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Confucian Humanitarian Intervention? Toward Democratic Theory

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Abstract: It is widely claimed that Mencius's account of punitive expedition can be understood as a Confucian justification of humanitarian intervention and thus has the potential to play the role of constraining China's imperial ventures abroad. This paper challenges this optimism, by drawing attention to internal and external obstacles—the problem of virtue's self-indulgence and the problem of justification to non-Confucians—that prevent Mencius's virtue-based political theory of punitive expedition from developing into a modern theory of humanitarian intervention. It argues that for the Mencian theory to be relevant in the modern world marked most notably by moral pluralism, it must be transformed into a democratic theory, at the center of which is the stipulation that humanitarian intervention be morally justified internally, that is, to the people of the intervening state, as well as externally, first to the people to be intervened state, and second to international society.

In his famous essay "Just War and Confucianism: Implications for the Contemporary World," Daniel Bell concludes that "more than any discourse, Confucian theorizing on just and unjust warfare has the potential to play the role of constraining China's imperial ventures abroad, just as it did in the past. Put more positively, China would also have the power and the responsibility to carry out punitive expeditions in neighboring state (e.g., if an East Asian state began to carry out a Rwanda-style massacre of its population, China would face international pressure to intervene). The Confucian discourse

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could provide moral guidance in such cases."[1] Two questions arise immediately: is ancient Confucian theory on just and unjust war relevant to the modern world, and does it indeed have the potential to constrain contemporary China's imperial ventures? In this paper I challenge this optimism, which is widely shared by students of Chinese philosophy.[2] I argue that there are both internal and external obstacles that stand critically in the way of applying the classical Confucian political theory of just and unjust war to the modern political context.[3] In making this argument, I pay special attention to Mencius's theory of punitive expedition, which offers one of the most sophisticated philosophical accounts on the morality of war in ancient Confucian political thought. After thoroughly examining Mencius's virtue-ethical reconstruction of the Zhou discourse of punitive expedition, I argue that in order to overcome the internal and external obstacles that prevent it from developing into a modern theory of humanitarian intervention, Mencius's political theory of punitive expedition must be reconstructed as a democratic theory.

Punitive Expedition: From Zhou to Mencius

Punitive expedition was a ritually sanctioned practice during the Zhou dynasty (ca. 1046–256 BCE). The Zhou dynasty's political structure was predicated on the ritual-based quasi-familial political relationship between the King (*wang* 王) (the suzerain reigning over all under Heaven [*tianxia* 天下] whose official title was the "Son of Heaven" [*tianzi* 天子]), and the feudal lords, the King's subjects whom he was to treat *as* his kin, according to ritual (*li* 禮), regardless of actual blood relationship.[4] Punitive expedition

[1]Dani Bell A. Bell, "Just War and Confucianism: Implications for the Contemporary World," in *Beyond Liberal Democracy: Political Thinking for an East Asian Context* (Princeton: Princeton University Press, 2006), 49.

[2]Luke Glanville, "Retaining the Mandate of Heaven: Sovereign Accountability in Ancient China," *Millennium* 39, no. 2 (2010): 323–43; Aron Stalnaker, "Xunzi's Moral Analysis of War and Some of Its Contemporary Implications," *Journal of Military Ethics* 11, no. 2 (2012): 97–113; Sumner B. Twiss and Jonathan Chan, "Classical Confucianism, Punitive Expeditions, and Humanitarian Intervention," *Journal of Military Ethics* 11, no. 2 (2012): 81–96; Fuchuan Yao, "War and Confucianism," *Asian Philosophy* 21, no. 2 (2011): 213–26.

[3]In ancient China, a war that is morally sanctioned was called *yizhan* 義戰, which can be translated in English either as "righteous war" or as "just war." In this paper I translate it as "just war," with an important caveat that its connotation is culturally specific and does not necessarily overlap with what the term convey in the Western political tradition.

[4]On the lineage law-cum-ritual (*zongfa* 宗法) that governed the political relationship during the Zhou dynasty, see Yang-jie Xu, *Zhongguo jiazu zhidushi* [A history of Chinese family system] (Beijing: Renmin chuban she, 1992); Cho-Yun Hsu, "The

(*zheng* 征) was the ritually sanctioned *right* exclusively held by the Zhou King against the feudal lords when they went astray from the model (*fa* 法), the complex amalgam between ritual and law with which the King governed all under Heaven, thereby violating the Mandate of Heaven (*tianming* 天命), the ultimate moral source of the King's legitimacy. As Son of Heaven, the Zhou King's mandate was to disseminate Heaven's beneficence (*de* 德) over the people who should enjoy it with gratitude and in turn voluntarily submit to his authority. As Schwartz puts it, "Heaven had deliberately thrown His support to the House of [Z]hou, which had in its predynastic period by its virtue proved its right to rule the 'world' [*tianxia*]. The Mandate of Heaven is Heaven's strategy for assuring that good men will finally come to power and it is only through the mediation of good rulers that the normative order can be realized."[5]

According to Zhou political ritualism, mere military aggression (*fa* 伐) by one feudal state against another was strictly prohibited because it would destroy the family-like harmony between the ruler and his subjects or between the subjects themselves who have different moral standings in the Zhou quasi-family ritualism.[6] In principle, Mencius's notion of punitive expedition follows this old Zhou formula with an important twist (or theoretical innovation), which I will discuss shortly. The following statement by Mencius clearly recapitulates his moral distinction between just and unjust wars with reference to punitive expedition.

Spring and Autumn Period," in *The Cambridge History of Ancient China: From the Origins of Civilization to 221 B.C.*, ed. Michael Loewe and Edward L. Shaughnessy (New York: Cambridge University Press, 1999), 545–86, esp. 566–69.

[5]Benjamin I. Schwartz, *The World of Thought in Ancient China* (Cambridge, MA: Belknap Press of Harvard University Press, 1985), 53. It is important to note that the Zhou political theory of punitive expedition is an integral part of the "normative order" predicated by the Mandate of Heaven and Mencius's account of punitive expedition, too, revolves around the political discourse of the Mandate of Heaven. As will be shown, much of Mencius's philosophical innovation stems from his virtue-ethical reappropriation of the Mandate of Heaven as one's (i.e., anyone's) personal moral decree.

[6]This Zhou ideal of just war was reappropriated by later Confucians, including Mencius, as the Confucian view of just war, and with the publication of the *Gongyang Commentary on the Spring and Autumn Annals* (*Chunqiu Goyang Zhuan* 春秋公羊傳) during the Han dynasty (206 BCE–220 CE), which has the most comprehensive and systematic account of just war, the Confucian idea of just and unjust war became the normative standard throughout Chinese history. On Confucian political ethics in the *Gongyang Commentary*, see Kam-por Yu, "Confucian Views on War in the *Gongyang Commentary on the Spring and Autumn Annals*," *Dao* 9, no. 1 (2010): 97–111.

> In the *Spring and Autumn Annals* there were no just wars (*yizhan* 義戰). It does happen that some are better than others. "Punitive Expedition" (*zheng* 征) involves superiors attacking inferiors. Opposing states do not "punish" (*zheng* 征) each other.[7]

What is worth noting here is that punitive expedition, as formulated by the Zhou rulers and reaffirmed by Mencius, never posits moral equality among the states.[8] In principle, the Zhou King, the moral and political superior, is alone entitled to embark upon a punitive expedition (*zheng* 征) with a view to "rectifying" (*zheng* 正) the immoral feudal lord, his subject. In practice, though, when punishing an immoral subject who has fatally failed in his moral-political mission, the King appoints a specific feudal lord as his delegate (*tianli* 天吏) and has him lead an alliance of several feudal states. The delegate thus appointed, then, serves the Mandate of Heaven vicariously.[9]

[7]*Mencius* 7B2 (modified). Throughout this essay the English translations of the *Mengzi* are adapted from *Mencius*, trans. Irene Bloom (New York: Columbia University Press, 2009). For philosophical studies on Mencius's account of punitive expedition, see Glanville, "Retaining the Mandate of Heaven," 334–38; Sungmoon Kim, "Mencius on International Relations and the Morality of War: From the Perspective of Confucian *Moralpolitik*," *History of Political Thought* 31, no. 1 (2010): 33–56; Sumner B. Twiss and Jonathan Chan, "The Classical Confucian Position on the Legitimate Use of Military Force," *Journal of Religious Ethics* 40, no. 3 (2012): 447–72; Don J. Waytt, "Confucian Ethical Action and the Boundaries of Peace and War," in *The Blackwell Companion to Religion and Violence*, ed. Andrew R. Murphy (London: Wiley-Blackwell, 2011), 237–48.

[8]Also Wyatt, "Confucian Ethical Action," 242–43.

[9]Despite Mencius's vilification of the hegemon (*ba* 霸), during the Spring and Autumn period the hegemon, elected by other feudal lords as the most "senior" (*ba* 伯), was appointed by the Zhou King as the protector of the Zhou court against both rebellions from within and threats from the "barbarians" from without, thereby fulfilling the role of the Heaven-appointed officer (*tianli*). For formation and development of the hegemon system, see Li Feng, *Early China: A Social and Cultural History* (Cambridge: Cambridge University Press, 2013), 163–67. One of the important political differences between Mencius and Xunzi is that while the latter acknowledges the hegemon's limited moral standing as the Heaven-appointed officer in interstate relations during the Warring States period, the former completely rejects the hegemon's moral status and political leadership. See Twiss and Chan, "Classical Confucian Position," 457–58. Making fuller sense of this important difference between Mencius and Xunzi with regard to *ba* or *ba dao* 霸道 (the hegemonic rule) requires a systematic philosophical comparison between their political theories of Confucian virtue politics, which goes beyond the scope of this paper. Suffice it to say that whereas Mencius, though realizing the limited utility of the hegemonic rule in maintaining an interstate peace under the Warring States reality, upheld the normative dichotomy between the Kingly Way (*wang dao* 王道) and anything that goes against it (including an outright tyranny and *ba dao*), Xunzi, following Confucius (*Analects* 14.16–17), acknowledged the critical moral difference between *ba dao* and tyranny (*wang dao* 亡道) and recast the moral meaning of *ba dao* far more positively

Logically speaking, therefore, punitive expedition is practically impossible in the absence of a moral hierarchy in the interstate order between a universal King and his feudal subjects and, by implication, in the absence of a legitimate and visible carrier of the Mandate of Heaven, namely the Son of Heaven or his (or Heaven's) appointed officer(s).

Now, consider a case with which Mencius struggled hard. During the reign of Lord Zikuai, the state of Yan was in great turmoil and King Xuan of Qi attacked Yan, allegedly for the sake of the people there suffering under tyrannical rule. Right before attacking Yan, however, one of King Xuan's ministers consulted with Mencius. Later, when someone asked whether he indeed encouraged Qi to attack Yan, Mencius replied as follows:

> No. Shen Tong asked whether Yan may be attacked [*fa* 伐]; I replied that it may [*ke* 可]. They went ahead and attacked it. Had he asked, "Who may attack it?" I would have replied that a Heaven-appointed officer [*tianli*] may attack it. Now suppose there were a murderer. If someone asked, "May he be put to death?" I would reply that he may. If he asked, "Who may put him to death?" I would reply that the chief judge may put him to death. How would I have advised that one Yan should attack another Yan?[10]

Mencius's trouble seems to be that even if the people's suffering in Yan was grave enough to require an external intervention, it is extremely difficult to identify who has the ritually sanctioned right to carry it out in the name of Heaven in the virtual absence of the institutional authority that used to represent the Mandate of Heaven vicariously. In Mencius's view, this practically baffles (and ought to baffle) any attempt by an ambitious ruler during the Warring States period to justify a punitive expedition. If a formally feudal but now fully independent state (owing to the near complete collapse of the Zhou authority)[11] assumes the role of Heaven-appointed officer

than Mencius. On this comparison, see Sungmoon Kim, "Between Good and Evil: Xunzi's Reinterpretation of the Hegemonic Rule as Decent Governance," *Dao* 12, no. 1 (2013): 73–92.

[10]*Mencius* 2B8 (translation modified). Note that I translated *fa* 伐 as "attack" (rather than "chastise," as Bloom does) and *ke* 可 consistently as "may." I am grateful for one of the reviewers for drawing attention to this issue.

[11]The Zhou dynasty collapsed in 256 BCE upon the invasion of Qin, which later reunified all under Heaven and created the first empire in China (221 BCE), but its moral and political authority as King had already waned significantly since the mid-fifth-century BCE. By the time of Mencius, Zhou existed only nominally and this enabled virtually all (former) feudal states (*guo* 國) (starting with Marquis of Hui of Wei [better known as King Hui of Liang] in 344 BCE) to arrogate to themselves the title of the King, which belonged exclusively to the Zhou Son of Heaven, reinventing themselves as equal, independent, and sovereign states. I am grateful to one of the anonymous reviewers for pressing me to clarify the overall picture of interstate

arbitrarily (i.e., without the Mandate of Heaven), it is a serious violation of the right Way (*dao* 道), along which both domestic and interstate politics are supposed to be conducted. For Mencius, it is presumptuous, and goes against Zhou's political ritualism to which he is culturally committed, that a feudal state (Qi) launch a punitive expedition against another feudal state (Yan), between which there is no moral hierarchy, and neither of which has a moral claim to the position of Heaven-appointed officer. It is as absurd as Yan attempting to punish another Yan. To repeat, punitive expedition as conceived by Mencius is logically impossible without positing a moral hierarchy among the states.

This does not mean that Mencius was blindly following the Zhou political ritualism. In the Zhou political theory, by which Mencius was profoundly inspired, the question of who is qualified for the position of Heaven-appointed officer to launch or lead a punitive expedition is determined solely by the Son of Heaven and, as Justin Tiwald rightly notes, the most important criterion is whether the candidate has a certain amount of territory, a factor that accordingly determines the number of chariots and trained soldiers that he can avail himself of.[12] Now, Mencius's statement, "How would I have advised that one Yan should attack another Yan?" makes another interpretation possible, one more congenial to his virtue ethics and politics. My previous reading rendered "Yan" as *any feudal state* which *in principle* lacks moral legitimacy to launch a punitive expedition against another feudal state. In the new interpretation that represents a more innovative aspect of Mencius's political theory, "Yan" signifies *any immoral/tyrannical state*, rendering the statement to mean that insomuch as the ruler of Qi is as bad as the ruler of Yan, Qi is *morally* prohibited (in principle by Heaven) from assuming the role of Heaven-appointed officer. This moral prohibition should be strictly complied with, even if Mencius believes that a virtuous ruler must be concerned not only with the plight of his own people but also with that of those living outside his state.[13] At one point, Mencius even insinuates that punitive expedition is morally justified only if the agent in question is morally immaculate, when he refers to King Tang's and King Wu's expeditions against Jie, the last ruler of the Xia dynasty, and Zhòu, the last ruler of the Shang dynasty.

> When Tang pursued the work of punishment in the south, [t]he Di in the north felt aggrieved. When he pursued the work of punishment in the east, [t]he Yi in the west felt aggrieved, saying, "Why does he leave us

relations during the Warring States period. For more on the states and state formation during the pre-Qin period, see Victoria Tin-bor Hui, *War and State Formation in Ancient China and Early Modern Europe* (New York: Cambridge University Press, 2005).

[12]Justin Tiwald, "A Right to Rebellion in the *Mengzi*?," *Dao* 7, no. 3 (2008): 276.

[13]*Mencius* 11; 7B1.

> until last?" When King Wu attacked the Yin, he had three hundred war chariots and three thousand fighters. The king said, "Do not be afraid. I bring you repose. I am not an enemy to the hundred surnames [namely, the people]." The sound of people kowtowing was like a mountain collapsing. To punish [*zheng* 征] is to correct [*zheng* 正]. With everyone wishing to be corrected, what is the need of fighting?[14]

Only when we interpret Mencius's political theory against the backdrop of his virtue ethics and politics does it become plausible to understand punitive expedition as a sort of humanitarian intervention, that is, as *an intervention by a humane* [ren 仁] *foreign ruler*. Here, it is moral virtue (most importantly *ren*) alone that qualifies one to be a Heaven-appointed officer to carry out a punitive expedition. Otherwise stated, the most virtuous among the rulers in the world, presumably one who has best developed the Heaven-endowed moral nature (hence originally good according to Mencius), thereby best fulfilling Heaven's decree (*ming* 命), is alone qualified for such a critical political mission.[15] In this way, Mencius resolves the moral-political conundrum arising from the question of how to identify a Heaven-appointed officer in the absence of an institutional authority that represents the Mandate of Heaven during the Warring States period, without doing away with the traditional practice of punitive expedition, tightly associated with the Mandate of Heaven and the political organ that represents it in its original form.

What is important is that by making virtue central to his new vision of punitive expedition, Mencius presents its "humanitarian" aspect purely with reference to the ruler's inner moral traits and without any salient connection to ritual orders, institutions, or legal crimes. As long as Heaven is there and its virtue-generating moral power is believed, troubling questions such as who is the most qualified to carry out the punitive expedition in Heaven's name and when is the most appropriate time to launch it would (and should) not pose a serious challenge to Mencius's virtue-based political optimism. Ideally, the conquering ruler's brilliant moral character and the moral charisma radiating from it will attract the local people to spontaneously (*ziren* 自然) submit to him without any sign of struggle or resistance. At the very least, a morally cultivated Confucian scholar like him can offer answers to these otherwise tough *political* questions. Insomuch as human nature is Heaven-bestowed and as long as virtue grows by developing

[14]*Mencius* 7B4; also see 1B11; 3B5.

[15]Mencius says, "By fully developing one's mind, one knows one's nature. Knowing one's nature, one knows Heaven. It is through preserving one's mind and nourishing one's nature that one may serve Heaven. It is through cultivating one's self in an attitude of expectancy, allowing neither the brevity nor the length of one's life span to cause any ambivalence, that one is able to establish one's destiny [*ming* 命]" (*Mencius* 7A1).

good human nature,[16] Heaven will continue to communicate with some of those (i.e., morally cultivated ones) who can coparticipate in the cosmic moral unity (*tian ren he yi* 天人合一).[17] As Heaven once awakened Yi Yin long ago, a farmer who became sage-king Tang's sagacious minister and whose sacred mission and responsibility later had him assume the role of Heaven-appointed officer when Tang's grandson went astray, so will Heaven call upon the extraordinary few to entrust them with a great mission.[18]

Between Punitive Expedition and Humanitarian Intervention

Given that punitive expeditions were most frequently exercised against a feudal lord who had tyrannized his people (thus failing to assist the King with his Heaven-given mandate to rule), and since Mencius draws on ancient precedents that involve tyranny whenever he invokes and justifies a punitive expedition, it is hardly surprising that many contemporary scholars believe punitive expeditions approximate the modern notion of humanitarian intervention. What makes this interpretation seemingly plausible are several conditions that Mencius appears to stipulate when he justifies a punitive expedition. Daniel Bell specifies the following four conditions:

(a) The agent carrying out the punitive expedition must intend to liberate the people who are being oppressed by their tyrannical ruler.
(b) The people must demonstrate, in concrete ways, the fact that they welcome the intervention by a foreign agent to deliver them from their tyrannical ruler.
(c) The punitive expedition must be launched by an agent who is at least potentially virtuous.
(d) The agent of justified punitive expedition must have some moral claim to have the world's support.[19]

[16]On Mencius's developmental method of moral self-cultivation, see Philip J. Ivanhoe, *Confucian Moral Self Cultivation* (Indianapolis, IN: Hackett, 2000).

[17]Ching thus notes a strong element of mysticism in ancient Confucian moral and political thought. See Julia Ching, *Mysticism and Kingship in China: The Heart of Chinese Wisdom* (Cambridge: Cambridge University Press, 1997).

[18]*Mencius* 7A31. For Mencius's idealistic conception of Heaven as the ultimate guarantor of the moral transformation of the world, see Robert Eno, *The Confucian Creation of Heaven: Philosophy and the Defense of Ritual Mastery* (Albany: State University of New York Press, 1990), 123.

[19]Bell, "Just War and Confucianism," 37–40. The textual grounds of each propositions are *Mencius* 1B11, 7B4 (also 1B10, 1B11, 3B5), 1A7, and 1B11.

Now, consider Michael Walzer's famous justification of humanitarian intervention, which is widely acknowledged as one of the most authoritative statements on the subject.

> If the dominant forces within a state are engaged in massive violations of human rights, the appeal to self-determination in the Millian sense of self-help is not very attractive. That appeal has to do with the freedom of the community taken as a whole; it has no force when what is at stake is the bare survival or the minimal liberty of (some substantial number of) its members. Against the enslavement or massacre of political opponents, national minorities, and religious sects, there may well be no help unless help comes from outside.[20]

The unqualified identification of punitive expedition with humanitarian intervention seems to fly in the face of the complete absence in Mencius's political theory (as well as in the Zhou political discourse) of such Western conceptual apparatuses as human (and minority) rights, (national) self-determination, and freedom of the community. However, whether Mencius's systemic account of punitive expedition approximates the modern notion of humanitarian intervention beyond Walzer's "legalist paradigm" is a different matter and this is the question that I would like to investigate in this section.[21]

In a sense, to assert based on the text of *Mengzi* that punitive expedition approximates to a modern humanitarian intervention is almost tantamount to saying that Mencius's endorsement of tyrannicide and his deep concern with people's moral development and material well-being approximate the modern idea of democracy. I submit that if the second reasoning is found to be fallacious, so should the first reasoning because the same logic is followed in both cases. Let me explain.

In *Mencius* 1B8, when King Xuan of Qi asks Mencius about the alleged banishment of two tyrannical rulers of Chinese antiquity by sage-kings Tang and Wu, who were previously the feudal lords to the tyrants, Mencius famously says, "I have heard of the punishment of the mere fellow *Zhou* but never of the slaying of a ruler." Based on this and other passages of the *Mengzi* where Mencius expresses his deep concern with the people's moral and material well-being and criticizes rulers who have failed in this regard, many scholars understand Mencius as a protodemocratic thinker.[22] However, unless we understand the concept of "democracy" in complete severance from its

[20]Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), 101.

[21]On the legalist paradigm, see ibid., 54–59.

[22]See Sumner B. Twiss, "A Constructive Framework for Discussing Confucianism and Human Rights," and Chung-ying Cheng, "Transforming Confucian Virtues into Human Rights: A Study of Human Agency and Potency in Confucian Ethics," both in *Confucianism and Human Rights*, ed. Wm. Theodore de Bary and Tu Wei-ming (New York: Columbia University Press, 1998), 27–53 and 142–53 respectively.

constitutive principles and ideals such as popular sovereignty (or collective self-determination), political equality, and right to political participation as well as its undergirding political institutions such as election (based on the one-person-one-vote principle), a mere emphasis on the well-being of the people and the ruler's mandate to serve this goal can hardly be understood as a democracy as *political rule*, however humane or even noble Mencius's political vision may be.[23] After all, as Tiwald has forcefully shown, Mencius acknowledges no right to popular rebellion; removal of a tyrant is the ritually sanctioned privilege possessed exclusively by the Heaven-appointed officer (*tianli*), practically the most virtuous among the ministers (in King's court) and the feudal lords.[24] According to Mencius, laypeople might be able to engage in collective protest against tyranny but they have no claim to formal procedures through which they can influence public affairs as an organized power (i.e., as citizens) and hold those in power accountable.[25]

The same line of reasoning can be applied to the resemblance between Mencius's account of punitive expedition and the modern notion of humanitarian intervention. Recall Mencius's response to Qi's invasion of Yan, discussed earlier. One thing to be kept in mind is that Yan was indeed suffering under tyrannical rule by Zikuai, then subsequently by his minister Zizhi who usurped the throne, thereby bringing more chaos to the state. Mencius notes that the long-lasting tyranny in Yan indeed drove the people there to enthusiastically welcome Qi's conquering army by "bringing baskets of rice and bottles of drink" as if they were "fleeing from water and fire," or, in other words, "spontaneously." If we approach Yan's situation in modern language, it would not be far-fetched to say that the people of Yan's human rights have been seriously violated. From Walzer's perspective, these two factors—the massive violation of human rights and the local people's enthusiastic welcoming of external forces—would create a sufficient condition for humanitarian intervention. But apparently they do not, for Mencius, provide sufficient justification for Qi's punitive expedition against

[23]For a forceful refutation of the democratic interpretation of ancient Confucian (especially Mencian Confucian) political thought, see Loubna El Amine, *Classical Confucian Political Thought: A New Interpretation* (Princeton: Princeton University Press, 2015), 37–47. Chan captures Confucianism's noble yet undemocratic conception of political authority in terms of *service conception*. See Joseph Chan, *Confucian Perfectionism: A Political Philosophy for Modern Times* (Princeton: Princeton University Press, 2014).

[24]Tiwald, "A Right to Rebellion."

[25]This does not prevent a theorist from reconstructing Mencius's political thought, especially with reference to his commitment to moral equality and human dignity, and deriving democratic implications from such a reconstructed Mencian Confucianism. But one should not mistake such a philosophically reconstructed version of Mencian Confucianism for the historical Mencius's political position.

Yan. From Mencius's statement quoted earlier, we can glean two important points that are critical to unravel his puzzling stance.

First, according to Mencius, the mere fact that people suffer miserably under tyranny is not a sufficient reason to launch a punitive expedition because the primary purpose of the punitive expedition is not to save the people but to punish the ruler who has gone astray from the model that the Son of Heaven maintains, of which tyrannizing the people is perhaps the most vivid indicator. Scholars who understand punitive expedition as a sort of humanitarian intervention tend to dismiss the important analytical (and practical) distinction between "saving the people" and "punishing the ruler."[26]

Admittedly, the purpose of humanitarian intervention is essentially to *save the people* whose human rights have been massively violated by domestic misrule. Here the assumption is that people have rights qua human beings and the rights in question are not confined to economic rights narrowly understood. For instance, if a large number of people are systemically deprived of freedom of speech (and other related civil and political rights), resulting in mass imprisonment, torture, and ultimately killing by the ruling authority, this can, arguably, create justifiable ground for a foreign force to intervene in the name of human rights. Even if saving the people may require in practice removing, or even killing, the incumbent ruler, as it often does, it never is the central purpose of the humanitarian intervention. And when the tyrant is *punished* by the intervening external force(s), whose moral status is equal to that of the intervened state in the international society, the punishment is due to his massive violation of human rights and its execution must be conducted according to due process, consistent with international law.

Nor does humanitarian intervention, focused on humanitarian purposes and appropriate conduct directly serving such purposes, make it a necessary requirement that the political leader of the intervening state be a man of immaculate moral character. As we have seen, in Mencius's virtue-ethical reappropriation, punitive expedition, strictly constrained by Zhou political ritualism in its original formulation, is rendered as an intervention by a humane/benevolent foreign ruler. However, not only does Mencius's redefinition still posit an interstate moral hierarchy, which is unaccepted and morally unacceptable under the modern international order predicated on political

[26]In this regard, the following statement of Lewis is worth paying attention to: "The key point to note about the Chinese theory of the 'just war' or *yi bing* was that it was primarily a justification of the role of the ruler within a centralized state, and thus a defense of the power of the emperor" (Mark E. Lewis, "The Just War in Early China," in *The Ethics of War in Asian Civilizations: A Comparative Perspective*, ed. Torkel Brekke [New York: Routledge, 2006], 197).

equality among the self-governing states[27] but, more importantly, the Mencian assumption that the ruler's moral character would naturally entail a spontaneous and welcoming response from the local people seems hardly sustainable unless we embrace the peculiar metaphysics, revolving around the teleological moral force of Heaven, to which Mencius subscribes.

In the next section, I discuss how these differences create specific obstacles in transforming the Mencian notion of punitive intervention into a Confucian political theory of humanitarian intervention, morally justifiable and politically practicable in modern international relations. Identifying such obstacles will in turn provide us with a clue to finding the most proper mode of such philosophical transformation.

From Punitive Expedition to Humanitarian Intervention: External and Internal Challenges

In Mencius's political theory, the four conditions that Bell argues combine to render Mencius's account of punitive expedition an approximation to the modern notion of humanitarian intervention—the agent's humane purpose, the local people's welcoming, the agent's moral virtue, and the world's support—are not independent from one another, as though some can be met while others not. These are interrelated components of one single package of his virtue ethics and politics and, not surprisingly, the agent's moral virtue (i.e., the intervening ruler's virtue) is the condition around which the other three pivot. That is, *because* the agent is virtuous, he has the right motive, people welcome his intervention spontaneously, and the world supports his action.

Recall that this version of punitive expedition is the outcome of Mencius's philosophical struggle to balance the Zhou theory of punitive expedition and the radically altered interstate reality during the Warring States period, to which the theory is no longer applicable in its original formulation. And, as noted, when decoupled from the Mandate of Heaven and the formal institution that vicariously represents it, it looks much like the modern notion of a humanitarian intervention. Nevertheless, given that this new version is not focused on human rights' violation or their oppression, there still remains an important theoretical gap between this and humanitarian intervention. The theory's modern applicability is critically limited.

[27]Note that the very idea of "intervention" is plausible only against the backdrop of the international world composed of the self-governing states, and it is for this simple reason alone that the notion of humanitarian intervention cannot be directly applied to Zhou's political-ritual practice. Of course, we can reinvent Confucianism in a way in which state borders and the rights to national self-determination have less or no moral significance, but this would require a wholly different project.

This is not to say that in order to be relevant in the modern world, the Mencian account of punitive intervention needs to be modeled after the modern notion of humanitarian intervention of the sort Walzer advances. The point is that for it to be understood as the Confucian account (and theory) of humanitarian intervention, it needs to be reformulated as one focused directly on the massive scale of the plight of the people, rather than on the moral qualification of the agent to carry out the humanitarian intervention. In other words, a modern Confucian theory of humanitarian intervention, its Mencian inspiration notwithstanding, needs to be decoupled from Mencian virtue ethics and politics, preoccupied with the agent's moral character.

In Mencius's view, what motivates and justifies the ruler's defensive (and offensive) military engagement in the end is solely his moral judgment, which in theory is objectively good as long as he is virtuous.[28] Again, the reasoning underlying this conclusion stems from his "human nature is good" thesis, which can be recapitulated as follows:

(1) The goodness of human nature originates in Heaven's decree (*ming* 命).
(2) Insomuch as virtue develops from the Heaven-bestowed human nature, it manifests and further brings to full fruition Heaven's decree.
(3) Insomuch as virtue is the medium through which Heaven's decree is manifested and realized, a virtuous ruler's moral judgment is objectively good.
(4) The virtuous ruler's moral judgment, grounded in his *ren* (a kind of moral sentiment), motivates him to intervene with another state where the people are suffering from tyrannical rule.
(5) Since the virtuous ruler's moral judgment is objectively good, his intervention in a foreign state is accordingly justified.

This line of reasoning makes perfect sense as long as Mencius's monistic account of virtue ethics and politics, including his metaphysical theory of human nature, is taken for granted.[29] The problem is that in the modern world this Mencian comprehensive philosophical doctrine does not enjoy

[28]Mencius finds a war of self-defense also morally justifiable (*Mencius* 1B15). Also see Bell, "Just War and Confucianism," 36–37.

[29]In this regard, the following statement of Schwartz is worth serious attention: "In a world in which the faith in the promise of the salvation of the world through the moral will of noble men was under attack from every quarter—even within the Confucian camp—Mencius defiantly, almost quixotically, reaffirms this faith… . Mencius continues to believe that it is only through the actions of noble men that salvation can be attained. This belief seems to be fortified and enhanced, in this case, by an apocalyptic reading of Heaven's intentions in the world of his time" (Schwartz, *The World of Thought in Ancient China*, 290).

monolithic philosophical authority, because people in East Asia (and beyond) now subscribe to various kinds of comprehensive moral doctrines not necessarily compatible with the Mencian doctrine. It may be appealing to comprehensive Confucians (i.e., people who fully subscribe to a Confucian comprehensive doctrine), but they are few, and its justificatory power to non-Confucians is critically limited.[30]

The problem is not limited to the justification's national applicability within China, in which there may still exist citizens who fully subscribe to the Mencian comprehensive philosophical doctrine, of which Mencius's virtue-ethical theory of punitive expedition is an integral part. Given the nature of humanitarian intervention involving a foreign country (and international society in general), a more serious problem lies with the justification's international applicability. It is one thing that China's humanitarian intervention in a foreign country may be internally justifiable (or even justified) to Chinese citizens based on the Mencian doctrine of humanitarian intervention; it is quite another that the doctrine itself has any justificatory power for the intervened people whose internally variegated moral values are unlikely to be congruent with the Mencian-Confucian comprehensive doctrine. As Bell anticipates, the Mencian-Confucian discourse may be able to provide moral guidance for the Chinese people when a political incident that may require China's humanitarian intervention occurs, especially in a neighboring state, but whether such moral guidance is equally acceptable to the people actually intervened by China's Confucianism-inspired political action is a different matter. To bridge this logical gap arising from the national and international fact of pluralism, the theory's internal transformation (into a democratic theory, as will be argued shortly) seems to be unavoidable.

If moral pluralism is an external obstacle that stands in the way of keeping the Mencian version of humanitarian intervention from being reasonably applicable to the modern world, its preoccupation with the agent's moral virtue creates an internal, equally critical, obstacle.[31]

Given the way in which Mencius's discourse of punitive expedition is constructed, centered as it is around the intervening ruler's moral virtue and Heavenly sanction, it is difficult to derive the motivation for and justification of humanitarian intervention directly from the massive scale of the people's suffering, which would make the military intervention in question truly a *humanitarian*, not merely humane, intervention. After all, it should be recalled, Mencius did not endorse Qi's intervention in Yan, despite the fact that the

[30]On incommensurability between comprehensive doctrines and the comprehensive doctrine's public justificatory limits in a pluralist society, see John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

[31]To clarify, while external obstacles refer to the obstacles stemming from the fact of (national and international) pluralism that is extrinsic to Confucianism and to which Confucianism has to adapt itself, internal obstacles are the ones latent to the very features of Confucianism as a system of virtue ethics.

people of Yan had indeed been undergoing unbearable suffering under the tyranny. Even in Mencius's renovated version, punitive expedition is essentially an act of punishment of the immoral ruler by the morally upright and superior agent. Though fatal negligence in taking care of the people's well-being undoubtedly constitutes an important case of the ruler's immorality, it is not the full extent of what counts as immorality. In fact, a close reading of the text reveals that the reason Mencius thought Yan deserved a punitive expedition has more to do with the illegitimate royal transmission between Zikuai and Zizhi that did not involve the Mandate of Heaven than with the suffering of the people of Yan itself.[32]

My argument so far should not be misunderstood to mean that Mencius's concern for the people is not sincere. Quite the contrary, as Joseph Chan rightly notes, Mencius is strongly persuaded that the purpose of the government consists of serving the well-being of the people. That said, it is one thing to note that Mencius is deeply concerned with the well-being of the people, which he believes is the ruler's Heaven-given mission, and quite another to claim that Mencius holds no moral distinction between Heaven and the people. As noted in our earlier discussion about the tendency to interpret Mencius as a protodemocratic thinker, some scholars believe that Mencius's claim, citing *Shujing* 書經, that "Heaven sees as my people see, Heaven hears as my people hear"[33] represents his elevation of the people's moral status to that of Heaven, thus declaring, in practice, popular sovereignty, which in their view enables Mencius to justify the right to rebellion. Such reasoning concludes that the Mandate of Heaven is, in reality, analogous to the will of the people. However, given Mencius's judicious differentiation between active subjects, equipped with political agency to participate in public affairs (the Heaven-appointed officer is one of them), and the laypeople as passive subjects who are allowed only to indicate their content or discontent with the incumbent ruler, like thermometers,[34] it is quite difficult to derive values such as popular sovereignty and political equality—core democratic values—purely from the elevated moral standing that Mencius attaches to the people.

[32]*Mencius* 2B8. For a detailed discussion on the illegitimate royal transmission between Zikuai and Zizhi, see Eric L. Hutton, "Han Feizi's Criticism of Confucianism and Its Implications for Virtue Ethics," *Journal of Moral Philosophy* 5, no. 3 (2008): 423–53, and Kim, "Mencius on International Relations and the Morality of War," 54.

[33]*Mencius* 5A5.

[34]The thermometer analogy is employed by Stephen C. Angle, *Contemporary Confucian Political Philosophy* (Cambridge: Polity, 2012), 40. Also see Tiwald, "A Right to Rebellion," 272, which employs a barometer analogy. For a distinction between active and passive subjects in Mencius's political thought, see Sungmoon Kim, "Confucian Constitutionalism: Mencius and Xunzi on Virtue, Ritual, and Royal Transmission," *Review of Politics* 73, no. 3 (2011): 371–99.

My point is that despite Mencius's attempt to make the people's well-being a key component of the ruler's political legitimacy, which is a distinct contribution he made to the history of Confucian political thought, the people's well-being cannot be directly identified with the Mandate of Heaven. Nor do the people (*min* 民) replace Heaven (*tian* 天) in Mencius's political thought as the ultimate source of ruling legitimacy. The ruler has a moral responsibility to take care of the people's well-being, because it is a Heaven-given mission, but his political decisions and/or actions are not accountable to the people. He owes political accountability only to Heaven, by whose Mandate he rules the people.

It should now be clear why punitive expedition in Mencius's account falls short of humanitarian intervention, understood quite broadly as *an external military intervention aimed at saving oppressed people*. To be sure, the agent engaging in the punitive expedition has a Heaven-given moral responsibility to liberate the people from tyranny and take care of their well-being, but his decision and action—*jus ad bellum* and *jus in bello*—are only accountable to Heaven, by whose Mandate he is authorized to carry out this sacred mission. So the presence of the oppressed people may offer a necessary condition for punitive expedition, but by no means can it be a sufficient condition. It may motivate the benevolent ruler to be concerned with the well-being of the people who are suffering from a tyranny, but it can never (fully) justify his decision to launch a war of punishment.

What further removes Mencius's idea of punitive intervention from humanitarian intervention is that in his normative framework of virtue ethics and politics, the Mandate of Heaven is fundamentally recast in terms of the moral virtue of *any* ruler who is actually capable of carrying out a punitive expedition, still in the name of Heaven. Still, the objective empirical fact that people are suffering immensely under a bad government is not a sufficient reason for waging a war of punishment. What justifies the virtuous ruler's military intervention in such a troubled state is solely his moral judgment, the objectivity of which is singularly grounded in his moral character, a Heaven-bestowed honor (*tianjue* 天爵) according to Mencius.[35]

The irony is that while the discourse centered on the Mandate of Heaven makes it extremely difficult for a foreign ruler to launch a justifiable military intervention in another state, in the absence of a political institution that formally represents the Mandate of Heaven, Mencius's new version of punitive intervention, focused on the intervening ruler's moral character, leaves the line between justified and unjustified war helplessly vague, potentially enabling any ruler who is able to skillfully camouflage his real motive with a benevolent concern for the oppressed people to unilaterally launch a punitive expedition (in fact, a conquering war). Actually, Mencius voiced a strong condemnation of such ambitious rulers by calling them the practitioners of

[35]*Mencius* 6A17.

the Way of Hegemons (*badao* 霸道), who in his view were the polar opposite of the true kings, the carriers of the Kingly Way (*wangdao* 王道).[36] However, as long as the justness of military intervention depends exclusively on the ruler's virtuous character or his humanitarian intention, for which there is no objective external measurement, it is impossibly difficult to constrain the ruler's decision or action in a politically principled way, especially when it involves many people whose lives are to be intervened significantly by an external force. If it turns out ex post facto that the intervening ruler is (and was, in fact, from the beginning) not really a good man, now to an even greater extent oppressing the people he has "conquered," the only realistic way to deal with his imperialism is to form, in today's language, an international alliance and press him to retreat.[37] But Mencius offers no principled way to prevent such instances from occurring in the first place.

Seen in this way, both internal and external obstacles that keep Mencius's idea of punitive expedition from developing into a robust political theory of humanitarian intervention, focused on the massive violation of human rights, turn out to be two sides of the same coin. The internal problem does not arise, if only we moderns fully subscribe to Mencian virtue ethics and politics, with full faith in Heaven's all-encompassing moral power and virtue's self-regulation. The external problem, which is a justification problem arising from the modern fact of (national and international) pluralism, would not be an issue at all if we (both Chinese and non-Chinese) were all comprehensive Confucians who believe in the core propositions of the Mencian-Confucian theory of virtue ethics and politics. It is one thing for us moderns to be inspired by ancient Confucianism in rethinking just and unjust war in Confucian terms; it is another to apply its philosophical stipulations directly to the modern pluralist societal context, without much consideration of how and against what philosophical and political backdrop ancient Confucian political theory was originally constructed. For its modern application, the theory requires a fundamental internal self-transformation, to which I turn in the remainder of this paper.

Democratic Reconstruction

Modern reconstruction of the Mencian theory of just war requires not only a close examination of the theory's philosophical structure and its underlying moral and cosmological assumptions, which has been my focus thus far,

[36]Mencius contrasts a hegemon and a true king by saying that "one who, supported by force, pretends to being humane [*ren*] is a hegemon… [whereas] one who out of Virtue [*de*] practices humaneness [*ren*] is a true king" (*Mencius* 2A3).

[37]*Mencius* 1B11. Although Mencius does not make an argument for this prescription, he appears to endorse the method of "setting the troops of the realm [*tianxia*] in motion."

but also astute attention to the geopolitical reality of modern international politics surrounding China and other East Asian countries (and beyond). I have only a modest aim in this section, paying attention to what is required of the Mencian political theory of just war in order to make it plausible in the modern international world populated by self-governing states, free from the aforementioned internal and external obstacles. To do so, let me make a short philosophical detour.

Drawing on the Taiwanese Confucian philosopher Mou Zongsan, Stephen Angle recently suggested the following statement with the aim of making Confucianism modern, democratic, and progressive:

> Our subjectively felt, internalized morality implicitly points toward an ideal of full, sagely virtue. Full virtue must be realized in the public, political world. … Since these objective structures restrict the ways in which our subjective moral feelings can be manifested, Mou concludes that the achievement of virtue requires self-restriction. Objective, public standards are thus related to inner virtue, but they are also distinct from one another. … These objective political structures are *required* by Confucianism if it is to realize its own goal.[38]

I find Angle's suggestion relevant to our task of remaking the Mencian virtue-based political theory of punitive expedition, wherein politics and ethics are inextricably intertwined, into a modern Confucian theory of humanitarian intervention. At the heart of Angle's (or Mou's) statement is the recognition of the irony of Confucian virtue ethics and politics that virtue's self-fulfilling objectivity (especially in the ideal of sagehood) is closely entwined with what is at most felt subjectively, undermining its objectivity claim. This recognition leads Angle to suggest an external manifestation of the objective dimension of virtue by means of institutional political structures, and I add, procedures. Angle argues that such objective political structures (and procedures) must be democratic to fully realize Confucianism's ethical aspiration toward human flourishing.

Our investigation of Mencius's account of punitive expedition strongly vindicates Angle's observation of the objective-subjective conundrum in traditional Confucian virtue ethics and politics. In the same vein, I submit that in making punitive expedition, at the core of which is the moral qualification of the agent to carry it out, revolve around the plight of the oppressed people, what is required is consideration of the justness of punitive expedition, not in terms of the agent's inner moral traits but with reference to political institutions and procedures that allow him or her to justifiably engage with the suffering of the people in a foreign country. Like Angle, I believe that such objective political structures and procedures must be democratically institutionalized, domestically as well as internationally.

[38]Angle, *Contemporary Confucian Political Philosophy*, 29 (emphasis in original).

Domestic Justification

For Confucian humanitarian intervention to be just, first of all, its decision, commonly made by a handful of political elites, must be justified to and widely endorsed by the members of a political community who subscribe to diverse moral, religious, and philosophical doctrines and hence live with pervasive moral conflict. In my view, of available forms of political institutions, democratic institutions can meet this requirement most effectively and most legitimately, especially under the societal fact of pluralism.[39] Let us call this *domestic justification*. What contemporary scholars often gloss over is the fact that Mencius, firmly convinced of the moral legitimacy of one-man rule (ideally by the most virtuous man), made no practical distinction in his account of punitive expedition between the state and the ruler, and thus between the state's public decision and the ruler's personal judgment, in considering whether to launch the war of punishment. However, given the decision's (and the subsequent action's) moral gravity and political ramifications, it cannot be simply entrusted to a small number of elites, justified by their superior virtue and intelligence. A public decision of this sort must be intensely deliberated among citizens, who will actually have to bear various sorts of costs as a result, however well-intended the elites may be.

Citizens may differ radically in their assessment of, for instance, the degree of human rights violations in the foreign state in which they may intervene, whether the rights violated are only economic (specifically, the right to subsistence) but not civil or political rights,[40] or whether they are willing to take unexpected costs that might be incurred during or after intervention. Assessing these factors inevitably involves moral judgment and individuals form their moral judgments based on the philosophical, moral, or religious doctrines to which they subscribe. In other words, the decision to launch a humanitarian intervention, even if there is a broad social consensus about its humanitarian purpose, which itself is sometimes difficult to obtain, necessarily involves a series of moral judgments and there is no practical way to harmonize the resulting moral conflict without having it discussed and

[39]In fact, I am persuaded that democratic institutions alone can meet the pluralist challenge legitimately by giving equal consideration to all citizens' material and moral self-interests. For a similar view, see Thomas Christiano, *The Constitution of Equality: Democratic Authority and Its Limits* (Oxford: Oxford University Press, 2008). This judgment, however, is based on the moral superiority of democracy *relative to* other existing modes of political systems in contemporary politics and I am not suggesting that democracy is the good in itself.

[40]This is Bell's position. See Bell, "Just War and Confucianism," 46–51.

vetted in public forums, first in civil society and eventually in the legislature, representing the will of people.[41]

The implication of this challenge of pluralism and moral disagreement for Mencian political theory is obvious: common people, largely regarded as passive subjects who lack political agency, must be elevated to equal citizens who together exercise the coercive power that affects all in a way justifiable to them. A decision to go to war with a foreign state, even a humanitarian intervention, involves many subdecisions that are by nature coercive, including who should be sent to the battlefield and how much should be spent from taxes. All such decisions involving coercive power require legitimate justification, and for public decisions to be legitimate in a pluralist society, in which a singular and prepolitical standard of the public interest is hardly justifiable, they should be the outcomes of a decision-making process that gives equal weight to the citizenry's diverse moral and material interests.

A decision to embark on humanitarian intervention is a serious decision—serious because it affects all citizens—and even if the decision itself can be provisionally made by political leaders, it must be justified to citizens to be legitimate and fully effective. Democratic procedures provide various formal and informal public forums in which citizens can rightfully (thus without fear) demand justification from political leaders and in return political leaders and public officials ought to account for their decisions. In the Mencian virtue-based theory of just war, the institutional mechanisms that enable people qua citizens to hold political leaders and public officials accountable to them are completely absent. Some nondemocratic institutions may be able to offer some sort of accountability mechanisms but only democratic institutions can achieve political accountability justly (*more* justly at a minimum) under the fact of pluralism, in which citizens have diverse personal moral and material self-interests and everyone is loaded with what Rawls calls the "burdens of judgment," given the absence of the unitary moral standard which can arbitrate the resulting moral conflict authoritatively.[42]

[41]On the moral legitimacy of the democratic decision-making process in the face of serious moral conflict, see Henry S. Richardson, *Democratic Autonomy: Public Reasoning about the Ends of Policy* (New York: Oxford University Press, 2002). Some democratic political theorists are even persuaded that there are notable epistemic advantages in democratic procedures. See, for instance, David M. Estlund, *Democratic Authority: A Philosophical Framework* (Princeton: Princeton University Press, 2008); Hélène Landemore, *Democratic Reason: Politics, Collective Intelligence, and the Rule of the Many* (Princeton: Princeton University Press, 2013).

[42]Rawls, *Political Liberalism*, 56.

International Justification

While humanitarian intervention must be justified to citizens domestically for it to be legitimate, it must also, according to a modern reading of Mencius to be discussed shortly, be justified internationally, first to citizens in the intervened state and second to the international society. We can call this second type of justification *international justification*.

When Mencius stresses the importance of the oppressed people's enthusiastic welcoming of external forces, he does seem to convey that the intervention must be justified in the eyes of the local people themselves and not only according to the intervening ruler's moral judgment. Given the way Mencius's virtue ethics and politics is constructed, however, it is difficult to say that he indeed had the importance, let alone a process, of moral justification in mind. Recall that according to Mencius's moral theory, a virtuous ruler, by virtue of his moral charisma, garners support from all around the world (*tianxia*), including the people of the state in which he intervenes, for his punitive expedition. That is, it is thought that people would naturally respond to the virtuous ruler in a positive way. Mencius, often citing *Shujing*, describes the virtuous conqueror as a benefactor, the disseminator of the virtue (*de*) that he has acquired (*de* 得) from Heaven, and the people as beneficiaries of Heavenly virtue (or beneficence) who respond to the new ruler's virtue with gratitude. This gives us the most ideal image of harmony in political relationship, which is *spontaneously* attained, given the very nature of virtue as gratuity-incurring power.[43] Spontaneous harmony does not require moral justification.

However, this strong emphasis on spontaneous harmony, which is conceivable only against the backdrop of a moral cosmology of Heaven, is hard to attain in the modern world, especially between the external intervener and the people that are intervened. The *relationship* between the two must be justified to the latter for it to be morally legitimate, because it is mediated through the use of violence, which, despite its humanitarian purposes, inevitably causes civilian causalities and destruction of social infrastructure that is essential for the local people's survival and flourishing. Therefore, what seems necessary is to reformulate "people's enthusiastic welcoming," a description of the people's spontaneous response to the virtuous intervener, into a moral provision that the intervention ought to be justified to the people directly affected by it. Without explicit and overwhelming support for the external intervention on the part of the local people, humanitarian

[43]For a helpful discussion of this aspect of virtue (and virtue politics) in ancient Chinese political thought, see Huaiyu Wang, "A Genealogical Study of *De*: Poetical Correspondence of Sky, Earth, and Humankind in the Early Chinese Virtuous Rule of Benefaction," *Philosophy East and West* 65, no. 1 (2015): 81–124.

intervention by an external force is never justified, however well-intended the invention is and however serious the local situation is.

Therefore, given the violence and the resulting death and destruction that are inevitably part of humanitarian intervention, the terms of intervention are to be negotiated—though it must be reasonably short—between the local people (or their representatives composed of, ideally, a national coalition of the opposition parties, minority groups, and various associations in civil society) and the intervening state in a way that allows the former to be able to hold the latter accountable for their conduct in war. It may sound quite demanding but it captures Mencius's Confucian spirit well, as shown in his following statement:

> Now, Yan oppressed its people, and you [King Xuan of Qi] went and punished its ruler. The people believed you were going to deliver them from out of the flood and fire and, bringing baskets of rice and pitchers of drink, they welcomed your army. Then you slew their fathers and older brothers, bound their sons and younger brothers, destroyed their ancestral temple, and carried off their treasured vessels—how can this be condoned? Certainly, the world fears the might of Qi. Now you have doubled your territory but have not practiced benevolent government; it is this that is setting the troops of the realm in motion. If you will immediately issue orders to return the captives and halt the removal of the treasured vessels, and if you consult with the people of Yan about withdrawing once a ruler has been installed for them, you may still be able to stop an attack.[44]

In Mencius's view, Qi's conduct in Yan cannot be condoned by Heaven in whose name the punitive expedition was launched in the first place.[45] Furthermore, in practice, Mencius finds Qi's action morally unacceptable because of Qi's inhumane treatment of Yan's people after their so-called humanitarian removal of the tyrant. Though Mencius does not (in fact, cannot) recognize the people themselves as an organized political agency morally authorized to condone or blame the conduct of the liberating army, he nevertheless presents "the people of Yan"[46]—arguably some selected representatives from Yan—as a political agency to be consulted regarding the

[44]*Mencius* 1B11.

[45]Before annexing Yan, King Xuan asked Mencius, "For a state of ten thousand chariots to attack another state of ten thousand chariots and to capture it within fifty days is something that surpasses human strength. If I do not take possession of it, there must surely be calamities sent down by Heaven. What do you think about taking it?" (*Mencius* 1B10).

[46]While Mencius has consistently used the Chinese word *min* 民 to refer to "people" (more accurately, laypeople), here he employs the word *zhong* 衆 to specify a selected "group" of the people of Yan who are qualified to represent the people of Yan as a whole, such as "trusted ministers of the noble families" (*shi chen* 世臣). See Kim, "Confucian Constitutionalism," 381–82.

terms of retreat from the invasion and the subsequent annexation, both of which were perpetrated in violation of the Mandate of Heaven. In our new Confucian democratic theory of humanitarian intervention, the local people are featured as a collective moral agency (i.e., citizens), not only able to negotiate with the intervening state over the terms of intervention—let us call this *the justifiable negotiation provision*—but also entitled with a right to hold the intervening state accountable for their conduct in war—let us call this *the accountability requirement*. The intervening state must acknowledge the local people's substantive democratic authority over them in the event of humanitarian intervention and denial of such authority renders the intervention null and void.

The other aspect of external justification concerns the international society. In the statement just quoted, Mencius seems to endorse military sanction of an unjust intervener by the international society. Again, Mencius does not submit this endorsement as a moral provision, nor does he specify the terms under which negotiation between the unjust intervener and the international society has to proceed with regard to the former's retreat from the state that it has intervened. It is also unclear whether the reason that the international society should be worried about a large and powerful state's aggressive war against another equally large and strong state has anything directly to do with a concern for the people who are now subject to another, more severe, tyranny. In fact, Mencius's allusions to the "might of Qi" and its added "territory" as a motivation for other states to form an alliance and intervene may lead one to reasonably suspect that Mencius here seems to be concerned more with the balance of power or interstate stability than with the moral role that international society ought to play in the case of an unjust intervention.

The Confucian democratic theory of humanitarian intervention removes this ambiguity in Mencius's original political thought by unequivocally drawing attention to the moral role to be played by the international society—and to the extent that our Confucian theory assumes the existence (not merely the possibility) of an international *society*, it resists realism à la Morgenthau and echoes strongly with theories that draw attention to what can be called *the circumstances of global interdependence* that render the international world an approximation to a domestic society and thus morally require cooperation among the states toward protection of human rights.[47] In our new theory, even if a unilateral humanitarian intervention in a tyrannical state is justified once the terms of intervention have been properly negotiated in a way justifiable to the local people, the intervening state owes moral justification to the international society as well regarding the way it carries out the military expedition and the mode of withdrawing its troops. We can call this moral demand *the international justification requirement*.

[47]See, for instance, Charles R. Beitz, *Political Theory and International Relations* (Princeton: Princeton University Press, 1979).

Inspired by Mencius's immense concern with the well-being of *all people* under Heaven, Confucian democratic theory translates Mencius's emphasis on each person's moral dignity, entitling him or her to a basic socioeconomic condition upon which he or she can lead a flourishing moral life, into human rights that require political protection, both national and international.[48] The primary Confucian justification of humanitarian intervention comes from this provision of political protection, although when it is launched unilaterally, the intervention must pass the test of the justifiable negotiation provision and also meet the accountability requirement. The purpose of the international justification requirement is to make sure that first, the war takes place solely for the sake of the people whose human rights have been critically violated on a large scale; second, it is carried out justly; and third, the political situation of the intervened state does not get worse than that under the tyrant after the war has ended and the troops have left. The following outlines the specific provisions of the international justification requirement:

(1) Given the Confucian concern with the well-being of all people under Heaven, the international society, which comprises all human beings in the world, has a legitimate concern with and a moral duty to alleviate the plight of the people in a specific state.
(2) Of the plight of the people, poverty and a massive number of deaths caused by a tyrannical government are the most severe, requiring an external military intervention for humanitarian purposes.
(3) The ideal mode of humanitarian intervention is a multilateral intervention, based on reciprocal interactions—a virtue highly cherished by Confucianism—among the states who are equal to one another, although unilateral humanitarian intervention is justified if it meets the justifiable negotiation provision and the accountability requirement.
(4) Even if a unilateral intervention was justifiably launched, international society retains a moral right to oversee the intervening state's conduct in the war, set the terms of withdrawal in consultation of both the intervening and the intervened states, and monitor the withdrawing state's compliance with the terms it has agreed on—the international justification requirement.
(5) If the intervening state refuses to withdraw its troops even after the tyrant has been removed or it deliberately violates the terms of

[48]On Mencius's attention to the moral value of human dignity, see Irene Bloom, "Mencius and Human Rights," in *Confucianism and Human Rights*, ed. Wm. Theodore de Bary and Tu Wei-ming (New York: Columbia University Press, 1998), 94–116. For Mencius's (or Confucian) emphasis on the socioeconomic condition that can undergird a moral life, see Joseph Chan, "Is There a Confucian Perspective on Social Justice?," in *Western Political Thought in Dialogue with Asia*, ed. Takashi Shogimen and Cary J. Nederman (Lanham, MD: Lexington Books, 2008), 261–77.

withdrawal, the international society has a right to form a military alliance, and if military threat turns out to be insufficient, to launch a war of punishment.

(6) The end result of Confucian humanitarian intervention, be it unilateral or multilateral, must be that the tyrant in question has been successfully removed and the local people have the full power to restore their political institutions in a way that suits their collective will.

Conclusion

One may wonder whether in practice the democratic reconstruction of the Mencian account of punitive expedition adds anything significantly different from what Bell has already suggested. After all, is Bell not exploring the potential of the Mencian account in constraining Chinese imperialism? To answer this question, it is important to approach our differences from the perspective of our larger philosophical disagreement.

Admittedly, Bell is one of the strongest advocates of so-called political meritocracy understood as "rule by the best and the brightest," and he suggests it as an alternative mode of government best suited for the Chinese context.[49] One of his and his fellow Confucian meritocrats' central arguments is that democratic decision-making, particularly voting based on one person one vote, is ill suited for public decisions, especially those involving the environment, diplomacy, and war, given their serious consequences not only for existing citizens in China, but more seriously, for generations to come as well as the people of neighboring states. The assumption behind this argument is that laypeople are self-interested, shortsighted, and ill informed, that they cannot make wise public decisions with an eye on the common good and the polity's long-term public interest. According to Confucian meritocrats, the normative superiority of political meritocracy over democracy lies in the fact that virtuous leaders, selected by nondemocratic procedures, are under no pressure to pander to laypeople. Not surprisingly, the Confucian justification for this meritocratic thesis is traced back to classical Confucianism, especially Mencian Confucianism, which, as discussed earlier, does not allow active political agency to laypeople.[50]

From the long-term perspective of the history of Chinese political thought, the gist of the recent proposal of Confucian political meritocracy is to reinstate

[49]Daniel A. Bell, *The China Model: Political Meritocracy and the Limits of Democracy* (Princeton: Princeton University Press, 2015). Also see Tongdong Bai, "A Confucian Version of Hybrid Regime: How Does It Work, and Why Is It Superior?," in *The East Asian Challenge for Democracy: Political Meritocracy in Comparative Perspective*, ed. Daniel A. Bell and Chenyang Li (New York: Cambridge University Press, 2013), 55–87.

[50]Tongdong Bai, "A Mencian Version of Limited Democracy," *Res Publica* 14, no. 1 (2008): 19–34.

Confucian virtue politics à la Mencius in modern China. And in this regard proponents' direct resort to Mencius, without attempting any significant internal transformation of his virtue-based political theory, is far from accidental. The fundamental problem with the meritocracy proposal is the assumption that there is a universal consensus on what "merit" consists of and that people can be nicely differentiated according to this monolithic standard of merit. Such an assumption is plausible, however, only if all Chinese citizens subscribe to a particular, fully comprehensive Confucian moral-philosophical doctrine such as Mencian virtue ethics, in which no moral disagreement is posited as to what virtue (or merit) consists of, who is considered virtuous, and what a virtuous leader can achieve. However, in a pluralistic society of the sort that increasingly characterizes contemporary China, where the moral authority of Heaven, from which traditional ruling legitimacy was derived, is nearly obsolete and moral virtue's objectivity is vehemently contested, it seems rather politically naive to believe that if we only put virtuous rulers behind the wheel, our polity will go in the right direction. Seen in this way, the difference between Bell and me is not merely a matter of reconstructing classical philosophical thought in different ways. It reflects our principled difference in our normative orientation (democratic versus elitist).

Contra Bell's optimism, Mencius's original political theory of punitive expedition does not easily lend itself to transforming into a modern theory of humanitarian intervention because it was originally constructed around his virtue ethics and politics, with far more attention to moral quality (or qualification) of the agent to carry out the punitive expedition than to the moral urgency for the local people's suffering to be removed, although these two tasks are inextricably intertwined in Mencius's political theory through his intricate discourse of the Mandate of Heaven. My central argument has been that despite Mencius's concern with the well-being of all people under Heaven, his philosophical preoccupation with the (intervening) ruler's moral virtue, which in his moral theory represents Heaven's decree internalized, prevents his theory from centering directly on the oppressed people's human rights.

Finally, one may wonder how "Confucian" (or Mencian) my Confucian democratic theory of humanitarian intervention is. While gaining (national and international) democratic legitimacy and moral justifiability, has it not lost its Confucian essence by giving up its signature virtue ethics? What has been lost, though, is not so much Mencius's concern with the political leader's virtue but the monistic structure of his virtue ethics which denies any distinction, both analytical and practical, between moral virtue and political virtue in the political actor. In principle, Mencian virtue ethics does not allow a political actor to make a decision which requires any external constraint as long as he or she is virtuous, even if his or her action may involve a critical violation of the existing moral norms, including ritual

propriety. Mencius famously justified the virtuous actor's situational moral flexibility in terms of the expedient measure (*qun* 權).[51]

The problem is that in the absence of the institutional and procedural framework *external* to the system of Confucian virtue ethics, there is no objective standard according to which the ordinary people can evaluate whether and/or how the political actor is serving their well-being and to hold him or her accountable to them (not to Heaven or to his or her inner self). Political virtue refers to the political actor's moral capability to bring him- or herself to this external (i.e., institutional-procedural) constraint demanded by the people. When the people are no longer the passive beneficiaries of the ruler's service for their well-being but have been transformed into self-governing citizens who have the institutionally guaranteed right to elect their political leaders and hold them accountable (i.e., the democratic right), the political virtue required of the political leaders becomes a democratic kind. In this paper, I have argued that only when the people have the democratic right—not only vis-à-vis their own political leaders but also vis-à-vis the foreign forces intervening in their lives for humanitarian purposes—can the impulse toward imperialism be constrained most legitimately. Only when people have the democratic right and political leaders have democratic virtues can the Mencian moral demand for domestic and international justifiability of humanitarian intervention be realized most effectively in the contemporary world of moral pluralism.

[51]*Mencius* 4A17.