possible explanation could be that being in possession of rights means quite often that you have a capacity to order certain things around in a certain way and if this power is not restricted in any way it is not hard to imagine that one could come to perceive one's rights as means to safeguard particular interests against any outside interference. In other words we find out that our rights can help us to get things the way we want and we then come to treat these rights as absolutes, as our guarantees to securing certain interests.

Another example that Glendon uses is that of abortion. This issue was much discussed at the end of the 1980's and throughout the 90’s and in the United States the debate was especially fierce. Two camps developed to represent each side of the issue. On one side were the 'Pro life' supporters and on the other 'Pro choice'. What was significant, however, was how the debate quickly took the forms of right claims so that it became a struggle between 'everyone's right to life' (here foetuses are perceived to have rights as well) opposed to 'anyone's right to choose over one's own body' (disregarding that one's own body in the situation of pregnancy partly belongs to someone (or something) else). Again, when rights become the dominating discourse the positions are radicalised to a degree where compromise and further dialogue become seriously inhibited (Glendon, 66). Asserting your claims using the language of rights is perceived to be a particularly strong discourse that more effectively demonstrates an interest. But to Glendon this tendency has disastrous consequences for society: “We make it difficult for persons and groups with conflicting interests and views to build coalitions and achieve compromise, or even to acquire that minimal degree of mutual forbearance and understanding that promotes peaceful coexistence and keeps the door open to further communication” (Glendon, 15). Glendon believes that being possessors of rights has a corruptive effect on us as they are tools that give us the opportunity to do something or to get something merely by claiming that we have a right to it. Throughout her book Glendon quotes a common American attitude about what is best about living in America. The answer is often that, in America “one can do whatever he wants”, “that there are no
limits” etc. Glendon sees these expressions as examples of how people glorifying the concept of rights have become people who equate these nearly with absolute freedom.

Glendon's notions on how rights are perceived as absolutes have, however, received some critique. Richard A. Epstein who has written an extensive review of *Rights talk* does not see much of a problem with this absoluteness of rights on which Glendon places much emphasis. Epstein believes that this absoluteness is an indispensable part of rights – to provide them with any force at all. “Over vast ranges of human activity, absolute rights are the indispensable baseline against which various kinds of market transactions are conducted. The greater power to exclude includes the lesser power to admit on conditions” (Epstein, 1109). As one can see, Epstein backs this up with the situation of commerce. The thought is that if rights were not absolute one could not conduct any business since one did not have the power to claim and to hold on to an item. Epstein is correct that rights to property need to be absolute since they otherwise would be of very limited use as he also illustrates. But property rights are but one kind of rights and many other rights such as social rights are not considered absolute as they often have to be weighed against the rights of others. But granted that Glendon did actually only talk about property rights she probably would not argue against this; that would simply not be in her interest. As Epstein notices himself: “Glendon is no thoughtless realist or naive utopian who thinks that the legal system can get along without any conception of rights and duties” (Epstein, 1107). But why think that Glendon wishes to change the basic conception of rights, or the contents of them? Her quarrels are rather with the discourse of rights and how rights have come to invade premises that to her conviction are ill-suited for such a discourse. It rather seems that Epstein has misread or misinterpreted the actual intention of Glendon’s treatment of the absoluteness of rights and this critique falls outside of what Glendon wishes to bring attention to, in her book. The frequent use of the word ‘perceive’ in discussing the supposed absoluteness of rights points to an important aspect of this rights mentality we try to identify. Glendon is careful to make a distinction between what is contained theoretically in rights and how, on the other hand, they are used and thereby understood by people. This gives heed to the fact that Glendon is talking about a certain discourse (or mentality if you will) of rights and is not trying to criticize rights as such.

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26 Not all agree however that property rights always are absolute, which means that they are not absolute. This lies however outside of this discussion.
The high esteem that Glendon ascribes to rights is convincing when rights are conceived as
giving the power to decide on a certain order of affairs. Just as the way we have power over
and try to control children, animals and nature does now and again get out of hand simply
because power in itself is addictive, so can our culture of having rights make us over
confident and create illusory hopes and demands that far supersede what was intended with
the right in the first place. The term ‘rights mentality’ seems very fitting in this context as it
emphasises a tendency to think in rights, in concerns relating to what you can reasonably
demand of goods and services and freedoms from society. Furthermore it does not seem
farfetched that the dominance of rights has contributed significantly in diminishing a
correlative sense of responsibility as rights naturally enjoy higher popular appeal as they
provide people with advantages whereas responsibilities or duties does exactly the opposite
and therefore does not enjoy the same esteem.

Ronald Dworkin uses in this regard a useful analogy by comparing rights with trump cards
in card games like Bridge. The idea is that just as a trump card in most card games insulates
against any outside interference rights seem apparently to have a similar function in that “if
anyone is made to abridge my freedom of speech I can play my 'trump card' and have the
decision revoked in a court of law” (Hodgson, 209).

While this might be true it does nonetheless present a problematic vision of society, as
Hodgson and others have observed (Ibid). If everyone in society considers their rights as
trumps that can be used against each other and against society as a whole, there will be little
concern left over for the interests of others or for how using one’s rights might impact
others. This phenomenon has been captured well by Etzioni who has observed that “soon 'I
can do what I want as long as I don't hurt others' becomes 'I can do what I want because I
have the right to do it'” (Etzioni, 8). This last quote also captures another significant aspect
about how Etzioni believes rights are conceived; that they stand as arguments in their own
right. When you have a right to do a certain thing you need not justify why you wish do it.
Etzioni claims that having a right is in itself now thought to be a sufficient reason to make
use of it.
Rights and rightness

This brings us to the normative claim about confusing ‘rights with rightness’. This is interesting as it suggests a connection between legislation and citizens’ conceptions of responsibility and of rights. How exactly this is to be understood is left open as Etzioni, who coined the phrase, only mentions it briefly on pg. 263. One way to understand it is that the various legal rights that people are granted are generally understood to carry within them a certain moral legitimation which means that, using one’s rights is a right in itself independent of what consequences it might have for the wider society. It lies implicitly herein that although one ‘has the legal right to use one’s rights’, there are circumstances where a certain conception of morality dictates that it is not the right thing to do. Again it is important to underscore that this is not an intrinsic quality of rights; neither that it is right nor wrong to make use of them. It is rather a recognition of the fact that using one’s rights is quite often an act that has consequences for society, which implies that there are instances where it could be considered morally wrong to make use of one’s rights although you do have a legal right to use them. The tension between having a right and expressing this right is a tension between, on the one side possessing a legal right entitlement, and, on the other, the practical expression and use of this entitlement. Having a right to do something means that one has the power to use this right. This can mean either a power to do a certain thing without people interfering i.e. to use your right of free speech or to claim a certain thing (welfare or service) from someone or something; i.e. the right to have a job. Since rights do not come with instructions as to how or when it is appropriate to make use of these rights it is largely up to people them-selves to decide as to when and under what circumstances they wish to make use of them. What Etzioni believes here is that some (or many) people do not realize the difference in merely being allowed to do something without being punished for it, and then to know in what situations one is morally permitted to make use of one’s rights and when one is not. What is under question here is the situation where one can use one’s rights to do wrong. Understood as such, this claim is quite central to both Etzioni and Glendon. It is Etzioni who has coined the term and noted (as mentioned above) that “there is a gap between rights and rightness that cannot be closed without a richer moral vocabulary – one that invokes principles of decency, duty, responsibility and the common good, among others” (Etzioni, 263).
A good example of how this could happen is the now famous controversy about the ‘Mohammed Cartoons’\textsuperscript{27}. Apart from being interesting from a culturally normative viewpoint as to what is considered to be blasphemy and what is within the confines of irony and satire, this case is also interesting from a perspective of rights since the basic legitimation for printing the cartoons was that it was done in the name of the right to freedom of expression. The editor of the newspaper responsible for publishing the cartoons claimed that he was aware that what they were doing would be considered provocative but stated simply that having such an attitude “is incompatible with contemporary democracy and freedom of speech, where one must be ready to put up with insults, mockery and ridicule”\textsuperscript{28} and so there was sufficient legitimation to carry on with the project and thereby offending millions of Muslims all over the world. The element in rights that is responsible for this is then that in using certain rights you have an influence on some state of affairs in the world.

It seems that to have a right to do something can have a blinding effect on the person so that all other concerns are suspended and set aside. Although not stating it clearly Etzioni would probably argue that the cause of this confusion of rights and rightness lies in how people in the Western world have gradually lost a sense of responsibility for their actions - qua his arguments about the loss of community and the moral voice. It can furthermore be said to be Etzioni’s conviction that the increased desire for privacy, autonomy and personal freedom has caused people to confuse having the right to have rights with the rightness to use rights. He illustrates this through several cases but mentions specifically the ACLU (the American Civil Liberties Union) as an eminent example of this trend. This association is determined to oppose any measures taken that will decrease individual freedom and has, among other things, been opposing so-called sobriety checkpoints where cars, busses and motorcycles and

\textsuperscript{27} Also known as ‘The Muhammed crisis’. An incidence that happened in 2005 where the Danish Newspaper ‘Jyllands-Posten’ printed twelve caricatures of the prophet Mohammed. In addition to be condescending and ridiculing some of the drawings illustrated Mohammed carrying a bomb in his turban and thus explicitly making a reference between Islam and terrorism. The printing of the drawings were justified as being done according to the human right of free speech. Nonetheless the drawings where received by most Muslims with anger and fury as they felt insulted by seeing their prophet not only depicted (which Mohammed cannot be according to the Koran) but depicted in what they thought were very humiliating and condescending ways. This was followed by massive protests and demonstrations throughout the Middle East where embassies were burnt to the ground and Danish flags put on fire by angry mobs.

other motor vehicles are forced to be checked for drunk driving. The ACLU have also held rallies against forcing drivers to wear seatbelts and motorcyclists to wear helmets. Despite very positive results that especially these checkpoints have had in lowering the rate of alcohol related traffic accidents the ACLU believes that it is an intrusion on personal liberty and should therefore be stopped. The same argument goes for the examples about seatbelts and helmets. Etzioni notices here that the popular saying of ‘I can do what I want as long as I do not hurt anyone’ does not apply here, since the consequences of not only drunk driving are obviously disastrous for society. But also motorcyclists that refuse to wear helmets and drivers refusing to use seatbelts, also become burdensome for society since those killed potentially leave behind families and relatives that society will now have to take care of. To Etzioni such incidences are clear indicators that people tend to think that if there can be said to be a right to something then it is automatically also morally justified. He believes that this is a clear indication that the insistence on individual freedom has been over-emphasised when people speak out against such measures being taken (Etzioni, p. 170-172). Two things seem to characterize this phenomenon. Using rights in the absence of any moral consideration for how this will affect other people, demonstrates a significant absence of responsibility and a lack of concern for other people, and on the other side, a highly self-centred and egotistical individual. When no responsibility is attached to making use of one’s rights one can easily get accustomed to thinking that using rights are for free; that they are the trumps that we hold against the rest of society and other people that guarantees that we will receive our fair share and that we will not be trampled over by rules and decisions made over our heads and without our consent. That rights have come to take a place like this in the minds of people is not hard to imagine when considering the changes the world has undergone in the last 60 years with big cities that are more like little countries with extreme diversity. How the market as the primary factor has increasingly individualised us to the extent that, what we have left to count on – is our rights. Without rights one can easily get the feeling that they are left up to the mercy of forces far beyond their control but where rights on the other hand not only have the effect to provide as effective blockers against these forces abusing individuals. Rights have now additionally attained the role of tools that

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29 In the 1980’ies 250.000 people got killed and 500.000 injured each year in The United States alone (Etzioni, 170).
help individuals or groups to push their interests through without having to care about the costs this has for the greater society.

Etzioni has additionally noticed that the high esteem that rights enjoy from both sides of the political scale seems to give the impression that any limitation or decrease in the number or the reach of rights is ruled out even before it is discussed: “we are willing to fight and die for your freedom to be irresponsible and even socially harmful because the alternative would sweep away so much good speech along with the bad” (Etzioni, 201).

Having said this it can naturally quickly be inquired as to how or with what measure one should decide the circumstances to which it would be morally permissible or not to make use of a certain right. How important should one’s interest be before it is permissible to use a right and how much harm can one permissibly impose on society in using a right? These are naturally important questions and one could easily discuss at length whether a principle involving a certain threshold until which one can harm society would offer guidance; or if a balancing of harms and benefits would be better or fairer; or if one would always consider that one cannot use a right if it involves any harm for society.

I believe, however, that such abstract calculation would not be what Etzioni (or Glendon) would believe to be the solution. The recurring term of ‘a sense of responsibility’ understood as ‘an awareness and concern for the impact and the consequences of one’s own actions and in-actions, for the general well-being of the wider society’ as defined above, is most likely what they both believe is missing in today’s society and what at the same time embodies the solution to the moral vacuum that they believe for a large part is the reality today.

So far we have gone through various sociological consequences that have led to the present situation we are in now which is characterised by a thinking in rights which I have argued have had certain negative consequences on how people consider what is to be expected from them in terms of contributing where possible to upholding and sustaining civil society.

Etzioni’s insistence on communities as where the answer lies to the declining morality of today has to be withheld. Etzioni is right when he claims that the community as a societal institution has the capacity to generate and sustain a moral climate that can affect the moral disposition of the community-members positively. On the other side Etzioni pays little attention to the less positive features such as illiberalism, inequality and intolerance that Brint pointed out also are defining features of especially traditional communities. The
community as a way to generate citizens with a higher sense of responsibility is not without problems and Etzioni’s argument cannot be accepted unconditionally.

**Conclusion**

Rights, as a means for keeping order and social control, are effective at doing just that, as they provide a good basic safety net for people to hold up against oppression, racism, assault, illegal prosecution and other evils that should be held at bay at all times. This immediate effectiveness of rights for social control is at the same time how rights have achieved their strong appeal both legally in the minds of jurists, legislators but also popularly in the minds of politicians, NGO’s, HR activists and with ordinary people of any political orientation.

The deep belief in rights in the Western world as what could safeguard the basic interests and needs of all (to be free from coercion, liberty of thought, freedom of movement etc.) and as an effective to claim certain goods and services, seem however to have come with a price. Handing out free privileges without asking anything back in return is not only unsustainable from a logical perspective. There is a lack of willingness to realize that rights, as has been shown, can have potentially harmful consequences in the all too easily corruptible mind of man. In a critique of human rights Onora O’Neill described quite well the problems concerning the high esteem that rights enjoy:

“We find it unsurprising that the ruling ideas of past eras have been superseded and modified, and we can hardly doubt that human rights are a central ruling idea of our age. Yet we do not find much current discussion of the likelihood that the idea of human rights may suffer the same fate. Public discourse is for the most part admiring, and often represents human rights as unquestionable truth and progress: we may question anything - except human rights” (O’Neill 2005, 439).

Although this is not entirely true as scholars have been critical towards the human rights since they were adopted in 1948, O’Neill’s comment serves as a reminder of the difficulty of criticizing elements that are constituted as a basic frame of reference which is part of one’s understanding of the world – which currently constitutes a paradigm in our time.

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30 It could here be interfered that one of the basic thoughts behind the welfare state is that one's duties to society are largely made up of the high percentage of taxes people usually have to pay in exchange for enjoying the privileges of rights without having to do much or anything in return. I merely speak of a purely logical connection between rights and duties as being dependent each on one another.
Realizing that society indeed works as a moral educator it is necessary to look at rights, as one jurist once said that any lawyer had to look at the law: Through the eyes of an evil man. Just as effective they are for social control and for protecting the weak against the powerful equally effective are they as tools, for furthering particular interests over the wider interests of others, for stubborn insistence on certain interests that virtually rule out the possibility of compromise and agreement. There is strong reason to believe that rights may have changed our ways of considering what our moral commitments to other people are. If our moral commitments to other people stop at the extent to which their rights reach into our sphere of bound obligations then it seems that we can go through our lives without caring much about the well-being of people around us. Rights do not (and were probably never intended to) tell us anything about why (or even if) we should be helpful to one another, if we should be concerned for the welfare of other people with whom we live together. Essentially they do not guide us as to what is right and what is wrong behaviour in various situations.

We will now shift the focus of attention away from Western society and look instead to Confucianism which offer a very contrasting view for how to organize and govern a society. Whereas the Western society is ordered around the liberal notions of freedom for each to do as (s)he wants as long as no one are harmed, Confucianism considers the value of freedom much less significant but emphasize instead the importance of directing that freedom towards the aspiration of learning how to be a benevolent human being.
CONFUCIANISM

What is Confucianism?
Grasping the full extent of what Confucianism is can be a challenge, especially for a Westerner. Not only does Confucianism transcend Western categories and disciplines such as philosophy, religion, psychology and politics but it has been especially troublesome to make sense of the integration of the secular and religious realms as these have been separated in the West ever since Plato (Yao). Confucianism covers almost all areas of life including personal ethics, societal norms and values, teaching, learning and personal aspirations. Most importantly though, Confucianism penetrates the personal, the public and political spheres as “Confucianism in the past provided the basic framework for society and especially the relations between its subjects” (Yao, 31, 32).

Religion, philosophy or politics?
By transcending traditional barriers that are taken for granted in the West such as private/public secular/religious, Confucianism provides both a full-blown political programme, an ethical system and a religious practise and worked as “a guiding principle permeating the way of life in China” (Yao, p. 31). It was not just a Chinese phenomenon but had a firm grip in most of the East Asian region. Korea and Japan also developed their own specialised versions of Confucianism over the years (Yao).

The many dimensions of Confucianism mean that scholars have given very different accounts of what it is, and as a consequence, the subject has generated fierce debate among scholars (Yao, 34). Philosophy has mainly identified Confucianism as an ethical system wherein the moral dimension was seen as the most important. Other scholars have looked at Confucianism from its political perspective, how it penetrated entirely the institutional structure of society and was thus described as a sort of state orthodoxy. Others again have focused on elements of mysticism, sacrifice and worship by regarding Confucianism mainly as a religious practise (Yao). Another consequence of Confucianism's pervasive character has resulted in the question of whether in its time it was seen as 'one of the major achievements of the human mind' or as 'an obstacle for forward progress' and 'the cause of the backwardness of China' (Yao, 38).
It is not easy to determine how far Confucianism dates back in history, is mainly due to a misunderstanding of the word 'Confucianism'. What we in the West call 'Confucianism' is according to Yao largely a misnomer of the tradition since this label gives the idea that it is based around the teachings of Confucius. This is only true to some extent. Confucius worked as a transmitter and a sort of re-initiator of the tradition known as Ru which, directly translated, means 'the doctrine'. Ru was a collection of classical texts on which Confucianism became based. Confucius helped also to further elaborate on these texts and developed the tradition by giving it structure and he is generally recognised as the person who turned Ru into Confucianism. But it is not to be equated with what Confucianism is and Confucius is neither regarded as its saviour nor as its lord (Yao, 17).

That Confucianism actually managed to be the major point of reference for a very large region in the world for more than 2000 years is in itself an impressive fact. The secret to its longevity despite all the changes societies undergo during such a long time, is to be found in another of Confucianism's key features - that of being a tradition based on continuous learning and study (Yao). It is inherent to Confucianism that anyone can learn to be a good (virtuous) human being by indulging in studies and following the examples of the sages. In this sense Confucianism was able to incorporate changes in society, since learning was always ‘learning in context of the surroundings’. “Confucian temples may be demolished, devotion to its sages abolished and Confucian followers may be stripped of their social privileges, but Confucianism can still survive and thrive as long as learning is permitted, and the classic texts are available” (Yao, 29-30).

In basic terms Confucianism can be described as an action-based ethical system that seeks to create and sustain a harmonious society by focusing mainly on the moral development of individuals through self-cultivation. Of fundamental importance here is that Confucianism has a total-view of moral behaviour by encompassing both the action and the intention of the action, and would thus be termed as being both consequential and de-ontological according to Western ethics (Yao, 32).

31 "An incorrect or unsuitable name or term for a person or a thing" - www.dictionary.com
A bit of history

In order to give a brief historical overview of Confucianism in its different stages and forms I will use 'the three stages theory' developed by Tu Wei-ming who is a very influential contemporary Confucian scholar. I am fully aware that this is by no means exhaustive and that many particularities are hereby lost. This approach will be combined with another more elaborate five-step approach cut out by Yao. It seems to me that a satisfactorily historical account lies somewhere in between these two methods. I wish merely to place Confucianism in a rough historical frame; it will not be of any analytical relevance whatsoever.

The first period (aforementioned and wherein the tradition attained its basic form and became known as Confucianism) is where we find the three great Confucian teachers: Confucius (551-479 BCE), Mengzi (371-289 BCE) and Xunzi (310-211 BCE). Confucius grew up at a time of political turmoil, which was what inspired him to think about how to better establish a peaceful and harmonious society. Subsequently he developed his theses around two basic notions: “That goodness can be taught and learned, and that society can only be in harmony and at peace under the guidance of wisdom” (Yao, 26). Without luck in his work as a public servant he eventually decided to spend his life teaching. He is considered responsible for the restoration of Confucianism especially because of his promotion of the junzi\(^{32}\) as an ideal attainable for everybody and his emphasis on secular rather than religious matters.

In many ways Mengzi followed in the footsteps of Confucius. He saw Confucius as his great ideal and he also attempted to forge a career working for the state. His main thesis was that the state should not be ruled by laws and punishments but humanely by letting the people follow the good example of the ruler (Yao). His teachings went along the same lines as those of Confucius but he became known as being very humane. He was considered Confucian due to his views that human beings were essentially good and his optimistic views of human destiny in general in a time of much uncertainty (Yao).

Xunzi, the last of ’the three great ones’, was, however, markedly different. He was critical of many of the Confucian doctrines which he did not believe to be true to the actual thoughts of Confucius. Xunzi imported various elements from other traditions such as Daoism. He

\(^{32}\) Read more on page 52-53
identified Heaven with nature and he was more concerned with human affairs than with metaphysical ones. In opposition to Mengzi's view, Xunzi believed that human nature was essentially evil as it was driven by desires. This could however be transformed into ren (humaneness) by proper education (ibid). Xunzi was a realist in many regards and Yao characterizes him as 'unmatchable both in Chinese intellectual history and in the Confucian tradition' (Yao, 78).

The second period was Confucianism's renaissance period from approximately 960 to the beginning of the twentieth century, according to Yao. In this period Confucianism met challenges from both Daoism and Buddhism. Confucian scholars were able to integrate elements from both traditions and results in what is called a new Confucian Learning Dao Xue or as it became known in the West as Neo-Confucianism. The success of the endeavour is proven by how Confucianism spread beyond China to, in particular, Vietnam, Korea and Japan, where the tradition became partly re-formulated so as to be incorporated into the different social and political structures of these countries (Yao).

The third epoch of Confucianism started in the twentieth century, where one has to presume that Confucianism had been in decline since the previous period, since Yao (9) again states that 'prominent scholars devoted their lives to the revival of Confucianism'. What is significant, however, is that Confucian scholars re-interpreted Confucianism in the light of Western traditions. In the 19th and 20th centuries Confucianism was blamed for being the reason for China's slow development in comparison with, for example, Japan's much earlier modernization. Recently, as earlier noted, Confucianism has once again become a centre of attention and now enjoys considerable public esteem within China and is becoming a much debated topic within academia.

Confucianism, perceived as a political/ethical tradition, offers a very elaborate programme of how to organize a society. As will be illustrated, the Confucian vision of a good society rests on very different conceptions of the human being, on the relations between them, and

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33 The renaissance indicates (obviously) that Confucianism was severely devalued as a tradition in the end of the former period due to what Yao calls 'extensive exegesis' that drained the Confucian scholars form energy and Confucianism was thus left largely unattended for some time.

34 Especially Daniel A. Bell has noticed this recent surge and is treating this as a phenomenon in a recent book called China's new Confucianism.
especially on how to regulate society in the most comprehensive way to achieve the ultimate goal of Confucianism, harmony.

I will mainly focus on political and moral aspects of Confucianism that can help to give an insight into how civic society was organised and the mechanisms that were thought up to guide, restrict and manage human social behaviour. Whilst being an enormously social and community-oriented philosophy that does not recognize concepts such as ‘private’ and ‘public’ it follows that to understand the basic thought of Confucian morality one needs to understand how the human person is essentially characterized and how concepts such as the individual, family, morality, learning, society and the state are related. The various concepts that are treated in this account are selected on a basis of providing a broad and comprehensive vision of Confucian ethics. The focus of the section rests on identifying and understanding the various mechanisms that make up the politicization of Confucian morality.

The overall question that will lead this section is, once again:

*How would Confucianism respond to the purported problems endemic to governing society and social behaviour primarily with rights?*

The different perceptions of morality in Confucianism and in the West are largely based on diverging views on certain values. In the West morality is based around liberal values such as the freedom and autonomy of the individual. In Confucianism these are based on the individual as relational and the emphasis is thus on behaving according to certain pre-conceived ideals. These two views will be discussed in relation to the good of society and the good of the individual.

The structure of the section on Confucian politics and ethics is rather based on a Confucian taxonomy than a Western one, which has the consequence that the reader will not find such labels as: individualism, morality, politics or society. The labels used are based on Confucian intelligibility and so staying as close as possible to the intended idea and vision of Confucianism.
Confucian ethics and politics

“For Confucius, unless there are two human beings, there are no human beings”

The importance of family and relationships

The elemental structure of society was based on the idea of how an elementary nuclear family is constituted. The family was a model for Confucian society in two different ways. Metaphorically, in the sense that the relation between the citizens and the ruler was considered to be parallel to that of children and parent (or the padre); politically, the family was considered to be the basic unit of society (Nosco, p. 25). The rationale behind this was that if independent families each and by them-selves were doing fine then so would society as a whole (Ibid).

The concept of ‘family’ was, furthermore, central as it contained the basic relationships one has in life, which serve to teach the double role of both receiving and giving when being in a relationship. The relationships in a family are obvious to anyone as one is always a son, a wife, a father and so on and the different moral requirements according to the specific role is naturally learned. The family sets the premises for the first lessons of Confucian morality in learning how to behave in different roles according to the requirements of the relation. The deep integration of individual, family and the wider society in Confucianism is tied together by five different relationships. These relationships were, as here stated by Mencius:

- Between parent and child there is to be affection
- Between ruler and minister, rightness
- Between husband and wife, [gender] distinctions
- Between older and younger [siblings] an order of precedence
- Between friends, trustworthiness

(de Bary, 1998, p. 17)35

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35 It should be noted here that this is but one version (an early one) of what defines the relationships. Confucius defined the contents of the relations somewhat differently as did Xunzi by for instance stressing the importance of filial piety from children towards the parents and also emphasizing loyalty as the most important duty from a minister to his ruler (de Bary, 1991, 119-120). Confucianism has undergone many changes and many important aspects have been reinterpreted and changed according to the requirements of society at any given time.
The persistent focus on family is made quite clear by three of the relations being familiar. Since everyone would be familiar with having parents and siblings Confucius stated that the virtue of filial piety one feels towards one’s parents and the brotherly love one feels towards one’s brothers and sisters were the most elemental and most important virtues to learn for the further development of other virtues.

As already mentioned, Confucianism was a highly hierarchical tradition causing most of these relationships to be unequal in nature. The nature of the inequality in Confucianism was the insistence that all human meetings essentially are unequal. Only the friend/friend relation can be considered equal although with time one will usually come to occupy an either dominant or subordinate position in this relation.

A key value and a further basic lesson was that inherent in these relationships was a fundamental notion of reciprocity. Each part in the relation has certain duties towards the other and each part can therefore also expect certain duties to be carried out in the other’s favour. This is best exemplified in the relation of the ruler and the people i.e. the parent/child relation as noted above. The ruler cannot expect the people to follow him if he is not just and does not treat the people well. If the ruler imagines how his decisions affect the people, ruling just and well should not be very hard (Chang, 122-125). The foundation of the Confucian relationships is therefore that one should fulfil the role and the responsibilities that define the particular relationship. In the case of the father/son relationship the importance of filial piety towards the parent is usually what defines the son’s role towards the parents. It was generally considered that children owed their parents their life since childbirth was considered 'an extreme sacrifice' (Chang, 122) and are therefore under the obligation to 'return the favour' when the parents grow old and are gradually become incapable of taking care of themselves. This is also proof of the inherent reciprocity present in all relations that children are to respect their parents and do as they say out of gratitude for the life they have been given and also for learning this core virtue in the ideal setting (de Bary, 1991).

36 Filial piety is a duty so deeply embedded in Chinese culture that it is now implemented in the law that 'one is under a duty to care for one's parents, once they no longer themselves are capable hereof' (Wikipedia contributors. "Confucianism." Wikipedia, The Free Encyclopedia. Wikipedia, The Free Encyclopedia, 4 Nov. 2011. Web. 12 Nov. 2011.)
Chang also considered the inherent inequalities in these relationships a lot less strict than what they seem at first glance as he notices that emphasis on filial piety does not mean that the parents do not have any obligations towards the children. “A father should behave as a father and a son should behave as a son” (Chang, 120), said Confucius, which, according to Chang, meant that the father can only expect his son to treat him with respect and honour him if he treats the son as he ought to (ibid). However, this did not imply that the son had to blindly obey his father, since “if one's parent is about to commit a wrong one should gently advise against it; if the advice is not accepted, one should be respectful and not defiant, fearful of the consequences but never resentful” (Chang, 120). In general it was taken as natural that one's parents care about the children through love and affection and it was considered more important to guide the child since it was clearly the child being 'the student' i.e. the inferior in this relation. Confucius stressed this in the following notion of the true meaning of filial piety:

“Only the person who carefully scrutinizes what is to be obeyed can be considered truly filial” (Chang, 121). According to Chang, Confucius was careful to point out that obedience did not imply 'blind obedience'. Chang further points out that Xunzi agreed on this and remarked that “one should obey what is right but not [necessarily] one’s father” (Chang, 121- (brackets Chang’s)).

You were to follow orders as a rule of thumb but at the same time it was important to remain critical to the content of these orders to not let a wrong be committed. This shows also that there was respect for some autonomy and individuality in these relationships which, although unequal, are not rigidly unequal but allow for the father to learn from his son in cases where he has lost his Way dao. The importance of everyone fulfilling their various roles was crucial for preserving a well-ordered harmonic society, as stated in the following often quoted paragraph: “If names are not rectified then language will not be in accord with truth. If language is not in accord with truth, then things cannot be accomplished” (Nosco, 30). What is meant here is that one must act according to one's designated role (name) in order to keep society harmonious (Ibid, 30).

When the authoritarianism inherent in Confucianism is perceived in this context of relationships this inequality is given a much more humane feel as it is obvious to most that the relation between a son and his father is in nature unequal and that this is quite naturally
so. Henry Rosemont also suggests that one should perceive these relationships in a more positive sense by not focusing on their hierarchical nature. Rosemont suggests instead that one could perceive the relationships dynamically as a duality of benefactor and beneficiary. Such a view would imply that in every relation there are both certain privileges and certain obligations and one enjoys the former by performing the latter. And this relationship can change on a day to day basis such as, if one does a friend a favour one day and the next day the favour is reversed, or as when a student benefits from one's teacher one repays that debt when (perhaps) one day one becomes a teacher oneself (Rosemont Jr., 52). Rosemont emphasises here the reciprocal element of the relationships and argues that if both parts would benefit from the relationship the inequality would be of lesser importance. The last example is interesting by being asymmetric in virtue that ‘the favour’ here is not returned to the benefactor but continuously given on to new generations. This asymmetry is interesting as it redefines the relationship of benefactor and beneficiary by the idea that ‘favours’ can rather be considered as contributions for the common good.

These remarks aside, inequality is nonetheless a fundamental aspect and so an inherent problem of Confucianism seen in relation to contemporary standards. In cases where the idea of reciprocity would fail the inferior part would be left to the mercy of the superior. It is especially problematic to use similar arguments of benefactor/beneficiary as above regarding the status of women as being irreducibly subordinated to men.

As demonstrated previously, the non-coercive approach to ensuring a peaceful civic society was of key importance in Confucianism. Rosemont has also noted another important aspect of Confucianism, namely that it is an action-based morality: you are not a friend, a parent or a ruler before you actually perform according to that description. Although it is often heard that in Confucianism there are no individuals, one could here infer that you are no one without being in relation to someone else. Stated differently, you can only perform as a friend, once you actually have a friend and perform as a father only when you have children, to which Rosemont has emphatically captured that, “if I am the sum of the roles I live, then I am not truly living except when I am in the company of others” (Rosemont Jr., 51).
This can easily (and often does) give the idea that terms such as privacy and individuality do not resonate much within Confucianism. Since Confucianism is an extra-ordinarily social tradition, according to Rosemont 'the most social of all traditions' (Rosemont Jr. 46) this is true to some extent – especially if the comparison is with the extreme importance these concepts are given in the West. For Confucius fulfilling all of one's five relationships was a way of shaping one's personality.

**Virtue, ritual and self-cultivation**

The fundamental idea of Confucian ethics was that of guiding people morally by developing each person as a well-functioning moral agent. Self-cultivation is in this sense the most important mechanism in Confucianism and can be seen as being the source and drive towards the common goal of both inner and outer harmony in Confucianism. Self-cultivation consists of the two components of virtue and ritual, each of which have the role of guiding and disciplining people towards The Way 37. In Confucianism there are the Five Regulations, humaneness (ren/jen) 38, righteousness (yi), rite/ritual/propriety (li), wisdom (zhi) and faithfulness (xin) and these are actually all Confucian virtues at the same time (Yao).

**Self-cultivation**

Confucius made ren the centre of his teachings and he saw the achievement of ren as the most important thing in the world. What this humaneness consists of is nowhere defined in Confucian texts, which is a consequence of the term itself being 'open-ended and indefinable'. According to de Bary (de Bary, 1991, 32) it is described rather as ‘a doing’ than as something that ‘is’, something that arises out of people when entering into relations with others (de Bary, 1991). Self-cultivation in Confucianism was not just a matter of studying the ancient (or less ancient) texts diligently. Confucianism is a tradition based on

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37 See appendix 1.2 for an explanation of ‘The Three Ultimates’: the Way dao, Heaven tian and Harmony he.
38 Homer D. Dubs has noticed that the concept of ren originally meant ‘benevolent love’ but due to a misunderstanding that arised because of a pun Confucius made that involved the word ‘human’ which is pronounced similarly as ren but written differently. Mencius however picked up on the pun but merely repeated it which has caused many translators to ascribe the meaning ‘humaneness’ to the word ren (Dubs, 48). I will however repeat the misunderstanding to avoid any confusion later since ‘humaneness’ is the commonly used translation of ren.

On a different note ren and jen are used interchangeably by different authors and they all give the same meaning of ‘humaneness’ – except naturally for the above-mentioned author.
action and on actively taking part in the relevant matters of society. ‘Confucian’ is rather something you do than something you are. Accordingly, Madsen notes that the term ‘self-cultivation’ in Confucianism has both a purely literary and an introspective side to it as well as a practical side of participating in both family and societal matters by fulfilling the various roles one partakes in every day (Madsen, 14-15). By emphasizing this very performance-based aspect into self-cultivation and emphasising how Confucian learning is dependent on the wider society, it is once again underlined how the Confucian individual irreducibly is embedded into social relations since being a part of and taking part in society is how one learns, performs and sustains Confucianism (Ibid). In this rather long quotation from the Great Learning\textsuperscript{39} it is shown, almost with poetical elegance, how self-cultivation and learning is the essence of fostering a harmonious society, it is carefully underlined how the wellbeing of self, family and society are all interconnected and interdependent:

“The ancients who wished to manifest their clear character to the world would first bring order to their states. Those who wished to bring order to their states would first regulate their families. Those who wished to regulate their families would first cultivate their personal lives. Those who wished to cultivate their personal lives would first rectify their minds. Those who wished to rectify their minds would first make their wills sincere. Those who wished to make their wills sincere would first extend their knowledge. The extension of knowledge consists in the investigation of things. When things are investigated, knowledge is extended; when knowledge is extended, the will becomes sincere; when the will is sincere, the mind is rectified; when the mind is rectified, the personal life is cultivated; when the personal life is cultivated, the family will be regulated; when the family is regulated, the state will be in order; and when the state is in order, there will be peace throughout the world (Nosco, 24).

From this one can also deduce that a good ruler will see to it that the surroundings of individuals stimulate individual growth in order to create a society ruled by order (Madsen, 16). The ideal of a harmonious Confucian society thus depended on every member indulging in learning and practising the virtues of certain prescribed rituals so as to develop a sufficiently moral character that would make ‘his will sincere’.

\textsuperscript{39} One of the important classics from the Confucian canon.
The Confucian 'gentleman'

The importance of learning to be human in Confucianism, basically the learning of ren, is linked to another important concept that takes up much space in the Analects; that is the chün-tzu or junzi - which de Bary translates as 'gentleman' (de Bary, 1991, 28). The junzi is described as: “a class of well-bred persons with gentle ways, impeccable manners, and a developed moral sense. The junzi is furthermore a man who has learned all five of the above-mentioned virtues and masters these in such a way that they 'generate the appropriate response and corresponding virtue in others”’ (Ibid, 29). The innate reciprocal element that is a fundamental part of being human in Confucian thought is here considered to be an important element of the junzis. According to de Bary, Confucius did not expect everybody to restrain and perfect them-selves to the same level as the junzis. Instead, their importance was that of reciprocating similar feelings in others so as to influence others to improve themselves (Ibid, 29). Especially, Confucius was aware that since the people tended to ‘ape the leader’ what was important was that these junzis were not just ‘high-profile Confucians on a throne’ but were out amongst the people to spread their wisdom, teach and inspire them. Becoming a junzi was possible for any Confucian only through continuous study and practice of the five virtues. This was furthermore an important aspect of Confucius’ teachings; that everybody had the chance to excel since everything that was needed was already part of every human being.

The ideal of the junzi existed before Confucianism existed as a tradition but Confucius expanded the term significantly so that it signified 'the totality of superior human qualities and the embodiment of humaneness' (Yao, 214). It is easy to imagine that Confucius was well aware of the positive consequences of promoting 'the Confucian ideal' as obtainable by everybody and as someone enjoying great admiration and what could facilitate upward mobility in society. “The aspirations to become a junzi provide the power and the motive for Confucians to engage in learning and to put that learning into practice. Thus the scholars learn how to cultivate and control their disposition and to harmonise their emotions, which are then manifested in their actions with regard to all worldly affairs” (Yao, 215).

In the religious/mystical realm of Confucianism existed an even higher ideal than that of the junzi. The few worthy junzis had the possibility of becoming sages. The description of sagehood takes on almost mystical proportions as it is described as becoming ‘one with
Heaven and Earth' by experiencing enlightenment where one realizes the true nature of oneself (Yao, 216).

Learning serves as a fundamental driving force in Confucianism, both as developing and keeping the tradition alive but also as to what Confucianism actually is as to what it means both to be and to become a Confucian (Confucians would probably infer that one never ‘finishes’ in becoming Confucian.). “All the programmes in Confucian learning and practice are designed to help the learner to attain sagehood, a goal which is believed to be attainable through spiritual cultivation in one's secular life” (Yao, 216). Sagehood in this sense is more linked to Neo-Confucianism and its mystical character is, according to Yao, a consequence of how Buddhism came to have an influence on Confucian thought in this period.

**The rites**

Another very important concept in Confucianism for moral guidance was 'the rites' li. And ‘guidance’ here is to be strongly differentiated from learning since the function of the rites were rather to sustain and maintain what had already been learned. As with many others of the central terms the precise meaning of *rites* escapes Western epistemology, which has had the consequence that various scholars have attached different terms to it. The term itself is, however, of great importance for our present concern, so looking into some of the meanings and descriptions that have been attached to the term would seem worthwhile.

Primarily the term has both a religious and a secular meaning. Yao speaks of *rites* rather as rituals and treats them in a religious context as connected with various forms of sacrifice and rituals in the sense of ceremonies and certain rituals performed at weddings, funerals and such (Yao). Other authors (Wm. Theodore de Bary, Tu Weiming, Daniel A. Bell, Joseph Chan and Wejen Chang) speak of *rites* rather as a set of principles, norms or regulations or as the 'rules of propriety'. As a standard, most authors refer however to *li* as 'rites'.

Rites pre-dates Confucius' time and so is not as such a purely Confucian concept. In this period the rites worked more or less as an equivalent to laws in society, but rather in the sense of being an integration of both norms and laws. With time the rites lost their hold on society as people thought they were too rigid and were considered old-fashioned. This led Confucius to re-interpret the meaning and the purpose of the rites and so connected them specifically with the concept of *ren*. He proclaimed that the performance of rites was to be
both an inner and an outer affair and was crucial for self-cultivation. Additionally, it was emphasized that the rites were absolutely crucial for anyone aspiring to become a junzi. (Chan, 114-116). Engaging in rites was a matter of following a set of norms that governed certain aspects of social behaviour including what was expected from people in the five relationships. Chan describes that performing the rites was equal to an expression of ren – of humaneness and through dealing with others it was the expression shu the art of expressing sympathy and reciprocity (Chan, 117). This presence of ren as the implicit goal and reason for performing rites is crucial since

“without the spirit of ren, these aspects [fulfilling your role in the relationships] may lead to, at best, mechanical observance of rules without a humanistic concern for others or, at worst, selfish domination of the stronger party over the weaker one. Ren serves to instil a strong humanistic spirit into rites, providing an ethics of sympathy, reciprocity, and care into an otherwise essentially hierarchical system of social relationships” (Chan, 117).

Chan states additionally that the rites were what provided order in the hierarchic order in the Confucian relationships by effectively impeding the superiors in exploiting their position by prevailing on them to always show concern to -and respect for the inferior (Ibid).

In performing the rites it was important to do this with a 'sincere heart'. The thought was that learning virtues alone was not enough as one had to learn them in ‘the right way’ or for the right reasons. Confucius had recognised that striving towards doing the right thing, to being a man of virtue, could easily become corrupted by inner desires and other distractions and rites were the reference that could guide one's development of the virtues. In the same vein Confucius also spoke of the rites as 'the essential correlate of virtue' (de Bary, 1998, 32) and saw the three concepts of humaneness, riteness and learning as a unified single ethos (de Bary, 1991, 40). The essential purpose of the rites is best expressed in the following quote:

“Courtesv not in keeping with what is rite becomes laborious bustle; caution not in keeping with what is rite becomes brashness; forthrightness not in keeping with what is rite becomes rudeness” (de Bary, 1991, 40).

Rites are thus closely linked with learning and self-cultivation and can be characterized as being a mechanism of sorts that guides a person between one's desires and what is right in a given situation. Rites can therefore be said to be one part of a duality by coordinating the will and the behaviour of people in a given situation in life. As such, there was a certain
dynamism present in the concept which henceforth gave rise to the expression of *doing what is rite*, which means not only that one should weigh each situation according to certain principles but also according to what is *right* meaning that certain situations can appeal to several principles (or several virtues) but some might be considered more correct under the given circumstances than others, which is how the rites can help give guidance.

This normative ascription to the rites was implemented later by a neo-Confucian, “Lü”. According to de Bary, Lü defined rite as “a formulation of principle directly in relation to facts and circumstances. It combines the constancy and universality of principle with its differentiated application to all human affairs, while 'right' or 'rightness' pertains particularly to the appropriateness of an action in time. Both are indispensable to the employment and fulfilment of principle in the mind” (de Bary, 1991, 67). Especially interesting is the description of rites as consisting both of constant universal principles that coordinate behaviour accordingly but also as (once again) being a very dynamic concept that manifests itself in various situations and circumstances and additionally points to what is *right* as a normative concept. For Lü, rites are not just a moral reference for inter-personal relations but a cosmic principle that incorporates the whole world and the 'entire natural order'. This elevation of rites from an anthropomorphic (focused on human beings) to a cosmic principle (focused on the whole planet) is explained by Lü, conceiving rites as being directly derived from Heaven (de Bary, 1991, 67-69).

This transition ranging from steadfast principle to dependency of context is an important aspect of the rites since, as Chan notes, rites at times may conflict and since two situations are never alike it may be necessary to make use of different rites in some otherwise identical situations. To Confucius, any blind indoctrination of ethical principles was just as bad as not following any principles. Being flexible and considerate in judgement was key, which was also why the actual content of the rites also changed with the change of times and of social circumstances (Chan, 117-118).
Despite the rich description of especially the purpose and function of rites not much has been written about what kind of acts, actions or advice rites actually were. Examples are rarely given of what the practise of a certain rite potentially would demand.\textsuperscript{40}

**Laws and rites**

A curious dialectic can be identified here between the words 'rite' and 'right' especially since their pronunciation in English is identical. Although a coincidence, many authors have picked up on how rites in some sense bear similarity to the Western conception of rights and show a fundamental difference in how to govern and rule a society. According to de Bary, Confucius’ strong belief in the rites was partly to be explained by the political circumstances of his time where the rites were primarily clan- and family centred, meaning that the basic idea behind governing society was to perceive society as one big quasi-family that would be in order as long as the independent families themselves were stable. Confucius himself was very aware of the differences between rites and rights as captured in the following oft-quoted paragraph:

“If you try and lead the people by regulations and order them by punishments, the people will evade these and have no sense of shame [in doing so]. If you lead them by virtue and order them through the rites, they will have a sense of shame and correct themselves” (de Bary, 1998, 30).

The significance of this insight is deep and profound in the sense of its intuitive appeal and it is naturally of great interest to our objective here. The immediate appeal lies in the educational difference in telling right from wrong by either, external prohibitions and permissions which is how laws (and rights for that sake) work, or by teaching people morals by engaging them in practices that illustrate good character and so internally build a moral conscience that teaches right from wrong. Neither approach is without its problems, however, which will be taken up again later.

As can be seen here it can be hard to separate the various terms from each other, mainly because Confucianism, as already stated, consisted of a very different epistemology and a very different way of expressing thoughts and ideas - considered from a Western context. The Confucian model of building and sustaining a harmonious society was aimed at creating

\textsuperscript{40} See appendix, for Daniel A. Bell's thorough illustration a rite
good citizens by sustaining a strong moral ethos that reached into the daily practices people underwent and so could be applied directly to the day-to-day situations human beings experience in life.

In my own conceptualization of Confucian ethics it seems that the description of the rites somehow manages to encompass all of the major Confucian ethical principles. The rites are usually mentioned together with the virtues, and the relation between these two concepts is always described as being close and mutually supportive. The rites refined the virtues and kept them in check while the virtues were conceived as the main indicator for initiating action. Additionally the rites were considered an important object of learning and self-cultivation in the sense of what would keep one steady on a moral path *The Way*. Finally the rites were also what defined the duties and proper conduct in the various relationships everyone was immersed in. Essentially the rites appear to have been what carried the moral foundation of Confucian society as a constant reference that helped to sustain moral relationships and to keep people virtuously intact.

**The practice of Confucianism**

Surprisingly, the effectiveness of Confucianism when applied in practise is not an issue that is much discussed. This can be considered quite problematic since one cannot thereby know how much of Confucian theory remained to be only theory and how much was actually being practised during the long periods of Confucianism.

One author, de Bary, speaks of certain community schools and of so-called ‘community compacts’ which according to him were “authentically Confucian, genuine expressions of a tradition that assigned a prime value to education and ritual – a value that endured well into the twentieth century” (de Bary, 1998, p. 13). Both the schools and these compacts worked as locally self-governed civilising instruments. They worked independently of the state and on a voluntary basis. De Bary remarks subsequently that these initiatives of true Confucianism did not survive the dynastic rulers of later centuries. But when he later states, “together these two earlier communitarian efforts, had they been successful, might have contributed to a Confucian version of a civil society” (Ibid, 14), it can be seriously questioned to what extent the Confucian practices as explained in theory were actually being implemented in society and so constituting the practical expression of Confucianism.
Perhaps the often heard assertion that Confucianism predominantly was a literary tradition means not only that part of being Confucian meant to indulge in study but that Confucianism simply was rather a theory of the good society than a practise of it. It has also been pointed out that Confucius at his time never succeeded in convincing any ruler or public official to implement his politics into actual practice. Mencius however had some luck in doing so for a shorter period of time (Cheng, 143). This uncertainty has led to many different interpretations since one can just as easily seriously question the causes of this uncertainty regarding Confucianism’s practical implementation in society, as one can ignore it. Randall Peerenboom has delivered a forceful critique that will be taken up later in discussing what, if any, relevance Confucianism could have for the West. On the other hand since Confucianism in some form worked as an all-encompassing ethos in South-East Asia in long periods for more than 2000 years, one cannot deny that it must have had a strong cultural influence on people and in how they developed their thinking and in structuring their mind-sets.

Daniel A. Bell seems to embrace this viewpoint in a more recent book ‘China’s new Confucianism’ where he argues that Confucianism has indeed made an impact on Chinese way of life. Bell emphasises especially the strong heritage that rites have left on various forms of social interaction in contemporary China. In the relations between boss/worker, teacher/student and rich/poor there are clear moral codices to be followed and clear hierarchical distinctions between the two parts. Bell seems, however, to believe that this is not necessarily a bad thing. On a side-note he notes that despite the clear inequality in status there is more often than not a mutual respectfulness present in these relations, where, for instance, a teacher is expected to care more emotionally for the well-being of the students and the boss also takes care of his workers more emphatically than a typical Western counterpart would (Bell 2008, pg. 45-50). Bell generally believes that the concept of ritual could be applied outside of China and outside of Asia as a way of controlling some parts of behaviour without the use of laws and sanctions (Ibid, 51-55). This proposal will be discussed in the subsequent section.

It should be clear at this point that Confucianism taken as a whole appears in some regard to point in the direction we are looking to follow. By emphasizing the importance of moral acting by developing and sustaining a well-coordinated moral character and making these
elements central to all its teachings on what it means to be human Confucianism stands as an attractive possibility on how to create a good society and how to keep it good. On the other hand, one can as just as easily perceive Confucianism as a highly conservative political system aimed at social normalization by conforming behaviour. The emphasis placed on roles and relationships constitutes at the same time hard restrictions on individuals on how to act and behave by ascribing very definite patterns of behaviour that for the idea of Confucianism to work it is necessary that everyone would follow. The rites can equally be seen as semi-coerced social practices that present severe limitations on personal freedom which, together with the hierarchical nature of Confucianism, serve as a very effective mechanism in inhibiting social mobility.

Judith A. Berling has observed that there appears to be these two differing interpretations of Confucianism (Berling, 5-7) – one is conservative and convinced that Confucianism has long ago outplayed its role as a social and political template and one is more reformist or idealist in expression convinced that the Confucian aspirations towards benevolence and endeavouring to become a person of virtue could potentially help re-balance the West’s tilt towards excessive individualism and self-centeredness (Lee, 1996). Berling notes, additionally, that the reformist side is more concerned with ren being the centre of all Confucian teachings and is similarly what creates the necessary mutuality of love, respect and consideration for the needs of all (Berling, 5-7). These opposing interpretations of Confucian thought show that Confucianism is far from uncontroversial regarding its possible relevance today. Laying out both points of views is therefore necessary in order to say anything coherent on the possibility of drawing inspiration from Confucianism as a possible source of inspiration to the moral problems of the West.

**Rites in the West?**

Continuing from where we left off – with the treatment of rites. There are certain qualities of rites that are particularly appealing in relation to some of the problems that were identified in the West in the foregoing chapter. One such quality is that rites have the ability to keep certain forms of conduct tied to particular pre-scribed ways of acting which, in effect, can reduce conflict by exempting human emotions and particular interests from dominating. When the ways in which we can perform a given social or cultural praxis are already given, including various roles and its purpose it leaves less room for particular interests or emotions
from playing a dominating role. Set in relation to a Western context changing some social practices into rites practice could be a way to eliminate the tendency of the conflictive ‘rights-mentality’ from dominating.

When the ‘rules’ are already established there is less risk of particular individuals only catering to their own interests or re-configuring the inherent purpose or structure of a given practise. We surround ourselves with so many ritualized practices every day that we are hardly conscious about anymore. From singing the national anthem before big sports events, to all the rituals involved in the ways we celebrate new year’s eve, to how it is customary that a traditional Danish lunch of ‘smørrebrød’ is initiated with eating ‘the fish’ (which again goes together with drinking a shot of ‘snaps’) and finishes with eating ‘the cheese’. Many of these customs have no apparent purpose whatsoever but are merely practises that have become ritualized and so are beyond questioning. Developing new such rituals or rites could have a potentially reinforcing effect on feelings of fellowship and camaraderie. This requires illustration.

To stay within the genre of ‘burials and death’ which Bell used above one could imagine that the event that usually succeeds a burial ceremony - that of distributing objects of inheritance between the heirs - could provide an illuminating example of a practise that is infamous for bringing out the worst in people. The conflict that is commonly associated with this ordeal arises because the feelings of sorrow and mourning are temporarily replaced with egotistical feelings of greed, possessiveness and egoism when everyone try to secure for themselves what they believe themselves to be entitled to. One could imagine that such a practise could be ritualized in the same way as the burial ceremony is itself by stating some clear principles that everyone would respect as a matter of common courtesy and as a matter of tradition. The idea and function of the rites was exactly to have a constant normative reference to inhibit the tendency of egotistical emotions from becoming dominant. That way rites could affirm that the emotional focus would remain on what was significant.

If there existed a formal practice of how to solve such issues i.e. that each heir will get to choose an item once a month and that it would in turns go between the heirs or some similar distribution scheme. This is merely a thought example of an instance where some explicit
rules and custom could be effective to avoid the ego-centric (and given the circumstances highly inappropriate) behaviour that often arises in such instances.

Another possible area where rites could have a positive impact would be in relation to processes of integrating immigrants that have just arrived in a new country. Similar to Bell’s observation about how Chinese guest-workers were exposed to various routines within the company, developing certain rituals could make newcomers feel accepted, included and with the feeling of actually being ‘part of something’. Bell, living and working in Beijing, has observed how firms and companies are practising such ‘company rituals’ which he affirms has helped strengthen bonds between both the boss and migrant workers and the worker and the company. Bell argues that in this sense everybody benefits as the worker feels more accepted and taken care of and the boss will in effect have more loyal employees (Bell, 2008, 55-56)

Daniel W. Y. Kwok, a professor of history at the University of Hawaii does not consider these features of the rites in a very positive manner. Kwok believes fundamentally that academics that tend to place the practise of rites on moral pedestals perceive them rather uncritically as what could be a remedy to the moral chaos of the West (Kwok, 84). Kwok interprets the rites rather as a form of imprisonment for the individual by having large parts of one’s life pre-given by having to ‘behave as a human being’ according to what the rites prescribed. Kwok does not consider such rites as being particularly fulfilling because of the way they restricted people severely and because of the inherent inequality of these relationships. This left no room for the individual to actually 'be individual' in any way as her life was basically comprised of this network of rites (Kwok, 85).The lack of rights was furthermore a consequence of the inherent inequality in the practise of rites and according to Kwok the only talk of rights were rights for the superiors in these relationships such as the rights of the prince, of the patriarch, and of the ruler (Kwok, 90). In general Kwok believes that the spokesmen who tend to praise the rites are severely disregarding some historical facts about the actual exercise of rites that deliver a much less attractive illustration of how these actually worked (Kwok, 90-91).

Randall Peerenboom has an even gloomier view of what Confucianism actually was. In his view such concepts as ‘The Way’ and the ultimate goal of achieving harmony merely
worked as tools of persuasion that the ruler could use to achieve ‘unity in diversity’. This would enable the ruler to have a fully committed people that would follow him regardless (Peerenboom, 240). For Peerenboom, harmony was a concept of manipulation that served to convince people to let go of their narrow self-interests in the name of the common good. Rulers claimed ‘The Mandate for Heaven’ by asserting that they knew ‘The Way’ and were therefore able to lead the people safe and well towards harmony (Ibid, 241). The necessity for creating such a unity of thought was crucial for Confucianism to work as a political doctrine and the price for this was to let go of one’s personhood, uniqueness and the ability to make individual choices, according to Peerenboom (Ibid, 243). Peerenboom also criticises the rites for being inegalitarian and for essentially creating patterns of behaviour thought out by and serving the elite by conforming behaviour and thus rendering society easier to govern (Ibid, 250-251). Peerenboom’s pessimistic views invite us to reconsider how the thoughts of Confucius and Mencius can easily turn out to provide effective means for despotic rule. The long periods of Confucianism no doubt gave occasion both to societies ruled in aspiration of the intended ideals, as well as to societies no better than any other tyranny. The general lack of precise historical data in Peerenboom's account makes it appear rather as a warning of how such a system in the hands of ‘the less worthy’ might turn out. The editors of the book wherein Peerenboom’s paper is published are also hesitant to accept his views by noting that there are many examples of certain officials having authority to react and dispose of a ruler if they could see that his ruling was not in accordance with the wishes of his people (de Bary & Weiming, 21-22).

Peerenboom has, despite his very critical view of the value of Confucianism in general, argued that the rites could actually be the one thing that might have a value for especially restoring a sense of community in Western societies today. “The rites have also been central to dispute resolution in a variety of extra-judicial forums, from the informal settings of family and neighbourhoods to the somewhat more formal setting of guild associations. Nevertheless, the rites themselves were not legally enforceable rights, claims or entitlements” (Peerenboom, 249).

Participating in practices based on rites can help reinforce social and moral bonds to others. “In most instances, rites can complement rights, providing a moral dimension to

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41 As earlier noted it is quite unclear the extent to which Confucianism actually was implemented in society. One can as easily imagine a Confucian society aspiring to Confucius’ ideas as to Peerenboom’s dystopia.
interpersonal actions, suggesting additional possibilities above and beyond the legal relations
defined by rights.” and may even be useful as a way to “temper the harshness of rights by
encouraging individuals to be judicious in their claims and to be considerate to others” (Ibid,
251). Peerenboom furthermore acknowledges that rites can have a positive impact in
bringing people together and creating a sense of togetherness and can be helpful in resolving
conflicts. He strongly rejects, however, arguments involving the idea that rites can take over
the use of rights. Peerenboom stresses the importance of rights being legally enforceable and
that they exist independently of customs, traditions and similar arbitrary arrangements (Ibid,
249-151). Peerenboom believes however that rites and rights can effectively complement
each other.
Peerenboom’s views on Confucianism are quite remarkable by initially being extremely
sceptical to the whole enterprise of Confucianism which he considers more or less as an
effective tool for despots to claim power over -and to control the masses. His critical view
has not blinded him from realizing the possible potential for how the concept of rites might
be usefully applied in the West.

Autonomy
Another commentator and ‘pro-Confucianism’ spokesman Henry Rosemont Jr. has noticed
how one of the liberal core values is problematic even within its own moral paradigm of
Human Rights. Rosemont criticises the values of individualism and autonomy as essentially
being inconsistent with some of the demands that can be asserted through Human Rights: “If
I am essentially a freely choosing autonomous individual, it is easy to understand my
demands that, ceteris paribus, neither the state nor anyone else abridge my freedom to
choose. But how do such essential individuals demand a job or health care or an education?
There is a logical gap here, which no one has successfully bridged yet: from the mere
premise of being an autonomous individual, no conclusion can follow that I have a right to
employment [...] jobs, adequate housing, health care, and so on, do not fall from the sky.
They are human creations, and no one has been able to show how I can demand that other
human beings create these goods for me without them surrendering the “first generation” or
civil and political rights which accrue to them by virtue of their being free, autonomous
individuals” (Rosemont, 1998, 57).
Rosemont’s point has merit as it seems that there is a fundamental problem with the kinds of rights that demand positive action by others. It is simply not possible to claim these things without someone having to place burdens on someone else. Such rights, commonly known as welfare rights, require that there are other people present and furthermore someone of certain capabilities in order to accommodate these rights. If we accept that welfare rights are universal human rights we have at the same time to accept that we cannot at the same time be freely choosing and autonomous human beings since every demand for health care requires significant action on the other end of the obligation bearer to accommodate that claim.

The obvious objection to Rosemont’s point would be that the demands of such welfare rights do not fall on singular human beings but have been institutionalized exactly because of them being extremely demanding to fulfil. Having welfare rights implies equally the existence of a welfare society. But Rosemont’s point is more of a cultural or idealistic nature; that it simply is illogical to perceive people as autonomous beings when we so obviously are extremely dependent of each other.

The problem of rights is turned around and put into perspective when Rosemont wittingly asserts: “99 per cent of the time I can fully respect your civil and political rights merely by ignoring you. (You certainly have the right to speak, but no right to make me listen.)” (Rosemont, 2004 p. 59).

These two quotes show rather boldly how there is an inconsistency in insisting that we are all autonomous beings and we, our-selves, are the only ones that are to decide what we individually are to do. Behind this thought is the idea that libertarians only have to avoid being physically ‘in the way’ of others so that they similarly can do as they wish, hence the quote above. This supports an idea that you basically only have to care about yourself. This contrasts however with other kinds of rights that demand more than people ignoring each other and which embodies the realization that we are very much dependent on each other and therefore we also have certain responsibilities to take care of each other. Rosemont’s point is that it is fundamentally a mistaken view that individuals can exist autonomously in any sense of the term. Against this background the view of the individual in Confucianism is much more attractive since the individual is not really ‘individual’ in any sense but rather a relational being. Rosemont points out that any talk of ‘individuality’ would persist in how
one chooses to carry out the responsibilities inherent in the relationships that make up Confucian personhood and sociality (Rosemont, 2004, 63) since after all “there are many ways of being a teacher, spouse, sibling, friend and so on” (Ibid, 64). These reciprocal duties constitute the daily interaction that one has with other people and how lives are connected.

The strong emphasis on relationships constituting interaction with other people in Confucianism and how at the same the family was considered their central frame of reference had an unfortunate side-effect. One of the most often mentioned problems of Confucius’ thought was how the centrality of the family gave rise to nepotism and parochialism (Wong, 37). Confucius also taught a doctrine of ‘graduated love’ which implied that it was natural to love and care for one’s family more and caring than for people further away. Confucius believed that a people’s concern for other people was naturally to be strongest at home (hence the centrality of filial piety) and should gradually fade with distance. One should be benevolent to everyone but the persistent focus on family meant in reality that often governance was built upon blood relations and often the ruling class consisted within the same extended family (Ho, 290-291).

A question of values
The very different conceptions of Confucian society and Western society can be said to be grounded in different priorities of values. The West is drawn towards typical liberal values which are based in viewing the human being as an autonomous individual who at the same time is a private person with a ‘right to privacy’ but also considered a social being and part of a society. What is given priority is however that the human being is a unique and autonomous individual whose individual freedom should be maximized in order to enhance individual choice and opportunities for each and every one.

In Confucianism these priorities are radically different. The individual is not really ‘individual’ in any sense. The Confucian human being is rather relational and gains its identity through the way it relates to other people in the various relationships that are part of any human being’s existence. But seeing the human being in isolation from other people does not really make sense to Confucians since socialisation is not just a feature of human existence but its very foundation. Being autonomous or being free as such are therefore not values that are high in esteem either.
Confucius believed that certain standards of behaviour could be universalized due to ‘the similar nature of human beings’ (Chang, 123). One can assume that this has been the underlying thought that carried the moral foundation of Confucianism since if certain forms of behaviour are to be promoted on behalf of others this must rest on the belief that some ways of acting are better than others. The promotion of certain ways of acting, of relating to others and following certain customs and routines meticulously is very much at odds with the basic principles of liberal thought which is rather based on the premise that ‘you can do as you please as long as you do not hurt others’\(^42\). This basic premise is naturally based around ideas of freedom, individuality and autonomy for human beings; that people are their own masters and free to choose their own fate and way of life (again underlying the principle of not causing any harm to others).

One thing that is central to any political doctrine is the realization that people are capable both of doing good and bad. Whether or not people from birth are either good or bad is here beside the point. This realization has led to the development of laws and rights in the West that work as a deterrent to harming others. In Confucianism, on the other hand, this realization led to the development of certain practices that were aimed at creating an ethos of virtue and self-cultivation in society with the purpose of providing both an incentive and guidance for people to develop their characters according to what was considered to be good and right. These two moralities can be perceived as two different approaches to solving a problem. The ‘problem’ here would be: How to prevent people from doing wrong?

Seung-hwan Lee, a professor in philosophy at Korea University, has made an analysis\(^43\) where he contrasts these two approaches and argues for the advantages and limitations of each approach. Basically Lee agrees with the basic importance and necessity of rights and believes that rights are fundamental for protecting the inherent dignity of the human being. On the other hand he argues that a morality based on rights is insufficient as it merely points out what is obligatory or required, what is permissible and what is forbidden: “The moral dimension of the language of rights… is minimalist because it cannot take into account other normative categories that are also significant parts of human experience, such as

\(^{42}\) Usually referred to as ‘the harm principle’.

supererogatory and meritorious acts. For example, rights cannot require benevolence \((jen)\); they do not provide a moral reason to act benevolently in the way that they can compel one to perform those duties specified by corresponding rights.” Lee further illustrates his point quoting Roger T. Ames: “To use Human Rights as a measure for the quality of life possible within the community is like using minimum health standards as a universal index on the quality of restaurants” (Ames, 13).

**Freedom**

Lee’s concern is with the inability of liberalism to make sense of the action that lies outside of the area of being either required, permissible or forbidden action. He believes that such a morality is unable to distinguish between acts that are purely selfish and indifferent to the interests of other people (and perhaps also against the interest of the community) but nonetheless permissible and other acts that are directed at helping the needy or at expressing benevolence, which similarly are merely permissible to perform (Lee, 374-375). The libertarians have lost sight of which actions actually carry moral merit and which actions do not and have therefore created a morality that does not inspire to do good but merely punishes if you do bad.

Confucian morality looks instead at the full spectre of possible action instead of merely teaching \(what\) you should do to act morally in various situations and not just under what circumstances one should refrain from acting in certain ways. In Confucianism one has to learn to act in ways that would seem exemplary to other people by not being controlled by one’s desires. It is by cultivating one’s character that one achieves the insight and the capacity to overcome the tendency to act out only according to irrational impulses (Lee, 372).

Lee is aware that towards this, libertarians will concede that the importance of cultivating a good character is a basic good for society but when this is forced upon people, leaving them no choice for deciding themselves, such self-cultivation becomes rather totalitarian indoctrination in some sense (Lee, 370). The libertarians naturally dislike the thought of anyone deciding what ‘the good life’ might consist of as it goes against the central liberal values of freely choosing individuals that are entitled to choose their own fate – whether good or bad in the eyes of others. But when is someone really choosing freely it might be implied? It could easily be intervened that it requires a certain insight and consideration to
reach any vision or conclusion of what the good life might be. It requires some experience and some insight, in other words, to have a balanced view on what one would take to be ‘good’ in any sense of the term. The libertarians’ conception of freedom is based on the absence of any physical constraints in order to be able to choose freely among a number of options. Lee believes that such an understanding of freedom does not inspire any vision of the good life and further points out that “a chronic alcoholic and a drug addict might be said to be free as long as nobody interferes with their interests and rights” (Lee, 371). To Lee, both kinds of freedom are of importance and he acknowledges that Confucianism might not consider the negative freedom of opportunities strongly enough. This leads to the conclusion that “a total freedom includes both maximization of options and self-realization. “A liberal person needs self-overcoming and the cultivation of his character, and a Confucian person needs the availability and protection of options in choice and action” (Lee, 373).

Lee believes that having rights actually requires that one has a sufficiently developed moral character that is capable of hierarchically ordering certain actions, as of higher or lower moral significance in the moral sphere of merely permitted action. Similarly Lee has also noticed that claiming rights on some occasions does not lead to the claimers dignity but can be used as a weapon of vengeance and even to make others suffer in certain, circumstances (Ibid, 367-375).

Lee believes furthermore that the libertarians’ conception of freedom is inadequate since it revolves around the idea of negative freedom i.e. a freedom concerned with being free from physical constraints. By showing that freedom is not merely a freedom of options but equally a mental capacity to distinguish between conflicting desires of instant gratification and the deeper thoroughly rationalized capacities of a self-aware agent provides a compelling contrast to the largely taken-for-granted value of freedom in the West. There might be a gain of a different kind of freedom by promoting an ethics of self-cultivation and building of character in contrast to ‘letting people loose’ morally without any ethical guidance or calculus for telling right from wrong whatsoever. If some parts of people’s freedom have to be restricted to teach people virtues of respect, reciprocity and benevolence this may not only be a gain for society but also for people them-selves by learning the skills of how to distinguish the moral significance of various actions and of distinguishing desires from real needs and from interests.
At this point one of Confucius’ most insightful sayings could bare repetition:

“If you try and lead the people by regulations and order them by punishments, the people will evade these and have no sense of shame [in doing so]. If you lead them by virtue and order them through the rites, they will have a sense of shame and correct themselves” (de Bary, 1998, 30).

**Conclusion**

We can conclude so far that there is a certain hollowness in Western society regarding what so far has been termed ‘a sense of responsibility’. Rights, as has been sufficiently argued, play a significant role in this development in the sense that rights (or laws for that sake) by themselves do not inspire you to do good. They rather induce a mentality more concerned with what you are entitled to. The impact of the gradual disappearance of communities is also a factor here but the actual value of communities is less clear and more controversial. Rights are, however, a rather tricky concept as they seem to play a double-role by, at one and the same time being an irrefutable humanitarian accomplishment of our time as a means for granting human beings the recognition of that minimal amount of dignity. To be able to hold a check against oppression and other forms of undignified and demeaning treatment and so making rights an entirely indispensable value. The backside to this glorification of rights has been that morality in the West has become one based purely on right claims and prohibitions which leaves a moral gap where other forms of action such as benevolence or helpfulness are entirely unrecognized. Both kinds of action are merely considered *permissible*; just as permissible as being unfriendly and ignorant.

Confucian morality on the other hand excels exactly in being a morality that points out ‘what you should do be [a good] human being’. To accommodate this ideal certain concepts and practices have been developed so as to guide people into what is considered to be good human conduct. This approach is also flawed for several reasons. Without any rights people do not really have a way of securing themselves against oppression, exploitation and degradation. If not everyone in society ‘acts as human beings’ everyone else is potentially at risk of these kinds of mistreatments. Furthermore, there might be some people that do not agree with what has been decided it is to ‘behave as a human being’ and will resist being pushed towards this ideal. In the next chapter I will examine if it would be possible to reach a solution between these different perspectives and challenges.
Rights and duties

The objective of this chapter is to look further into the relations between rights and duties. Referring to ‘relation’ in plural is important since the concepts of right and duty are complex when spelled out in detail as are their various connections. Far from being a unitary concept, rights come in different shapes depending on context and their use. Equally changeable is the extent to which they place burdens on other people and society. This depends in particular on what the content of the right is, to whom they are addressed and what obligations are implied in the right claims and whom these obligations affect. Furthermore, as will be shown, duties are not always in direct correspondence with any rights. The possibility of duties that are not owed to anyone will be a central part of the analysis as they appear to point to the direction of our central concept of ‘a sense of responsibility’.

Because of this complexity a systematic analysis will be necessary in order to clarify the various meanings of ‘right’ and how they relate to the various meanings of ‘duty’ and so hopefully will enable a clearer understanding of the underlying structure of rights and duties. The point of doing this is (1) to pinpoint scope of rights and duties as well as their interconnections in relation to context and to use; (2) by relating the concepts of rights and duties to an account of ethical consideration it will be examined what the significance is of starting from the perspective of either recipiency (rights) or of agency (obligations).

The working question for this section was, once again:

*What are according Onora O’Neill the bounds of required ethical consideration that goes beyond the bounds of justice in her integrated account of justice and virtue?*

I will follow Onora O’Neill’s approach based on integrating accounts of virtue and justice. This approach is ideal for two reasons. First, it presents two perspectives on ethics and emphasizes the strengths and weaknesses in both and how each perspective dramatically changes the scope of ethical consideration. Secondly the two perspectives justice and virtue can arguably be seen as representations for Western society on the one side (justice) and Confucianism on the other (virtue). The value of O’Neill’s approach lies in how it is possible
to identity certain inconsistencies and shortcomings in an ethical perspective based on justice by conducting a purely conceptual analysis. Likewise she demonstrates that an ethical perspective based on virtue is equally fallible in other areas and she argues therefore that none of the perspectives are sufficient on their own.

The Hohfeldian system

This distinction between different types of rights was discovered by the American legal theorist Wesley Hohfeld. Hohfeld found out that a right is not just a singular term with a singular meaning but actually a rather complex concept that can mean different things in different circumstances and so also have very different implications for those at the other end of the rights; those that are to respect the rights. In order to understand better the concept of rights Hohfeld created a system to identify the different types of rights and the resulting different types of obligations that the rights in effect create. This has since then become known as ‘The Hohfeldian system’.

It is necessary to distinguish between at least two different kinds of rights here: Liberty rights which entail rights that give the agent freedom to be, to do and to act in certain ways. Hohfeldian liberties are however rather restricted as to what would normally be applied to this term. Having a liberty to do something merely means that you are free to do a certain thing if you have no duty to do it. Furthermore, no one else has any duties not to interfere in your doing so. For the same reason authors often use the term privilege instead of liberty to signify this narrow meaning.

A different type of rights is claim rights. Contrary to liberty rights, these rights imply corresponding obligations on the part of signified others – the so-called obligation bearers. These obligations can be of both a positive and a negative nature. Claim rights that involve positive action require the obligations bearer to actively accommodate the claim, i.e. if A has a claim against B that he owes him 5$ then B is obliged to pay A the 5$ which involves positive action. If on the other hand A has a claim against B (and possibly also against C and D…) to let him move around freely then B has an obligation to refrain from interrupting A in moving around freely. Such an obligation is thus one that requires negative action. As a

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consequence claim rights are much more demanding than liberty rights precisely because they demand positive action.

Hohfeld identified four different types of rights by referring to what these have respectively as opposites and as correlatives:

**Primary rights:**

- **Liberty rights (or privileges):** you have the right to do X, if and only if, you do not have a duty to do X i.e. you have the right to speak freely but are under no duty to do so.
- **Claim rights:** what you have the right to claim, if and only if, someone else has a duty to satisfy that claim, i.e. you can claim the money that someone owe you but only if they actually owe you that money.

**Secondary rights:**

- **Powers:** when someone has the power that enables him to alter primary rights, i.e. a policeman has the power to annul a person’s right to freedom of movement.
- **Immunities:** you have an immunity, if and only if, no one have an ability (power) within a set of rules to alter this incidence, i.e. in (certain countries at least) you have an immunity against the government enrolling you in the army.

The categories ‘primary rights’ and ‘secondary rights’ indicate two different levels on which the rights can manifest themselves. The former refers to rights over property and rights over one’s own person and the latter to the rights that you have over your primary rights i.e. the right to waive one of your primary rights. Also, secondary rights can change the situation over someone else’s normative situation by temporarily annulling his primary rights i.e. if one holds sensible information crucial to the security of the country one’s liberty-right of free speech can be temporarily annulled by the government\(^{46}\).

In order to specify the other end of rights Hohfeld made a system of correlativity where he identified how each kind of right corresponds to a specific duty. Correlativity means that one necessarily implies the other such that if you have a right then someone else must necessarily have a duty. Claim-rights are thus dependent on the existence of other people or certain institutions in order to make any sense since you cannot have any rights to anything if

\(^{46}\) Ibid
there is no one to give heed to those rights. Liberty rights, on the other hand do not imply the existence of others in Hohfeldian terms.

**Correlations:**
If \( A \) has a Claim, then some person \( B \) has a Duty.

\[
\begin{align*}
\text{... Liberty,} & \quad \text{... No-claim.} \\
\text{... Power,} & \quad \text{... Liability.} \\
\text{... Immunity,} & \quad \text{... Disability.}
\end{align*}
\]

According to Hohfeld “one relation is correlative to another if and only if it is true that (1) both relations have the same content, (2) the object of the first relation is the subject of the second relation and (3) the object of the second relation is the subject of the first relation.”

The pattern of these relations is asymmetric as it can be seen that if one were to identify the opposites instead of the correlatives the scheme would look similar but with the ‘no-claim’ and ‘duty’ reversed and equally the ‘disability’ and ‘liability’ reversed and thus symmetric.

**Opposites:**
If \( A \) has a Claim, then \( A \) lacks a No-claim.

\[
\begin{align*}
\text{... Privilege,} & \quad \text{... Duty.} \\
\text{... Power,} & \quad \text{... Disability.} \\
\text{... Immunity,} & \quad \text{... Liability.}
\end{align*}
\]

What is central to these relations is that they all have three parts: there is a subject of the claim, an object of the claim and a content. If Stan owes Nick 5\$ then Stan is the object of the claim, Nick is the subject of the claim and the 5\$ is the content of the claim. Although the object and the content of Hohfeldian relations often coincide it is not always so, i.e. if \( A \) has a claim to \( B \) that he does \( X \). A duty is thus always connected to a specific object i.e. the content of the claim. One cannot, according to this scheme, be under a duty to give charity to the homeless for instance, since it is undefined who exactly should receive that charity (‘the homeless’ is not one specific person).

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The way these relations of correspondence work can be illustrated with the example of a car. If you own a car then you have primary rights to the car which involve a liberty to use your car and you have a claim towards other people not to use your car. Your secondary rights involve certain possibilities you have for changing this situation. You have a power to change the Hohfeldian relations of others and thus placing others under a liability to use the car if you like or you can withdraw your own rights to the car if you wish to give the car away and so also the rights to the car to someone else. You also have an immunity that others interfere in changing these relations and can create a disability for others to do so. Since you are the owner of the car you are the one who decides who has what rights vis-à-vis your car.

The Hohfeldian scheme of correspondence illustrated above does not mean however that rights and duties always correspond in this way. With very few exceptions on how there can be rights with no correlative duties most theorists agree that there is a category of duties with no correlative rights.

In order to analyse how there can be duties with no correlative rights it is necessary to look further into the concept of ‘duty’. Duties (or obligations) are usually divided into two overall kinds: perfect obligations and imperfect obligations. These distinctions come from Kant’s deontic ethics where he distinguished between the necessities of performing certain acts. Kant believed that perfect duties were to be performed by everyone all the time and were absolutely necessary duties. On the other hand, imperfect duties were not required in the same sense since no one possesses the rights necessary to demand their performance. According to Kant it is only necessary to perform imperfect duties sometimes. They were, however, still considered important to some extent.

In later times this distinction has been further elaborated on but still carries a similar meaning. The necessity of performing perfect duties is a consequence of these duties being correlative to rights. This means that the duties that Hohfeld works with are in effect all

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48 Peter Jaffey has argued that the difference between Hohfeldian liberties and liabilities is mostly formal. Being under a liability means here to be under at duty to accept a certain change in your Hohfeldian relations that X has had a power to bring about (Jaffey, 2004, 295)

49 Despite the fact that some authors believe there to be some differences between the concepts of ‘duty’ and ‘obligation’ I choose here to treat them as equivalents. Many other authors (including O'Neill who will be introduced shortly) does use these terms interchangeably and I presume it will not have any consequences later on.

perfect duties as they are part of the right-duty relation just discussed. As it was, everyone is required to perform these duties since others possess a rightful claim that the duty-holder is obliged to respect.

*Imperfect duties* do not have any corresponding rights and are therefore considered unclaimable duties. This, in consequence, makes these duties appear as freestanding acts or duties which are merely permissible to perform. An example of such an imperfect duty is the earlier discussed absence in American legislation of a duty to rescue. No one in peril can be said to hold any rights against someone to come to their rescue (unless someone else can be considered responsible for causing the unfortunate situation) and since no one has any right, any duty to rescue in this case would be an imperfect duty. These kinds of duties are often concerned with situations of rescue, of providing charity and of showing care and concern for others.

**Between justice and virtue**

It seems that it could be fruitful to look further into the concept of duties in general and in particular into the concept of imperfect duties. Our exploration of the term so far loosely defined as a ‘sense of responsibility’ implying ‘an awareness and concern for the impact and the consequences of one’s own actions and in-actions, for the general well-being of the wider society’ appears to be of such a nature that one can to a certain extent expect this of other people; to show a minimum of decency and concern for the interests of people around them. Similarly, it seems that no one can demand this as a matter of right. Although no one has a right to expect it, it could be considered that human beings living together in a society still have a duty of sorts to behave in certain ways or to refrain from behaving in certain ways.

Onora O’Neill, a Cambridge University professor in philosophy, has argued that many liberal accounts of justice nowadays do not give enough importance to imperfect duties. She believes that since most liberal writing on justice seeks to maximize the total amount of freedom for the individual, anything that is not a factor of the above framework where duties correspond to rights is considered merely to be ‘voluntary action’ (O’Neill, 141,142). Such voluntary action is, however, often praised by libertarians who mention that a showing of concern, which is not a matter of satisfying other’s rights, displays valuable traits of philanthropy and altruism. O’Neill still believes, however, that imperfect duties are not
really taken sufficiently seriously in such accounts. “All that is actually established of such action [philanthropy and voluntary action] is that it does not violate rights and that it is chosen; the basis for thinking that it is good is never revealed” (Ibid, 143). The conception of justice that O’Neill has in mind here is characterized by being universalist in orientation, based on practical reasoning and abstract principles and focused on providing guidance for action by showing how certain sorts of action are conditionally required (Ibid, 2,3). Accounts of justice have, in other words, a problem in handling duties that are un-conditional, that do not belong in the framework of rights and duties, since all other action is placed in the same category of personal freedom where one is free to do as one wants – giving charity to the homeless or ignoring a child drowning is thus considered equally permissible as long as no one’s rights are being ignored.

There is, in other words, something lacking which points out that it is good to show concern for other people instead of not doing so. If it, on the other hand, can be shown that there are certain kinds of action that are in some way important for sustaining civility in society for instance and which cannot be said to be matters of justice we might get closer to what we are looking for here.

By looking instead to virtue ethics the full range of ethical action will be available since virtue ethics are not based in the framework of rights and duties but instead dependent on the specific requirements of particular situations and contexts (Ibid, 137,138). Such a view will open up the possibility that there might be important forms of ethical action that might not be sufficiently recognized from a perspective of justice (Ibid, 141). But a perspective from the vantage point of virtue also has its limitations. Recent accounts of virtue-ethics have been particularist in orientation, concerned with what action is required in specific relationships and contexts primarily in the narrow settings of community and traditions. Just as recent accounts on justice have left little or no room for the practice of virtues, recent writers on virtue have been equally opposed to the abstract reasoning and universality which proponents of the virtues believe necessarily imply a quasi-mechanical view of human beings and a calculative approach to guiding human action (ibid, 123).

This development is, to O’Neill, fundamentally the result of a confusion because of an insistence on rigidly separating accounts of virtue and justice (Ibid, xi). This tendency to separate justice and virtues seems, however, in most part to be a contemporary phenomenon since earlier accounts of ethics by, for instance, Locke, Kant and Rousseau worked
simultaneously with virtues and with justice (Ibid, 140). O’Neill therefore believes it is possible to find common ground between the two and also believes that they can be mutually supporting since both approaches have theirs advantages and disadvantages in guiding action.

According to O’Neill, the point of ethics and politics is to guide human action in public and personal domains. Virtue ethics in this view have their strong point in that they are context-dependent and situational and as such are able to provide principles that will be readily available to agents in everyday lived life (Ibid, 2). Also, virtues make no limitations whatsoever in the spectrum of possible action.

At the same time O’Neill realizes that abstract reasoning, commonly used in accounts on justice is unavoidable for such an endeavour and that it may not have to be as ethically damaging as the particularists claim that it is (Ibid, 2-3). This leads to the conclusion that an ethical account based on integrating justice and virtue must (1) be based on practical reasoning for making it of practical use in everyday life; (2) it must be able to accommodate abstraction as this is unavoidable for any account on action, according to O’Neill (Ibid, 2) and (3) it must furthermore be universalizable since principles must be adoptable by all in the relevant domain. If principles cannot be adoptable by all they will not be considered reasoned (Ibid, 125, 126).

In order to identify what forms of ethical action are sufficiently important O’Neill bases her account on the principle of ethical requirements as basic in order to develop an integrated account of justice and virtue. “A constructivist conception of practical reason will identify some ethical requirements if it can show that there are principles of action which cannot be viewed as adoptable by all” (O’Neill, 126). This means that such an account depends on the existence of certain principles of action which cannot be universalized, since this would imply on the contrary the existence of other principles that do require, prohibit and permit certain types of action (Ibid). A requirement is thus to be understood both positively and negatively since it can both be the presence and the absence of certain principles that are required. If it can be shown that the performance of certain virtues is required then these will

51 O’Neill’s term for contemporary writers on virtue narrowed in scope to specific contexts and traditions.
52 O’Neill has argued and demonstrated these conclusions in past chapters of the book and I will have to accept these notwithstanding. I believe furthermore that the subsequent findings that are of relevance here can stay intact in their own right.
53 By ‘all’ O’Neill states a little later that she means ‘universally’. It is thus a reflection of Kant’s categorical imperative.
in effect have to be adopted and likewise if the rejection of other principles is required, these will then have to be rejected. Using a principle based on requirements furthermore will transcend accounts of justice and of virtue of ‘what is just?’ and ‘what kind of person should I be?’ by simply stating what is required?

The immediate advantage of using requirements as the basic principle is, according to O’Neill, its practicality in linking act-types to act-types and agents to agents in definite ways (Ibid, 127). What is meant by this is: “act-types that are required will also be permitted and their omission will be forbidden” and consequently… “act-types that are forbidden will not be permitted and their omission will be required” and finally “act-types that are neither required nor forbidden will be merely permissible” (Ibid, 127). Likewise agents are linked together in the sense that if A owes B an act (or its omission) of a certain kind then B is entitled to its performance (or omission) (Ibid). This means that act-types that are required will arise between agents such that there will always be one who acts and one who receives. This should not be confused with Hohfeld’s scheme of correlativity since the connection between agents and between acts and agent are only based in requirements, not in right-claims.

O’Neill has observed that most contemporary writing on ethics at this point usually take a perspective of recipiency, meaning ‘from the point of view of those in the receiving end of the right-obligations relationship’, which leads to the guiding question for action, being: What am I entitled to? Another perspective, indeed, the complimentary perspective, would be from obligations or duties and so a perspective rather on agency, which O’Neill believes would be the more practical perspective. Such a perspective would be defined as: ‘What ought I to do?’, ‘How should I live?’, and ‘What is to be done?’ (Ibid,127-128). Viewing ethical requirements from the perspective of the agent allows for the full scope of action to be available – that is, both action to which there are corresponding rights and action without corresponding rights. O’Neill adds here that it could be considered highly likely that certain so called social virtues might fall under the scope of being matters of requirement. Integrating an account of virtue and justice based on requirements could then imply that there could potentially be certain virtues the performance of which would be considered as precisely being a matter of requirement, but which would not have a corresponding right and so would not fit into the scheme of
corresponding rights and duties.

This insight may be of great use since the distinction between views based on either recipiency or agency can roughly be equated to the two views we have so far been treating. The Western world’s liberal democracies are quite clearly based on viewing rights as primary, where rights and duties go together and set the premises for the bounds of required ethical action, as has been thoroughly argued for. Furthermore a view of recipiency has furthermore certain sociological consequences (as has already been thoroughly stated in the first chapter) by prioritizing rights so strongly that the corresponding obligations are not only treated secondarily but at times are almost forgotten due to the stronger appeal and rhetoric force of rights. Glendon’s term of the ‘rights mentality’ thoroughly analysed and explained this phenomenon.

O’Neill argues that this rights fixation has the consequence that if the virtue of helpfulness would be considered required, it would only be considered ‘permissible to perform’ within a framework of justice unless there would be developed a corresponding right to friendliness. Obviously such a right would be absurd. It would be equally permissible not to be friendly as it would be to mean as long as no one’s rights are violated. If viewed instead from a perspective of agency where requirements would be the leading principle O’Neill points out that if the virtue of helpfulness would be required it would be “manifest in a life informed by a principle of helping where one can where it is needed, although, by hypothesis, in this case nobody would have a right to specific sorts of help form others” (O’Neill, 139).

A view from Confucianism, on the other hand, is in this respect not particularly concerned with principles of justice as such but rather with acting out in accordance with the virtues and in relation to what the specific situation would demand. The prevalence of an extensive framework of norms and practices furthermore helps by structuring behaviour between agents according to context. Such a view based on virtuousness is also incomplete though, since no one can be certain to receive what may be required and what they may be entitled to if other people in society do not do what is to be expected of them. As previously argued the downside in relying on everyone behaving and acting according to norms and customs is that people really have no entitlements and so no way to claiming even the most basic necessities. This leaves people very vulnerable as there is no defence against abuse of power by those who are privileged if no one possesses any rights.
The choice of perspective is, however, rendered easy for O’Neill since nothing will be lost in taking the starting point from the view of obligations. The same cannot be said, as we have seen, about a perspective from rights (Ibid, 146). This decision calls for a new framework of duties based on what kinds of duties there are and to whom they can or should be directed. Apart from the overall categories of perfect and imperfect obligations O’Neill furthermore distinguishes between *universal* and *special* obligations. The former is characterized as being obligations that everyone can hold and the latter are obligations that grow out of ‘specific roles, institutions, relationships’ or the like (Ibid, 147).

*Universal perfect duties* are obligations owed to everyone\(^5\). They can only be negative tasks of allowing and refraining from doing or prohibiting certain things. These can also be institutionalized and always have corresponding rights. They can be made even stronger by certain social virtues such as the virtue of solidarity or that of fair play. This means that certain ‘extra rules’ may cause agents to be more aware of these negative obligations towards others. Certain vices may, on the other hand, undermine this, such as cruelty or greed (Ibid, 147). O’Neill does not elaborate further on what is meant with this last part but her point seems to be that people can live up to these obligations to a higher or lesser degree and the prevalence of certain vices or virtues may either inhibit or encourage this.

*Special perfect duties* are dependent on certain social institutions connecting the specified agents with the specified recipients; these can be the state, markets, the family, firms and so on. Special obligations always presuppose special relationships which can be both distributively held such as with welfare rights or rather held for prolonged periods of time such as relationships between family members or professional relationships (Ibid, 148). These are, in other words, all the corresponding obligations to every different claim and welfare right which imply positive action and are the result of special connections between agents potentially bypassing certain institutional structures.

*Universal imperfect obligations* lack counterpart rights and are both un-claimable and are not bound to particular instances. Instead they are rather relative to the character of the specific agent. In other words everybody holds these obligations but it is both unclear to whom they are owed as well as under which circumstances they should be performed. If these are manifest in agents’ characters they can best be thought of as ‘a range of specific virtues’

\(^5\) It is important here to mention that all examples given here of what could potentially be such ethical requirements are nothing but examples. Whether or not ethical requirements exist or not will be examined in the following.
which O’Neill calls *portable ethical characteristics* (Ibid, 148). The merit and value of universal imperfect obligations lies exactly in the fact that they are not being enforced and that they are not bound to particular contexts. This is so because the merit of people being kind or generous would lose their intrinsic value if these virtues were only performed because of coercion from law or because a certain context demanded it (Ibid). So the dilemma is then that if there are any required virtues of this sort it remains wholly unclear to whom and in what situations they should be performed (Ibid, 148).

Somehow it can appear surprising that the circumstances for performing these obligations are so unclearly defined by O’Neill since if imperfect obligations are truly universal they ought as well to be performed whenever a situation appeared where it could be performed. This view is, however, mistaken as we have to remind ourselves that no one can demand the performance of these. If one was to practise the virtue of friendliness to all and in every instance during one’s life one would have to do so endlessly for the rest of one’s life. This is why O’Neill points out that these characteristics are rather to be conceptualized as required virtues of agents.

But learning and using these virtues when required is not all there is. Virtues may fade away with time when solely dependent on the goodwill of people. O’Neill emphasizes the importance of sustaining these virtues through various institutions and traditions in order for these to not fade away. “In recognizing the importance of good character we do not deny, but rather affirm, the importance of institutions and traditions which inculcate, transmit and sustain virtues as well as congruent support and discipline. The individual and social embodiments are mutually supporting” (O’Neill, 149).

*Special imperfect obligations* have by proponents of the virtues often been claimed to exist almost exclusively in the various relationships we all engage in. These relations create special opportunities for displaying certain virtues such as loyalty between friends, the affection of a spouse or the encouragement given by a mother to her child. It is precisely because different relationships require different virtues that these virtues are special and not universal. O’Neill believes that the extent of and also the kind of virtues every person masters is largely a consequence of how one have come to live one’s life. If one is used to being among many people, one may lack skills of intimacy and the special attention required for intimate sympathy but on the other hand possess great skills of solidarity and equality
which may be what those who live more private lives may lack in exchange for greater skills of empathy and attentive care (Ibid, 150).

O’Neill illustrates how the different categories of duty may apply in the relationship between parents and their child. Parents may first of all have an obligation in not physically harming their child in any way - just as parents may not harm any other people since they have rights that protect them from this abuse. These are the universal perfect obligations. Parents also have certain obligations that apply specifically to them in virtue of them being in a special relationship with the child. These involve obligations of care and support to make sure that the child is healthy, fed and other physical needs are met. These are the special perfect obligations. Most parents will also believe that they should show a certain amount of courtesy and respect – just as they should to everybody else. Neither their child nor anyone else can claim this as a matter of right but most people will consider it obligatory to show such minimal amount of respect and decency to other people. These are the imperfect universal obligations. Good parents may also believe that they owe their child certain sorts of love, attention and care although they are in no way obliged to do this. Once again the child has no right to any of this either but it will generally be expected of parents to show this extra care and concern for their child. These are the special imperfect obligations (O’Neill, 151).

O’Neill emphasizes that most human relationships consist of both imperfect and perfect obligations and that both are equally expected even though only the latter kind can actually be claimed (Ibid, 151-152). In other words people are usually in the situation that they both have to act on certain occasions in certain contexts but that they also ought to act on other occasions and these two go hand in hand (Ibid).

This leads to a new framework of ethical action based on obligations:

**Perfect obligations:**

- **Universal:** Held by all, owed to all; counterparts to liberty rights\(^{55}\); embodied above all in legal and economic systems.

- **Special:** Held by some; owed to specified others; counterpart special rights; fixed by structure of specific transactions and relationships; can be distributively universal given appropriate institutions.

\(^{55}\) O’Neill deviates here from Hohfeld by attaching a duty of negative liberty to non-interference with anyone’s liberty rights.
**Imperfect obligations:**

- **Universal:** Held by all, owed to none; no counterpart rights; embodied above all in character and expressed in varied situations.

- **Special:** Held by some, owed to none; no counterpart rights; embodied in ethos of specific relationships and practices and in characters; often, but not exclusively, expressed in action within special relationships (Ibid, 152).56

According to Confucian thought most, if not all, of these obligations would be considered an integral part of performing *ren* ‘humaneness’. There would be no distinction between perfect and imperfect obligations; if you have an obligation it is to be performed regardless of who would be in the receiving end. There would also be special demands for performing certain obligations in certain roles that are specifically connected to this particular relationship. These would belong in the category of imperfect special obligations. In contrast to the West the need for sustaining people’s characters on a continuous basis is recognized in Confucianism and for this purpose *the rites* provide as institutionalized practices that help sustain the integrity of the virtues, avoiding that they become perverted by conflicting impulses or desires. O’Neill argued along similar lines by emphasising the important role that institutions and traditions play in maintaining and nurturing people’s characters, which serves as further evidence to both the conclusions of especially Etzioni but also to those of Glendon by demonstrating how communities although not exclusively have the capacity to sustain a moral climate.

In this new framework of obligations certain things become clearer. The category of perfect obligations are all owed and as such are not a matter of virtue (although as argued, certain virtues can enhance motivation for carrying certain obligations) whereas the imperfect obligations which are not owed are specifically matters of virtue ethics. This prompts O’Neill to take the next step and argue that justice is to be considered a matter of perfect rights and obligations and that virtue depends on the framework of imperfect obligations that necessarily must be without counterpart rights.

> “Justice is a matter of perfect obligation, matched by rights; its demands fall on all, and are owed to all. Required virtues, if there are any, will also make demands that fall on all, but will not specify recipients and occasions for virtuous

56 This framework is different from O’Neill’s as it categorized by using ‘perfect’ and ‘imperfect’ obligations as the main labels instead ‘universal’ and ‘special’ obligations which O’Neill prefers. I believe that the significance of the framework is on difference between perfect and imperfect obligations.
action. Even when required of all, virtuous action can, indeed must, be no more and no less than a matter of imperfect obligation...” (Ibid, 184).

I realize that these definitions of justice and virtue would require further qualification to be justified and vindicated. This is however an endeavour that I not will undertake here since I believe it un-controversial to state as a minimum that imperfect obligations of any kind are treated secondarily after perfect obligations with corresponding rights. The performance of obligations to which others carry corresponding rights must in general be considered more important than the obligations that do not have any corresponding rights. This reason for creating corresponding rights must signify a presumed necessity in the obligations being performed\textsuperscript{57}.

I believe it safe to conclude that our concept of a sense of responsibility does not belong within the realm of justice but is rather to be conceived of as what O’Neill describes as a portable ethical characteristic and hence as an imperfect obligation. As discussed in the first chapter if your performing a duty is purely because it is legally required it cannot be considered to be moral action\textsuperscript{58}. In speaking of the requirement of having ‘a sense of responsibility’ is implied an internal state of mind characterized as a certain skill based on normative judgements on how to coordinate one’s behaviour according to external circumstances. This means in effect that I will bypass the discussion on identifying possible principles of ethical requirements within the domain of justice and instead move on to directly locating principles within the domain of the virtues\textsuperscript{59}.

**Responsibility as the rejection of indifference**

If there are to be any such principles of required virtues O’Neill affirms that they would have to be inclusive principles in order to be able to direct people in all situations and spheres of life (O’Neill, 185). If such a principle would not be inclusive it would be no more than a characteristic trait or a sign of excellence in some particular instantiation (Ibid, 185). If it is to count as a general principle it must be able to apply universally, as it was, and has to be able to direct human beings in their course of life. O’Neill’s conception of justice is based on

\textsuperscript{57} I will however not disregard the possibility of occasions where the performance of an imperfect duty might be fundamentally more important than to perform a perfect duty i.e ignoring people’s rights in preventing a bomb from exploding in a market full of people.

\textsuperscript{58} Pg ¿??

\textsuperscript{59} I am aware of the possibility of there being other variants of responsibilities that might be a matter of justice such as David Miller’s concept of remedial responsibility where he discusses the possibility of holding nations responsible for past injustices done to other nations in “National responsibility and global justice”
a principle of avoiding the infliction of injury on people, which she defends in the preceding chapter #6 Principles for all: Towards justice. O’Neill explains her conception of justice as follows: “…principles of justice are a matter of rejecting principled injury, but considered more concretely justice is a matter of constructing, maintaining and living with and through specific institutions which limit injury, in part by defining special rights and obligations and procedures for constructing further special rights and obligations (for example by promises, by contract, through market relations, by administrative procedures) and so can help achieve a degree of political, economic, social and environmental security for all” (O’Neill, 191). O’Neill’s conception of justice is specifically directed towards caring for pluralities rather than individuals which means that the subjects of justice are largely ‘anonymous individuals’ who have certain political, economic and social rights which are to be fulfilled. This contrasts well with the view from the ‘particularists’ who have criticized accounts of justice for viewing human beings rather mechanically as a plurality of ‘straw men’. It could, however, be disputed that basing an account only on principles of injury is somewhat narrow in scope. A different principle such as the principle of doing harm would be farther reaching but a principle of doing harm would on the other hand obscure O’Neill’s basic argument which can explain choosing injury as the basic principle of justice. ‘Harm’ has a potentially wider scope than injury since there are more ways of harming a person than injuring them. Whereas injury is usually is an external phenomenon harm can also be internal, such as emotional harm.

O’Neill believes that the basic problem is that justice treats people rather as pluralities than as sentient human beings. To O’Neill, justice fails in neglecting to recognize the human condition as one being determined by human beings being linked to other human beings in specific ways that create specific dependencies and specific vulnerabilities. Living together with other people in society human lives also become irreducibly lives that are dependent on more than other people abstaining from causing injury to each other. O’Neill illustrates this by the consideration that living in a world where there would only be justice would not be fulfilling for any human being since our relations with other people are not merely based on abiding to a principle of non-injury (Ibid, 193). O’Neill’s basic claim is that we are

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60 I understand pluralities as ‘the sum of individuals’ who are basically all the same and have the same needs in virtue of all being human beings.

61 ‘Justice’ again understood as a principle of rejecting injury.
vulnerable beyond what principles of justice demand (Ibid). Being vulnerable, people become connected with other people and with institutions that have the capacities to find reliefs for these vulnerabilities. This creates in effect dependencies on these agents and institutions on which we depend, which again make us vulnerable since being dependent is being vulnerable. Even the very institutions whose sole purpose it is to serve and provide as benefits for people at the same time create new dependencies and thus render us vulnerable:

“The social fabric that creates capabilities which strengthen and protect also creates further vulnerabilities; the natural and man-made systems which sustain lives also render them dependent, often asymmetrically dependent. Affections engaged both secure others’ support and expose to cruelty and rejection; dependence on the action of particular officials both secures support and exposes to the results of their corruption or inefficiency; marriage and family ties both support and demand; food aid that supplements subsistence agriculture and local markets both improves nutrition and creates dependence on suppliers. Connected lives become selectively, variably and sometimes acutely vulnerable lives” (Ibid, 192).

The relationship between vulnerability, security and dependency is circular in the sense that it is the continuity of being vulnerable and dependent and how connections are created between agents and agents and between agents and institutions that is crucial to O’Neill. Once such a relation is established there is a specific connection which places a responsibility on either one of the parts or on both parts to respect this status as being a viable necessity for the other part.

I find it doubtful, however, that O’Neill wants to claim that institutionalized negligence (or negligence from public officials) is not a matter of justice. If a public official does not provide the service or the goods that a person is entitled to receive this would to me be considered a matter of injustice (but not necessarily to O’Neill given her principle of rejecting injury as constituting justice). The creation of a relationship based on dependence between institutions and people means that institutions are continuously obliged to provide a given service or good since not doing so would in many instances be a case of causing injury to people. The mere creation of a certain institution with a given purpose in regard to helping sustain people in a certain way is not enough. If the institution does not fulfil its duties competently it creates injustices to the people dependent on the concrete service or good it is
supposed to supply. This is also a matter of perfect rights and duties and so must be a matter of justice.

On the other hand I believe that O’Neill is right on an interpersonal level. If civic life depended *purely* on matters of justice it would in theory be possible to live a life where one would be able to disregard and to ignore other people as a matter of principle. Living a life in which one is concerned only with oneself is not unjust but it can, O’Neill believes, be formulated into a principle the adoption of which cannot be willed or universalized. Such a principle would imply that *inclusive principles of indifference to and neglect of others cannot be universalized* (O’Neill, 193).

In order to not misunderstand O’Neill it is important to underline here that O’Neill is talking about making indifference and neglect *a guiding principle* of one’s life. This is important since O’Neill herself remarks that ‘we are naturally bound to be indifferent and neglectful to many people in our everyday lives’. We cannot possibly fit everyone within our sphere of ethical concern. But making it a leading principle of our lives to be indifferent and to neglect others would imply that we would never, as a matter of principle, take the wellbeing of others into consideration, again, unless we would be forced to do so as the result of having to respect the rights of others. Making such an attitude a leading principle of one’s life would naturally have devastating consequences for the cohesion of civic life. The universalization of such a principle can therefore not be adopted. O’Neill defends this by arguing:

“Indifference and neglect are not unjust. Nobody can avoid being indifferent to and neglecting many, if not most, others to whom they are connected. Nevertheless justice is not enough. Those who make indifference or neglect an inclusive principle are committed not to help or to care for any others within the domain of ethical consideration to which they are committed. They could think of their principles of indifference and neglect as universalizable, only if indifference and neglect could be inclusive principles for all. Yet no vulnerable agent can coherently accept that indifference and neglect should be universalized, for if they were nobody could rely on others’ help; joint projects would tend to fail; vulnerable characters would be undermined; capacities and capabilities that need assistance and nurturing would not emerge; personal relationships would wither; education and cultural life would decline. It follows that those with plans and projects, even of the most minimal sort, cannot regard indifference and neglect as universalizable” (O’Neill, 194).
For O’Neill, the rejection of indifference is understood as an absolute requirement in upholding a minimum of civility in society. The merit of this principle is exactly that being indifferent and neglectful is not a matter of (O’Neillian) justice and so not a matter of respecting other people’s rights. There is nothing that prevents people from going through life without ever so much as having a thought about the well-being of any other person in the world than one-self. O’Neill stated it fittingly as: “Nothing shows why indifference or self-centeredness should not be life-projects for liberals, providing, of course, that others’ rights are respected; and no doubt they often are” (O'Neill, p. 144).

There is reason to think that the adoption of a principle of rejecting indifference and neglect might help to fill in this ‘moral gap’ in Western society that we characterised earlier on as having ‘a sense of responsibility’ i.e. an awareness and a consideration of the impact of one’s actions and in-actions on the well-being of other people. Certain things need qualification though and at least two central questions require answering:

1. If we are to reject indifference how is it determined to whom we should reject being indifferent? What is the scope of such a principle in other words?
2. How demanding would such a principle of rejecting indifference be? Should we at one extreme make other’s problems, our problems, or, at another extreme, merely sympathize with people and show that we are at least not indifferent?

(I will not answer these questions directly but rather use them as guides for the discussion of this principle.)

**The scope of the principle**

The first worry of such a principle is the classical critique given by consequentialists to the proponents of virtue ethics. The principle of the rejection of indifference risks so to say ‘falling into an abyss of indifference’ since if one must necessarily be indifferent to some and one thereby has to choose who not to be indifferent to we are left with a rather weak principle that does not really provide any guidance whatsoever.

O’Neill offers however a substantial reply to this obvious worry. Since this kind of action is always directed at other people although to whom and when is unclear O’Neill affirms that it must be the category of *social virtues* that is under question as what action kinds of action
this principle would demand.

“The social virtues make selective demands: they leave open to whom, or when or in what ways virtue is to be expressed. They do not require generalized or maximal benevolence or beneficence, or any set amount of either, but only selective and feasible help, care, love, generosity, support or solidarity” (Ibid, 195).

Since there must always be someone to whom one could show such concern O’Neill argues that many of the relationships we interact in everyday stand as particularly appealing instances for expressing many of the social virtues. Certain relationships are sustained over long periods of time and develop into valuable resources for friendship and support, love and concern. This means, however, that these heighten vulnerability precisely because people come to depend heavily on each other (Ibid, 196). O’Neill describes that these relationships “provide organizing structures for sustained love, care and solidarity” (Ibid, 196).

“When occasion and recipients of actions are not fully defined, principles have to be embedded in more flexible ways. This is the basic reason why certain social virtues are better embodied in the characters of agents, in the ethos of institutions and in social practices and traditions, as ‘portable’, or at least ‘semi-portable’, ethical attitudes and characteristics, rather than in structures that define precise claims between agents and recipients. The rejection of indifference and neglect is therefore properly expressed not only by the formation of appropriate characters but also in part through the construction and cultivation of special relationships which normally channel and focus certain social virtues” (Ibid, 196-197).

From this quote can be drawn several parallels with what, according to Confucian thought, was considered required for ‘making people act humanely’. Respecting one’s roles and duties in relationships and the rites that defined them was not just a way of doing what was required to act humanly but was similarly a way of learning how to behave by being familiar with the virtues so they in time would become internalized and be an integral part of one’s character. O’Neill’s emphasis on ‘the ethos of institutions, social practices and traditions’ gives additional heed to the function and purpose of performing the rites as well as to the basic idea of communities as means to reminding people of rejecting indifference.

Relationships
The contents of the rites and the roles that define the Confucian relationships might be thought of as guiding principles – as variations of the principle of rejecting indifference that
define specific tasks that help express certain virtues. Providing specific guidance as to how to relate to one’s parents, friends and the elderly would in this context provide a continuous lesson for everybody not to be indifferent and negligent to others. The ritualization of relating means on the one hand less freedom to act as you want but on the other that people become accustomed to at least not ignoring one another. For the Confucians the thought was additionally that keeping to such structured ways of acting would be an important ingredient for keeping society harmonious.

Relating and building relationships is, however, not a Confucian invention and people in Western society and people in general have equally strong and benefitting relations. People are so also rendered equally vulnerable due to their emotional involvement herein. The difference between the Confucian variant and the Western one is therefore merely the ascription and establishment of norms indicating who has to do what for whom? While such strict and non-chosen duties and demands may not be accepted in Western society one could have the thought that if you add, as a principle, the rejection of indifference and ignorance as a basic requirement for how we should behave to the people with whom you partake in relationships there would be an actual requirement (or a duty or a responsibility) for not being indifferent. The ways in which one would want to show one’s ‘non-indifference’ would be up to the individual. As Rosemont noticed “there are many ways of being a teacher, spouse, sibling, friend (Rosemont, 2004, 64). Attaching a principle of rejecting indifference when one is dealing with people in various ways could help to generate increased sensitivity and concern to others. If people consider the emotional cost of neglecting people close to them, by being disloyal, deceitful or just emotionally or physically absent one’s awareness of the emotional destruction a person can bring about in this way could be heightened.

One could however easily imagine that some people would not be as appreciative as they could of being shown consideration but might take advantage of this concern and use it to exploit the generous giver. Such situations where some people exploit the good intentions and goodwill of others are, however, not problematic and actually shows how a principle of rejecting indifference would have an advantage over the Confucian counterpart of ascribing mutual duties. Rejecting indifference does not imply neither catering for anyone, nor showing unconditional concern, love and support for other people. Rejecting indifference does not imply, making endless sacrifices for others. If others do not treat you with a
minimum of dignity or care you can first try and correct the other in various ways and if that
does not change I believe one could add to the principle a balancing device including a
‘minimal of reciprocity’. Expecting reciprocity would, however, not imply a calculative
‘something-for-something’ system of exchange. If rejecting indifference in confronting a
homeless person the minimal reciprocation to expect would be gratitude since a homeless in
virtue of being more or less deprived would have little to offer back. Gratitude is, however,
free for everyone. If your showing consideration for others is wholly un-appreciated and in
contrast is exploited there might be reason to believe that your non-indifference would be
better spent elsewhere.

This does not, however, solve the problem of defining the scope since, as it was, we cannot
avoid being indifferent to many people every day and if the relationships we interact in
already provide as the sole guidance as to who we should reject indifference, O’Neill’s
account might run into the same trouble as Confucianism. As discussed on pgs. 47-49 and
pg. 66 respectively, the focus on relationships and Confucius’ thoughts on ‘graduated love’
unfortunately resulted in widespread nepotism and parochialism.

Guidance in how to act in a relationship still does not help in pointing out who to enter into
such a relationship with (unless you are already in such a relationship) and how far you
should be willing to show concern and care for others. Realizing the state of the world there
is more than enough destitution and misery that would be in desperate need for people
rejecting to be indifferent.

Without investigating various routes based on consequentialist and deontologist parameters
for defining and focusing the scope I will at this point agree with O’Neill that there simply is
no easy way of finding out exactly who not to be indifferent to and that it might as well be
wrong to assume that all ethical action should provide specific guidelines. I believe that the
principle of rejecting indifference is not one that requires complete guidance. In this respect I
believe O’Neill has a good point when she states that “not everything that is left
undetermined need be arbitrary in any worrying sense” (Ibid, 198). O’Neill also emphasised
that since people live different lives some will develop virtues of a certain kind of direction
and others being differently disposed will have tendencies to develop virtues that are
different in kind and offer other ways of being indifferent to people. This suggests that
perhaps by looking inward for moral guidance by strengthening the virtues required for

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62 O’Neill reminds us of this on pgs 83-84.
rejecting indifference might be more appealing than outward guidance that does not recognize how personalities can differ. This makes sense in the light of the earlier importance placed on *cultivation of character*.

**Character**

O’Neill also suggests that social virtues, given their non-specificity and lack of concrete instantiations, could be regarded rather as features of peoples’ character; a certain trait of personality that will be explicated in situations where it would seem to be required. These two proposals for guidance might even be mutually benefitting:

In Confucianism, relating with other people is considered to be education; learning as cultivating and sharpening the virtues and so also one’s character. The merit of Confucian learning is to inspire people into, as it was, ‘behaving as human beings’, which means knowing the five Confucian virtues and making the practice of these. Filial piety was considered the most basic virtue but still a very important virtue because it would be the first lesson in life towards learning to become human. Filial piety could in today’s world be translated into ‘learning to respect’ and could in similar terms be considered the important first lesson for any person to learn. Respect similarly teaches you humbleness, etiquette, modesty and consideration. Such virtues can be considered the very building blocks of learning how to relate to others and so also the beginning of a long line of lessons of building a robust character that is capable of moral consideration. What I want to argue is along the same lines as Lee’s point on pgs. 69-70, that learning the virtues can itself be considered a way to enhance sensitivity to the needs and interests of others and can imply that people will become increasingly adept in considering what their relation to other people should be on a wider scale. Indulging in learning that would build one’s character would in consequence result in a more stable foundation for deciding when to and when not to be indifferent to others, by letting the interests and needs of others gain significant room in one’s moral judgements in balance with one’s own capacities helping others by rejecting indifference.

O’Neill is also aware of, like the Confucians were, the important role that institutions, social practise and traditions play in keeping people’s moral sentiments at bay. On page 83 now!!! she could easily speak both on behalf of Confucius (and many other Confucians) and of Etzioni in underlining the importance of these external mechanisms for sustaining the moral sentiments in people. The possibility of introducing the concept of rites into the Western
society was suggested earlier as a possibility to keep people’s desires and personal interests (or rights-mentality) focused on what matters. There is reason to believe that O’Neill is not interested in promoting a principle that gives strict and easy to follow guidance by defining the scope of the principle completely. O’Neill seems to be careful in not qualifying the principle very concretely as that would probably make it too similar to already existing principles such as the harm principles and utilitarian principles. This is further illustrated in the extensive quote below where she considers how the rejection of indifference would take a less direct form than it does in human relationships. O’Neill considers as well the concept of social trust which is to say all the ways in which we interact in cultural, institutional, professional and other social settings (Ibid, 202).

“The fabric of feeling, culture and convention which sustains trust and communication is always fragile and vulnerable. It not only has to be preserved from damage and destruction, but to be shielded from mere indifference or neglect. It has constantly to be created and sustained, recreated and renewed, to preserve ‘the food for future generations’; and of the present generation. That food will be reduced, and capacities and capabilities will fail at least for some, when nobody maintains and contributes to sustainable practices of communication, of toleration and confidence-building, of loyalty and engagement, of educating and encouraging, that will enable action, interaction and the development of human potential and culture. The social conditions for human life and interaction can be sustained and supported among connected agents only by attitudes and action that educate new generations, that develop individual characters and their capabilities and that foster and seek to improve civilizing institutions” (Ibid, 202).

This quote indicates rather an idea of the cumulative efforts of people to keep society together, to keep it decent, with an atmosphere of civility, of respect and helpfulness. It is here rendered even more undetermined how and to whom one should reject indifference. It seems rather as being a background principle or a voice in the back of one’s mind that reminds one not to be indifferent to what O’Neill fittingly terms the social fabric. Understood as such a principle of rejecting indifference can only be considered an internal trait of character or a learned skill or ability of some kind.

63 It goes without saying that rites can be perceived as quite anti-democratic and many practices will of course be ill-suited to such ritualization and will require the active participation and a plurality of opinions and views. But as noted other practices might not suffer from be equipped with its own set of norms that people will have to follow regardless.
I would like to suggest that this principle could be strengthened without, however, stripping it of its supposedly intended ambiguity by changing its structure from being a principle of rejection to one of adoption. Also it would provide additional guidance to the principle.

Rejecting a principle of indifference and neglect is at the same time rejecting/refusing ‘not to be concerned with other people around you’. If these negations were removed and the principle was stated positively it would imply a principle of showing consideration to some other people to a certain extent. Stated differently: if we accept that living by a principle of indifference is unacceptable, we say at the same time that one has sometimes to show some concern for other people to a given extent. To what extent this would be or to whom exactly is still unclear and open-ended. The reason why a principle of indifference could not be universalized was because of the human condition of being persistently vulnerable beings.

But the principle leaves it unclear you would merely have to react only when confronted with a person that for one reason or another would prompt you to show concern or if the principle should also count when acting or not acting under different circumstances. This would imply that one could be indifferent in one instance (because we cannot show consideration for all) where one perhaps would rob someone of all his possessions, then come back an hour later and seem morally honourable by rejecting the principle of indifference by helping the person out in some way. The only way such a principle would make sense would be to connect it to actions (which seemed also to be O’Neill’s intention (pg. 80) so that in addition to rejecting a principle of being in-different to some, you would have in addition to consider the impact of your actions and in-actions so as not to actively create a new vulnerability or enhancing an already existing vulnerability which would exactly require the rejection of indifference.

By doing this reformulation and adding to it the importance of showing consideration when acting brings us a principle that is remarkably similar to the term that we started out with, formulated as ‘a sense of responsibility’ defined as ‘an awareness and concern for the impact and the consequences of one’s own actions and in-actions, for the general well-being of the wider society’ (pg. 16). I realize that this addition will be in need of further qualification and will present new challenges for application and scope. Space does not allow for this unfortunately and I will there and so I will end the discussion with this last observation.

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64 I take it to be in the spirit of O’Neill’s work that she would not opt for a scenario such as the before mentioned and so would reject that it would be consistent to reject indifference on the one side but on the other actively contributing to occasions where it would be required.
**Conclusion**

Rosemont’s earlier quote: “99 per cent of the time I can fully respect your civil and political rights merely by ignoring you” (Rosemont, 2004 p. 59) is in the light of the discussion of the rejection of principles of indifference and neglect an insightful contrast to the reality of Western society. The appraisal of individual freedom for everyone and the reluctance in telling people what to do has become a reluctance to place any kind of merit on action. When you are in the sphere of what is *permissible* (i.e. making drawings in your home that you know will insult and offend a millions of people around the world or doing good deeds that make other people happy and grateful to you) there is virtually nothing that indicates that one kind of action is morally better than the other – except, that is, for your own conscience. That consciences come in different forms and can be influenced, for better or for worse, through teaching and training is a basic intuition of Confucian morality and rendered, as a consequence, this insight a guiding principle for the norms, customs and institutions of society. As argued, the effect to which it worked out in practise is unclear, which has made the issue of Confucianism a highly controversial one today. What is less controversial however is that the inherent inequality and the rigidity and restrictions of behaviour would in their original form not be well-received by the liberal and free-minded spirit of Western society.

I think, however, in line with O’Neill that there could be a way in between the two contrasting views. People can and should have rights that secure an existential base for living a decent life and safeguarding every human being against being oppressed and overruled by the majority. At the same time it should be expected that people take a minimum of concern towards others and towards society as a whole. To include the existence of other people when acting and to show a minimum of interest and care to sustain an ethos of civility, mutual respect and helpfulness in society. Living in a society is an irreducibly shared and connected life that is only sustained by the will of the plurality of people, which implies also the realization that participating in society is a way of shaping society and also a way of shaping people. The presence of other people will always provide as a limitation for individual freedom, just as they are absolutely necessary for the substance and enjoyment of life.
If people can agree in general that having rights is what gives a human being his basic decency and security in being recognized as a human being it should similarly be agreed that the only decent way for people to live in a society with other people is to live by rejecting a principle of indifference and negligence for the impact of one’s actions and in-actions on other people.
Appendix:

1.0 Illustration of ‘a rite’:
In a recent publication called “China’s new Confucianism” Daniel A. Bell brings an illuminating illustration of the actual practise and purpose of performing one particular rite. Bell speaks primarily of Xunzi’s conception of the rites which he finds particularly appealing. For Xunzi the primary purpose of rites was their ability to cultivate emotions in performing certain everyday activities in order to make people be more emotionally present in certain ordeals that involve socialization. Additionally, Xunzi believed that in order for the rituals to work it was important that everyone, those in high ranks and the subordinates alike, felt that they gained something in indulging to perform because it was very important that the rituals were not being coerced on people since that would remove the aspect of genuineness and authenticity (Bell, 2008, 43). According to Xunzi, the purpose of the rites was to civilize in the most basic sense of the word: “hierarchical rituals have the effect of civilizing – making civil – hierarchical social interaction that would otherwise expose the nasty underside of human beings and be particularly problematic for the weak and vulnerable” (Ibid, 46). Teaching concern and care for those inferior to yourself was undertaken in the ritual of showing filial piety to the deceased.

A dead person should be mourned for at least 24 months according to the rites although in time it should be phased out smoothly so as to make the transition to everyday life as smooth as possible (Ibid, 41). It was, however, important to put a specific end date for when the mourning should stop in order to prepare the mourners consciously for a return to their everyday life and routines (Ibid). The body should be kept close to village and the family, but not too close as the body in time naturally becomes hideous and would obstruct the ritual. Little by little the body should be removed further and further away in order to gradually remind people of the needs of the living. This also gave time to people from afar to arrive and partake in at least part of the mourning process. Xunzi’s thoughts behind this particular set of rituals were, apart from that they helped people through the process in the best way emotionally, an actual exercise of learning to show consideration and respect to those worst of in society – in this this case the dead. This prolonged period of concern, and respect given to the deceased would make one more considerate to those in need in society.
by cultivating the emotions of respect and care for the needy and the under-privileged (Ibid, 44). Additionally, Bell explains that the social nature of rites had the effect of mixing high and low, young and old, rich and poor to let these meet and so be reminded of the persistent humanity in each other and thereby cultivate sensibilities and concern for each other (Ibid).
1.1 The Three Confucian Ultimates

The following is written in order to give an idea of the metaphysical framework that Confucianism works within. Although it is quasi-religious and admittedly only touches the surface of it, it does however provide a sketch of main metaphysical terms in Confucianism.

According to Confucianism the world is made up of three elements: heaven (\textit{tian})\textsuperscript{65}, earth (\textit{di}) and humans (\textit{ren}). Heaven and the earth supply the physical and the meta-physical world in which the humans live. The three elements all work together in an organic cosmos and their relationships are based on harmony (Yao, 139). Heaven provides the spiritual dimension for humans and the relation between heaven and humans is considered to be a unity and the product of this unity is ongoing harmony (Yao, 141). Heaven as a concept goes a lot further than what this study allows for but the following excerpt from Yao's brilliant description will give an idea of the significance Heaven has for Confucians:

"Heaven is not only the creator of life, the supreme governor of the universe, but also a just administrator of human affairs. Heaven is revered not for the deliverance rewarded to those who have prayed for it. Rather, Heaven is revered and respected with awe in the sense that Heaven is regarded as the final sanction of human behaviour and social changes. For a fixed period, human efforts may succeed or fail, a particular action may or may not be justified, and the character of an individual may or may not be recognised. However, with faith in heaven in which the final sanction is upheld, the failure of a particular person at a particular time does not frustrate a Confucian to the extent that he abandons his goals. Wrongdoing and violation of moral principles which for the time being cannot be corrected and punished are believed to be eventually corrected and punished by Heaven which is closely 'watching' and passionately with the world below. It is therefore regarded as the most serious crime to offend Heaven or to violate the Way of Heaven" (Yao, 145, 146).

The descriptions of Heaven, earth and humans are vast and so are their intricate relationships since one thing that is continuously underlined throughout Yao's descriptions is the interrelationships between especially Heaven and humans. What characterizes this relationship is the concept of The Way (\textit{dao}) which is what 'must be found' in order to sustain harmony in the world. \textquoteleft\textquoteleft The Way is the foundation of a harmonious universe, a

\textsuperscript{65} Yao points out that heaven is not to be mistaken with the meaning it carries in the English language. There has been and still is immense debate on what heaven actually is or could be said to be. The word \textit{tian} however refers to a 'supreme ultimate' (Yao, 141)
peaceful society and a good life, and without it the transformation of the universe would break down, human society would fall into chaos, and the state would weaken and collapse” (Yao, 140). Understood as such there exists both a universal Way which is largely predetermined and outside the control of humans, and also a Way for individuals which they must follow in daily life. This Way however is not one that lies paved before everyone. It must be found and then be kept and use it to navigating through life. How humans follow and cultivate the Way will then determine their destiny. The inseparableness of humans (humanity) and Heaven is better understood when one understands that all ethical principles in Confucianism are derived from Heaven and ‘is the supreme sanction of human behaviour’ (Yao, 142). This also means that the perfection of human virtues is being given an almost spiritual side (ibid).

Yet another key term in this regard is that of Harmony (he). To understand harmony one must first understand the intricate relation between Heaven and humans and that these two are mutually correlative; of the metaphysical and the physical; between form and matter; between mind and body and between the one (the universal) and the many (particular) (ibid). Harmony is to be understood as the culmination of these and resembles the mark where the relation between these become symbiotic and reaches equilibrium (Yao). As with the Way, harmony exists both on the micro and macro level such that there is the harmony of the world, of society, of the family and inside oneself. But harmony is not to be understood as merely 'an instance' - of something that just happens. Reaching harmony on any level requires cultivation of the constituents of harmony, meaning that if an individual wants to reach harmony he must cultivate his emotions. Again a longer excerpt using the words of Yao seems to explain the concept better:

“To realise harmony within and without, individuals are required to play an active, creative role in recasting and reshaping their life, to improve their understanding of the world and to manifest their own nature. Harmony as the highest ideal is thus closely related to nature, politics, ethics and daily life. In this sense it is sometimes addressed as the 'Central Harmony' (zonghe). By 'central harmony' Confucians mean that harmony is central to all existence and all activities and is rooted in the innate centrality and equilibrium” (Yao, 172).
In short it seems difficult to overestimate the importance the concepts of especially Heaven, the Way and harmony play in Confucianism. Especially the Way and Heaven are concepts that penetrate all spheres of life in Confucianism from the individual moral capacities and the striving for higher ideals to the ruler's double responsibilities by himself having to be of sufficient moral integrity and at the same time having to provide the people with a stimulating society that promotes virtuous growth rather than decay (Yao).
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