

Is a Moderate Culture-based Bioethics Possible?

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Rundown

1. There is no universalist bioethics – but only culture-based bioethics
2. What is “moderate”?
3. Four necessary conditions for the possibility of a moderate culture-based bioethics
4. An illustration: a right to VSED for Chinese elders?

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Universalist bioethics

Is, in fact, liberal-culture-based bioethics:

- 1) central values: **secular reason** and **individual autonomy**
- 2) the view of contemporary liberal culture
- 3) so, this is also a culture-based bioethics, not really universalist (in the sociological sense)

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Moderate

Between two extreme culturalisms:

- 1) leftist multiculturalism
- 2) rightist nationalism

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Moderate

1) leftist multiculturalism:

Giving **equal treatment** to all cultures within a country;

Giving special rights to **minority cultures** and affirmative actions for minority members

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Moderate

2) Rightist nationalism:

Only one legitimate culture for a nation (extreme patriotism, statism, or racism);

No respect for or proper tolerance of other cultures

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Moderate

Moderate culturalism:

Either extreme is problematic

To find something in between
(absolute) equality and (intolerant)
persecution

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Moderate

Moderate culturalism:

In a particular country, there may exist a historically-formed main moral culture, such as Confucian moral culture in China, which stands in a privileged **position** or is receiving more respect than other cultures;

E.g., in public education

This position is legitimate or defensible under proper conditions

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Moderate

Moderate culturalism:

There should also be **proper respect for or tolerance** of other reasonable cultures in the country.

Such as Buddhism, Daoism, Christianity in China...

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Moderate

Moderate culturalism:

A bioethical policy can reasonably be made in terms of a value rooted in the main moral culture (rather than claim to be neutral), as long as it does not serve as persecution or suppression of other cultures.

E.g., Confucian filial piety...

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Moderate

*A moderate culture-based bioethics is possible on these conditions:

Nationally relevant
Politically legitimate
Historically reasonable
Ethically justifiable

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Nationally relevant

*Why nationally relevant (not globalist)?

1) **A fact** - the importance of sovereign states/nations in the modern world:

Not only **economically** and **militarily**, but also **culturally** and **educationally** (due to cultural and educational policies...)

2) Moral culture naturally differs from country to country

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Nationally relevant

*Why nationally relevant (not globalist)?

3) If there exists a main moral culture that stands in a reasonably privileged position in a particular sovereign country,

Then,

4) A moderate culture-based bioethics does not need to challenge the special position of the main moral culture in that country.

Rather, it may take this fact as a starting point to build a culture-based bioethics for that country.

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Politically legitimate

Most people in a country accept the privileged status of the main moral culture of the country in the sense that they live a **particular way of life** in light of the main moral culture:

E.g., Confucian moral culture in China.

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Politically legitimate

Such acceptance is also manifested in the majority support of particular “unequal” policies:

E.g., most Chinese support the using of more Confucian moral texts than other texts in the textbooks of public schools.

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Historically reasonable

A moderate culture-based bioethics must have learned a lesson from modern Western culture:

the modern Western industrialization, the rule of law, basic ideas of human rights

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Historically reasonable

In particular, ethical views or arguments in a moderate culture-based bioethics should not violate **the minimal modern Western idea** of human rights as laid out by Rawls in his LPs:

“Among the human rights are **the right to life** (to the means of subsistence and security); **to liberty** (to freedom from slavery, serfdom, and forced occupation, and to a sufficient measure of liberty of conscience to ensure freedom of religion and thought); and **to formal equality** as expressed by the rules of natural justice (that is, that similar cases be treated similarly)” (Rawls, LPs, 1999, p.65).

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Historically reasonable

It is not a thick liberal conception of rights:

“some [human rights declarations] seem more aptly described as stating **liberal aspirations**, such as Article 1 of the Universal Declaration of Human Rights of 1948: ‘all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood’” (Rawls, LPs, 1999, p.80, n.23)

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Historically reasonable

“Actually, today’s IMF often attaches political conditions to loans, including conditions that do seem to require a move toward more open and liberal democratic institutions” (LPs, p.85, n.30)

“If such a loan were given a special priority, however, that again might arouse conflict between liberal and decent peoples” (p.85)

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Ethically justifiable

*Moderate culture-based bioethical views or arguments

- 1) could **be developed** based on the particular values of the main moral culture;
- 2) may **not violate** the core value of the main moral culture;
- 3) could **be defended** and justified in terms of the core value of the main moral culture.

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The case of Confucian Chinese bioethics

As a moderate culture-based bioethics,

Nationally relevant
Politically legitimate
Historically reasonable
Ethically justifiable

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A right to VSED for China?

A special “rights” movement for preparing ADs (advance directives) for VSED (**voluntarily stopping eating & drinking**) in the US

Should elders have such a right?

Confucian culture-based bioethics should reject such a right:

Virtue-based concept of rights

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VSED

The situation: Some elders have written ADs for VSED (to avoid living in severe dementia); should such ADs be respected if these elders are now in severe dementia?

Some argue that “such directives are arguably **already legal**” in the US (Menzel and Chandler-Cramer 2014, p.25)

Should family members or professional caregivers respect such a “right”? Or should they conscientiously object to such directives?

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VSED

*Two extremes of treating demented elders:

Inserting percutaneous feeding tubes

or

Even withholding feeding by hand

[the middle way: comfort feeding]

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VSED

*Conscientious objection:

A conflict of rights: you have a right to VSED, but I have a right to conscientious objection to it;

An alternative view: you do not have a right to VSED.

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Hong Kong

In 2015:

Population: 7,324,300 (end of 2015)

Elders (65 and above): 1,150,500
15.7%

(Hong Kong Monthly Digest of Statistics, p.5)

<http://www.statistics.gov.hk/pub/B10100022016MM02B0100.pdf>

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Hong Kong

Elders with dementia:

115,000 (10%)

SCMP report in 2015

(<http://www.scmp.com/lifestyle/health-beauty/article/1860104/six-things-hongkongers-can-do-lower-their-risk-dementia>)

Hong Kong Alzheimer's Disease Association

(<http://topick.hket.com/article/675393/全球每3秒新增一名認知障礙症患者>)

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China

In 2010:

Population: 1,339,724,852 (2010)

Elderly (65 & above): 118,831,709
8.87%

(National Statistics Bureau 2011, p.41)

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China

Elders with dementia:

1) 10 million in 2013 (5.6% of elders)
(Jiang 2014)

2) 10 million (Huang et al. 2014)

3) 6 million (Du 2014)???

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China

Physician assisted suicide or active euthanasia is **illegal**

Patients do not write **advance directives**;

Medical institutions do not formally accept them.

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China

Patient-Family-Physician make decisions together: a **Confucian** communitarian clinical-decision-making culture.

Decisions of **withholding or withdrawing** life-sustaining interventions (“passive euthanasia”) are often made.

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China

These are not strong cultural forces:

*Some arguments for the **more individualist** manners of clinical decision making

*Some voices for **legalizing** physician assisted suicide and active euthanasia

*Some call for **encouraging** the writing of ADs

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China

*To offer moderate Confucian-culture-based bioethical arguments:

Confucian morality still generally **informs and shapes** the moral character of most Chinese people’s relations and decisions in general, and their clinical relations and decisions in particular, although the people are religiously diverse (Fan 2011).

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China

*To offer moderate Confucian-culture-based bioethical arguments for the two following points:

- 1) Chinese elders **do not**, and **should not**, have a **right** to write an AD for VSED.
- 2) Even if they have written it, they do not, and should not, have a right to VSED.

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China

· Rights:

Conventional

Moral

Legal

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Confucian Rights

On Confucianism, the ultimate value or nobility (*gui* 貴) of the human life does not lie in enjoying rights, but in pursuing virtues.

That is, virtue, not rights, is a fundamental Confucian moral concept;

Confucianism would not link human dignity with rights, but with virtues.

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Confucian Rights

*A virtue is a cultivated disposition or character for **living the good life** in community.

Some cardinal Confucian virtues:

ren (humanity 仁), **yi** (righteousness 義),
li (propriety 禮), **zhi** (wisdom 智),
xin (fidelity 信), **yong** (courage 勇),
xiao (filial piety 孝)

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Confucian Rights

*Confucian morality also needs to protect **legitimate individual interests**, because

Virtue cultivation and exercise is a necessary, but not a sufficient, condition for **the good life**.

Meeting legitimate individual interests is also a necessary condition for the good life.

*So Confucian morality should accept a rights mechanism to be instrumental in protecting legitimate individual interests.

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Confucian Rights

*But it is not any individual interests, but **legitimate** individual interests:

Certain legitimate individual interests are essential for the Confucian good life;

But they must be legitimate in the sense that they do not generate anti-virtuous **"duty"** on the part of any relevant persons.

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Confucian Rights

*Indeed,

Confucianism recognizes the aspect of deep **interdependence**, rather than independence, of one's family members for pursuing the good life, ultimate individual value, or dignity.

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Confucian Rights

*So any right in a list of Confucian rights cannot be in conflict with the basic requirement of cardinal Confucian virtues;

*So a list of Confucian rights will inevitably differ from the list of liberal rights:

E.g., there should not be a right to VSED.

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Confucian Rights

*A few preliminary points:

A. Confucianism is compatible with the notion of human rights (that humans have by virtue of being humans) (**a compatibilist view**).

B. But Confucianism may not accept the **mainstream liberal conception** of human rights without qualifications, because that conception is not agreeable with (and is sometimes conflicting with) Confucian fundamental virtue concerns.

C. It is necessary for contemporary Confucianism to develop the Confucian conception of human rights to protect **legitimate individual interests** (without conflicting with Confucian fundamental virtue concerns).

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Confucian Rights

D. The Confucian conception of human rights should be developed based on **moral resources** that are not conflicting with Confucian fundamental virtue concerns.

E. If a **specific right** (to be proposed in Confucian culture-based bioethics) conflicts with a Confucian fundamental virtue concern, there should not be such a right in moderate Confucian culture-based bioethics.

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Confucian Rights

*(Virtue) obligation and supererogation:

1) Virtue is certainly involved with supererogation.

2) But a virtue also implies some essential obligations for one to undertake in the sense that if one violates any of such essential obligations, one's action would become **non-virtuous, anti-virtuous, or even vicious.**

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Confucian Rights

*The Confucian virtue of filial piety (xiao 孝) for parents:

Take care of them **physically**;

Take care of them **financially**;

Take care of them **psychologically**;

Take care of them **spiritually**.

*Both supererogation and essential obligations are engaged.

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Confucian Rights

*Xiao/filial piety:

One has an essential/minimal (virtue) obligation to provide **spoon-feeding** to one's parent if the parent, due to disease, is unable to eat by him/herself.

The situation of parental severe dementia is such a case.

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Confucian Rights

*Xiao/filial piety:

If one does not do this, one would be nonvirtuous or even anti-virtuous;

So one must have such a (virtue) obligation.

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Confucian Rights

Two liberal conceptions of human rights:

Choice conception of human rights;
(Hart, 1955)

Interest conception of human rights;
(Raz 1986)

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Confucian Rights

In contrast, Confucianism has to offer

Virtue-based conception of human rights;

This means Confucianism cannot accept either liberal conception without virtue qualifications.

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Confucian Rights

For example, interest conception of human rights:

“X has a right’ if and only if X can have rights, and, other things being equal, an aspect of X’s well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty.”

(Raz 1986, p.166)

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Confucian Rights

Accordingly, for those who hold that a demented elder has a right to VSED, this means:

- 1) The elder has an interest in VSED;
- 2) This interest constitutes a sufficient reason for holding his/her family members and/or professional caregivers to be under a duty not to feed him/her by hand.

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Confucian Rights

My view:

Moderate Confucian culture-based bioethics may accept 1);

But it may not accept 2).

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Confucian Rights

a) this alleged “duty” (not to feed the elder by family members or professional caregivers) conflicts with the (virtue) obligation (to feed the elder by hand) entailed or implied by the essential requirement of a Confucian fundamental virtue, *xiao*, filial piety;

b) For Confucians, the reason based on this (virtue) obligation trumps the reason generated by the elder’s alleged interest;

c) therefore, the elder’s alleged interest cannot constitute a sufficient reason for holding the alleged “duty”;

d) therefore, the elder’s alleged interest in VSED cannot make a right to VSED.

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Confucian Rights

*Why should the reason from this (virtue) obligation trump the reason generated by the elder’s alleged interest?

- 1) The moral nature of the parent-child relation is such that it is morally imperative for the child to offer assistance to their needy parents in this context;
- 2) the elder’s current interest may differ from that when writing the AD;
- 3) the elder may have written the AD primarily for relieving their children’s burden, rather than protecting his/her own life or dignity;

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Confucian Rights

*Why should the reason from this (virtue) obligation trump the reason generated by the elder's alleged interest?

- 4) it is inhumane and cruel to watch one's parent to starve/thirst to death without giving help;
- 5) Such a process of death is by no means natural, usual, or normal...

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Confucian Rights

Worse yet, if it were granted as a right, Chinese elders will be vulnerable to pressure and be induced to "claim" this right in order to **alleviate the burdens of their children/others**.

In that case, this "right" would be socially **transformed into a "duty"** for elders to undertake to terminate their lives as soon as possible.

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Confucian Rights

*Chinese elders do not and should not have the following right:

A right to VSED (a right to refusing spoon-feeding), or

A right to write an AD for VSED

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Confucian Rights

*Instead, Chinese elders should have these rights:

A right to refuse tube feeding
(because tube feeding is unnecessary, unbeneficial in the context) (AGS 2013)

A right to receive comfort feeding by hand
(Palecek et al. 2010)
(because comfort feeding is necessary to maintain a sense of the good life in the context)

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Summary

The possibility of a moderate culture-based bioethics for China:

- Nationally relevant
- Politically legitimate
- Historically reasonable
- Ethically justifiable

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