MME. H AND HER RELATIONSHIP WITH MESSRS. D AND S*

INTRODUCTION

It is commonly said that two gentlemen were invited to China by the May Fourth Movement, one being Mr. D (Democracy), the other Mr. S (Science). There was in fact also another extremely important ‘personage’ invited to China at that time, Madame H (Human Rights), yet for some hard-to-fathom reason we have been wont to ignore her. And because we have ignored her, the problems attendant on the arrival of the aforementioned two gentlemen have never yet been satisfactorily resolved.

1. WHAT KIND OF PERSON IS MME. H?

A certain degree of effort had to be expended to bring Mme. H (Human Rights) to China. The concept of ‘human rights’ was absent from the classical language of the country. This was not due to any lack of humanist notions of respecting and protecting a person’s dignity and values in ancient China, but rather because our distant forefathers did not posit their thinking on such matters on notions of the rights of individuals. Which is to say that Confucius’ advocacy of a broadly-extended ‘benevolent love of others’ was not transformed into a claim for the rights of all to mutual respect and love that could then be available for use by the socially marginalised. Nor was the ‘innate wisdom and ability’ that Mencius said we are all born with transformed into a moral status that could serve as the basis for anyone to demand equality and

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freedom from society or other persons. What actually occurred was that the common people were turned into the passive recipients of the benevolence and righteousness of the sages; moreover, as time went by, this came to mean that should the common people wish to exercise their innate wisdom and ability, it had to be within the carefully proscribed limits of socially-sanctioned Confucian rules for better governance through self-improvement and domestic virtue.\(^1\) Of course, the absence of a concept of ‘human rights’ from classical Chinese discourse is also related to the fact that our forefathers never came up with a word like the Latin *jus* of the Roman legal scholars to express an abstract concept like ‘rights’.\(^2\) Although the word that came to be used to mean ‘rights’, *quanli*, appears quite early in classical Chinese, it was mostly in the context of something negative or to be disparaged, for example the line from the ‘On the Way of a Lord’ chapter of the *Xunzi*, ‘When ministers were exposed to the pleasures of music and women, to *quanli* (the privileges and benefits of power), to angry indignation and violent outbursts of fury and to misfortune and adversity, the ruler observed their ability not to depart from strict observance of their duties.’\(^3\) In Huan Kuan’s, *Discourses on Salt and Iron* we find ‘some esteem benevolence and righteousness; some work to gain *quanli* (power and benefit).’\(^4\) Used with such a semantic value, *quanli* is not an ethical concept capable of being used to express legitimacy, or a legal concept that can be used to construct relationships in law. Nor do we find words resembling the English ‘rights’ and ‘duties’ in ancient Chinese legal language. When, in the mid-19\(^{th}\) century, W.A.P Martin and his Chinese collaborators

1. For more on this, see chapter 2, ‘Rights and Virtues’.