

*“Heavenly Principle(天理), State Law (国法) , Human Sentiment/Compassion  
(人情) ” and Nuclear Policy in East Asia*

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Abstract

Energy policy is highly political, and we must take it as major challenge for our democracy because political decision-making in a liberal democracy must be democratic. Complex socio-technological systems such as nuclear energy plants need a new approach, and “Tokyo Electric Power Company (TEPCO)’s Fukushima nuclear accident” should not be taken as a special instance of failure for which TEPCO alone was responsible, but rather as a representative repercussion of “Third Wave” civilization.

We need to shift from an anthropocentric view to an ecological and informational one, which forces us to reexamine the modern scientism that originated in the West.

To do so we need to reexamine the way of thinking unconsciously embedded as a de-facto framework in our mind, a framework internalized through a process of modernization for which the West was the paradigm influence.

I propose linking a regional/international energy cooperation framework with a regional/international human rights body, and for this purpose, we need to develop a set of new stories in order to transform the regional political order in the Asia Pacific, based on the universal norms such as human rights, democracy and rule of law and that the underlying new stories must be grounded in the common narratives of human, society and their non-anthropocentric values in the region.

“Heavenly Principle, State Law, Human Sentiment,” the East Asian political ideal is worth reexamining as entry point for such enterprise.

## **1. Energy policy as politics**

The March 2011 meltdown of Tokyo Electric Power Company’s (TEPCO) Fukushima Daiichi Nuclear Power Plant, triggered by an earthquake and tsunami, and the resulting radiation leaks (hereinafter referred to as the “TEPCO Fukushima nuclear accident”) instigated a fundamental reconsideration and reformation of energy policies

in Japan, including nuclear energy.

As a result, the 4<sup>th</sup> Strategic Energy Plan was approved by the Cabinet in 2014<sup>1</sup>. As the plan explains,<sup>2</sup>

**Under these circumstances, interest in energy issues has surged in Japan compared with before the accident, and various people have expressed various opinions, such as 1) that use of nuclear power should be stopped immediately, 2) that nuclear power generation should be abandoned someday if possible, that 3) large-scale, concentrated power sources like nuclear power plants are unnecessary for Japan, 4) that even if nuclear power generation continues, its scale should be kept at a minimum, and that 5) there will be continued need for nuclear power generation, and discussions are ongoing.**

Accordingly, the plan set the following nuclear energy policy<sup>3</sup>:

**Dependency on nuclear power generation will be lowered to the extent possible by energy saving and introducing renewable energy as well as improving the efficiency of thermal power generation, etc. Under this policy, GOJ<sup>4</sup> will carefully examine a volume of electricity to be secured by nuclear power generation, taking Japan's energy constraints into consideration, from the viewpoint of stable energy supply, cost reduction, global warming and maintaining nuclear technologies and human resources.**

One year later, in 2015, the Ministry of Economy, Trade and Industry produced a Long-Term Energy Supply and Demand Outlook<sup>5</sup> based on the 4<sup>th</sup> strategic energy plan. This document presented more concrete projection of the relative energy share of different power sources by FY 2030: 22-24% renewable energy, 20-22% nuclear energy, 27% LNG, 26% coal, and 3% oil.

However, the projected target for nuclear energy seems unachievable despite the efforts of GOJ and the relevant sectors mainly because the democratic process of

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<sup>1</sup> The 4<sup>th</sup> Strategic Energy Plan (provisional translation) approved by the Cabinet on April 11, 2014.

<[http://www.enecho.meti.go.jp/en/category/others/basic\\_plan/pdf/4th\\_strategic\\_energy\\_plan.pdf](http://www.enecho.meti.go.jp/en/category/others/basic_plan/pdf/4th_strategic_energy_plan.pdf)> confirmed on Oct. 31<sup>st</sup> 2019.

<sup>2</sup> *ibid.*, p.47.

<sup>3</sup> *ibid.*, p.24.

<sup>4</sup> Government of Japan

<sup>5</sup> Long-term Energy Supply and Demand Outlook 2015 (provisional translation).

<[http://www.meti.go.jp/english/press/2015/pdf/0716\\_01a.pdf](http://www.meti.go.jp/english/press/2015/pdf/0716_01a.pdf)> confirmed on Oct. 31<sup>st</sup> 2019.

consensus building is missing. Neither the government nor the people are prepared for the kind of deep democratic deliberation needed to reach consensus on reasonably debatable issues such as nuclear energy. I argue that energy policy is highly political, and we must take it as major challenge for our democracy because political decision-making in a liberal democracy must be democratic.

When it comes to this, Taiwan and Japan illustrate highly contrasting trajectories and outcomes. Taiwan decided through a participatory democratic process to abandon nuclear power generation by 2025, whereas Japan swung from abandonment to obscure policy after a 2012 government change, setting the 20-22% target nuclear power as a proportion of energy by FY 2030 in the 4<sup>th</sup> Strategic Energy Plan. Yet, in 2017, nuclear power produced 16% of electricity in Taiwan and 2 % in Japan. The huge gap between the target and achievement in Japan represents an unbridgeable distance between the ruling and the ruled with respect to energy policy, a distance that could have been narrowed if proper training and education in deliberative democracy had been provided.

Unfortunately, nuclear energy has become a “taboo” topic in Japan, initially provoked by the ruling and later self-imposed by the ruled, making it difficult to develop a public space for open discussion on energy policy.

Prof. Lee Bollinger, the president of Columbia University and a leading scholar on the freedom of expression, emphasizes that citizens as a whole are not naturally inclined to participate in public political debate, and if there is even a slight risk of being punished for their public statements they would likely shy away from speaking in public. It seems to me that there is a much deeper root of the underdevelopment of the public sphere in Japan, and that is its immature democratic culture. As Joseph Raz argues, publicly promulgated, principled and reasoned legislation is possible only in countries suitable for democratic government. This is because it requires a culture of restraint and a spirit of compromise for the minority to be subject to policies against their intents and benefit and for the majority to refrain from disregarding the minority’s interests and beliefs.<sup>6</sup>

Japan, as a late starter in modernization, tried to catch up with the West after the Meiji Restoration, aggressively absorbing modern science and technology from the West while putting off the spiritual challenges that should have accompanied the modernization process. As Charles Taylor has emphasized, there are different trajectories to different forms of modernization, and Japan needed to have its own form

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<sup>6</sup> Joseph Raz, the Politics of the Rule of Law, *Ethics in the Public Domain*, revised edition, Clarendon Press, 2001, 370-378, p.377.

instead of superficially imitating the modern West. This would have involved the internalization of democratic culture in its own indigenous language, without which a robust public commitment to open political dialogue could not be nurtured and sustained.

Along these lines, Masao Maruyama rightly maintains that modern nationalism failed to develop in Tokugawa Japan because the society was divided into two classes, the ruling and the ruled<sup>7</sup>:

**When it came to the critical question of who was ultimately responsible for national independence, the public at large outside the feudal ruling class was, as the Mito school reveals in typical fashion, excluded from the discussions<sup>8</sup>.**

On Maruyama's account, the fact that the Meiji Restoration was carried out without the active participation of the popular classes had a decisive effect on the character of the Meiji innovations intended to give rise to a modern nation-state<sup>9</sup>.

In short, Japan neglected the spiritual challenge of creating its own unique democratic culture, which is a prerequisite for open democratic dialogue. In this connection, it should also be noted that trying to imitate deliberative democracy as recently developed in the West and strengthening a Western-style democratic process does not solve the issue. It is not democracy as institutional arrangements but the underlying social imaginaries that justify and uphold democratic institutions. A non-western society may import technologies and systems, but it must develop its own social imaginary.

## **2. New technologies need a new approach and a new mind-set**

The 4<sup>th</sup> Strategic Energy Plan points out<sup>10</sup>:

**As far as our energy policy would be on an extension of the present technologies and supply structure with respect to the vulnerability of the energy supply-demand structure, which mostly has to rely on overseas resources, it would be difficult to find a fundamental solution. In addition, it is necessary to achieve the goal of reducing greenhouse gas emissions by half in the world by 2050 and by 80% in developed countries simultaneously.**

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<sup>7</sup> Mikiso Hane, Translator's Preface in Masao Maruyama, *Studies in the intellectual history of Tokugawa Japan*, Princeton University Press, 1974, p.xi.

<sup>8</sup> Masao Maruyama, *Studies in the intellectual history of Tokugawa Japan*, p.365.

<sup>9</sup> *ibid*, p.367.

<sup>10</sup> The 4th Strategic Energy Plan, p.84.

**To fundamentally solve such difficult problems, it is imperative to introduce revolutionary energy technologies throughout the society.**

The major lessons we have learned from “TEPCO’s Fukushima nuclear accident” are that:

- 1) Japanese organizations may have structural weaknesses when it comes to responding to uncertain and unpredictable emergencies that fall outside the standardized procedure; and
- 2) any complex system can become dysfunctional despite maximal efforts from dedicated individuals, which is to say that a system is more than sum of its individual members.

In my account, a complex socio-technological system<sup>11</sup> such as a nuclear energy plant needs a new way of approach based not on the myth of the rational controllability of the entire system, but on a recognition of the boundedness of human rationality. In this sense, the nuclear energy system represents the future landscape of the VUCA<sup>12</sup> world which has just started to unfold.

Hence, TEPCO’s Fukushima nuclear accident should not be taken as a special case of failure for which TEPCO alone was responsible, but as a representative repercussion of the post-industrial Japanese society that needs revolutionary transformation. We need to change our mind-set that has developed in the standardized mass production age in order to introduce revolutionary energy technologies throughout the society. For this we have to examine the way of thinking unconsciously embedded as a de-facto framework in our minds, a framework that was internalized through a process of modernization that took the West as the paradigm influence.

### **3. Resetting our modern paradigm**

As noted above, Charles Taylor maintains that modernity is not the result of a single process; there are many unique trajectories to and forms of modernity<sup>13</sup>. Likewise,

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<sup>11</sup> “... sociotechnical systems are not decomposable, bimodal, or predictable”, Erik Hollnagel, *Safety-I and Safety-II, the past and future of safety management*, CRC Press, 2014, p.105.

<sup>12</sup> Volatility, Uncertainty, Complexity, Ambiguity.

<sup>13</sup> Charles Taylor, *Modern Social Imaginaries*, Durham and London: Duke University Press, 2004, p.xii.

there will be different paths to and forms of post-industrial society in the age of “Third Wave”<sup>14</sup>.

Alvin Toffler, a prominent futurist (1928-2016), predicted that following the First Wave, the agricultural revolution, and the Second Wave, the industrial civilization, a Third Wave will bring about a completely new way of life based on diversified renewable energy sources; on methods of production that make most factory assembly lines obsolete; on new, non-nuclear families; on a novel institution that might be called the “electronic cottage”; and on radically changed schools and corporations. Toffler anticipated that the Third Wave civilization would heal the historic breach between producer and consumer and create the “prosumer” economy of tomorrow<sup>15</sup>.

Cathy N. Davidson, a global leader of education reform in the digital age, also holds that the kinds of expertise, specializations and hierarchies most valued in the twentieth century have become outdated and obsolete in the information age<sup>16</sup>. Steve Case, founder of America Online, declared 2016 to mark the beginning of the “Third Wave” of the Internet in which ubiquitous connectivity starts to transform real-world structures, including the mindsets of the people and their forms of conduct<sup>17</sup>.

The whole landscape of this Third Wave is yet to be fully realized, although most of us are quite certain that we are facing a fundamental transformation of social, political and economic systems as well as the human mind-sets and conventions of the industrial age prevalent for the last three hundred years. However, Japan seems still trapped in the shackles of the outdated Second Wave framework, initially adopted from the West early in the modern age and later internalized through its own modernization process. The underlying philosophy of the Second Wave framework is the idea that scientific and rational engineering can bring *Homo sapiens* happiness, characterized by utilitarian ethics, an atomistic view of society, and an analytic view of the human. They clearly reflect one of the major streams of thought in the West, often attributed to Descartes<sup>18</sup>.

Japan, and probably other East Asian societies, tends to identify the West with modernity and abjure their own traditions and religions as non-scientific and pre-modern superstition. Yet, as Charles Taylor has eloquently countered, the worldview of modern natural science, a view from nowhere, is only one of many possible ways of

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<sup>14</sup> Alvin Toffler, *The Third Wave*, Bantam book, 1981, pp.9-11.

<sup>15</sup> Alvin Toffler, *The Third Wave*, Bantam Books, 1981, pp.10-11.

<sup>16</sup> Cathy N. Davidson, *Now You See It. How Technology and Brain Science Will Transform Schools and Business for the 21<sup>st</sup> Century*, Penguin Books, 2011, pp.70-71.

<sup>17</sup> Steve Case, *The Third Wave*, Simon & Schuster, 2016, pp.4-5.

<sup>18</sup> Charles Taylor and Hubert Dreyfus, *Retrieving Realism*, Harvard University Press, 2015, pp.1-5.

viewing the world<sup>19</sup>. Taylor demonstrates that this unconsciously embedded “picture” or framework for understanding the world, which traces back to Descartes, still dominates Western ways of thinking even among modern thinkers who reject Descartes’ epistemology. Taylor calls this picture the “mediational view,” characterized by a dichotomy between the world and ideas. An alternative view, which Taylor names the “contact theory”, is that our conceptual beliefs are only possible because of our being in the world as bodily subjects<sup>20</sup>.

In my account, a way of viewing science as the guiding principle for an industrial and post-industrial society is completely compatible with a traditional non-anthropocentric worldview, and we only need to reexamine and reconstruct our spiritual resources in a way that’s suitable for our own post-industrial society.

We can observe such intellectual attempts in East Asia. For instance, Wang Hui has argued that after China encountered the modern West, the Heavenly Principle as a universal set of values for a moral-political community was replaced by the modern universal principle (公理) since its own embodied worldview, cultural identity and political legitimacy turned out to be lost <sup>21</sup>.

Wang holds<sup>22</sup>;

**It is worth noting that one of the main characteristics of the worldview of Universal Principle is to use science and its empiricist methodology to expose the fictional essence of such naturalist categories as Heaven, the Way of Heaven, the Mandate of Heaven, and Heavenly Principle and to place Nature into objective reality, thus changing the ontological (and originary) significance of the word “Nature”(ziran).**

**The modern worldview of Universal Principle views Nature as an object that can be known and controlled, and argues that the process of the control of Nature in itself is a demonstration of the freedom of the subject.**

Wang’s account of this sharp contrast between the modern universal principle and the patriarchal Heavenly Principle accompanies a story according to which the idea of the self and the scientific/positivist method has been replacing the non-scientific idea of the Heavenly Principle since the late Qing era<sup>23</sup>. However, Wang stresses that both

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<sup>19</sup> Ibid, pp.148-154.

<sup>20</sup> Ibid, pp.1-54 & pp.91-101.

<sup>21</sup> Wang Hui, translated by Michael Gibbs Hill, *China from empire to nation-state*, Harvard University Press, 2014, p.61.

<sup>22</sup> *ibid.*, p.98.

<sup>23</sup> *ibid.*, pp.86-87.

the Heavenly Principle and the universal principle share the same concept “principle(理)“, which means a universal rule or law that simultaneously transcends and is immanent in “things(物)”<sup>24</sup>.

In this connection, Wang presented one contradiction about “principle”. In this contradiction, “principle,” as a concept penetrating through cosmology, always faced a certain dilemma. In the theory of the heart-mind and nature, “principle” is what a human could understand and master through the practice of daily self-cultivation. This understanding of “principle” made it possible for the practice of “investigating things and extending knowledge” (格物致知) to be gradually identified with scientific methodology, which paved the way for the transition from “Heavenly Principle” to “Public Principle”. “Universal Principle”, in Wang’s account, was established by exposing fictional features of the “Heavenly Principle” and transformed the ontological view of Nature into that of a controllable object in the early modern period. Viewing nature as object is another expression of the idea of the autonomous human completely independent and disengaged from nature.

However, in the same theory of the heart-mind and nature, “principle” is not an object for scientific investigation. In this sense, the practice of “investigating things and extending knowledge” should not be mixed up with scientific observation. On my account, “principle” embraces both objective rules defined by natural science and a subjective/existential and non-anthropocentric moral order, and the conflict between them brought about social and human transformations in China in the 19<sup>th</sup> century.

In Japan, we can also observe similar attempts conducted by several pioneers, including Toyohiko Kagawa (1888-1960). Kagawa was the most influential Christian social reformer and the most well-known and respected Japanese spiritual leader both within and outside of Japan from the 1920’s to the 1960’s. Kagawa was also one of the strongest advocates of human rights, including the rights of children. In this connection, it should be noted that Kagawa developed a unique teleological interpretation of evolutionary theory. Kagawa supported the theory of evolution while opposing social Darwinism, which often uses the concepts of a struggle for existence and the survival of the fittest as a justification for laissez-faire capitalism. He defended the concept of mutual aid as a much stronger feature of human nature.

In order to illustrate Kagawa’s contribution in reexamining and reconstructing modernity in Japan, we should recall that the concept of human rights – translated and advocated as the “rights of man granted by heaven (天賦人權)” in the early Meiji period – was rejected as scientifically unverifiable by advocates of evolutionary theory at that

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<sup>24</sup> *ibid.*, p.70.

time. We can identify Hiroyuki Kato (1836-1916) as the scholar representative of this opposition to the theory of natural rights. Kagawa's endeavors with regard to evolutionary theories arguably demonstrates the intellectual struggle and concrete achievement in localizing a universal norm such as human rights within the non-Western context by overcoming modern Western scientism<sup>25</sup>.

It is my fundamental proposition that each society has own unique intellectual and spiritual history and resources, including conceptions of social moral order. We need to reexamine and reconstruct our entire worldview framework in order to transform social, political and economic system, fully utilizing our own resources, and this process must be carried out in dialogue with others. On my account, the way of viewing nature as an object of human control is the intellectual background behind the myth of the rational controllability of man-made nuclear plants. However, the emerging Third Wave civilization, propelled by radical and disruptive innovation, is changing our way of understanding ourselves and the world. We need to change the mind-set developed in the standardized mass production age in order to move on to and thrive in the Third Wave civilization.

Toward this end, it is worthwhile considering an argument by Terry Winograd and Fernando Flores, the latter of whom obtained his PhD at UC Berkeley under the guidance of Hubert Dreyfus, Stuart Dreyfus, John Searle and Ann Markussen. They hold that

**Questions such as “Can computers think?”, “Can computers understand language?”, and “What is rational decision-making?” comes from a background of understanding that needs to be reexamined and revised.**<sup>26</sup>

On their account, all new technologies develop within the background of a tacit understanding of human nature and human work. The use of technology, in turn, leads to fundamental change in what we do and, ultimately, in what it is to be human<sup>27</sup>. They hold that we must reveal the implicit understanding of human language, thought, and work that serves as a background for developments in computer technology in order

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<sup>25</sup> G. Clinton Godart, *Darwin, Dharma, and the Divine – Evolutionary Theory and Religion in Modern Japan*, University of Hawai'i Press, 2017, pp.147-155. Thomas John Hastings, an Introduction in T.H.Hastings ed., James W.Heisig translated, Toyohiko Kagawa, *Cosmic Purpose*, Cascade Books, 2014, pp.1-26.

<sup>26</sup> Terry Winograd & Fernando Flores, *Understanding Computers and Cognition: A New Foundation for Design*, Ablex Publishing Corporation, 1986, p.xiii.

<sup>27</sup> *ibid.*, p.xi.

to become aware of the effects that computers have on our society.<sup>28</sup> They label the traditional understanding of human nature and human work as “the rationalistic tradition” which often leads to attitudes and activities that are not rational if viewed from a broader perspective<sup>29</sup>. The “rationalistic tradition” is characterized by the dichotomies between the West and the non-West, modernity and tradition, science and religion, and reason and emotion.

Heinz Kohut (1913-1981), a psychoanalyst who developed self-psychology, pointed out that Freud’s strict dichotomization of the psyche between “the Conscious” and “the Unconscious” reflected his age’s social and cultural division between logic/reason and the archaic/prelogical and is no longer valid<sup>30</sup>. Freud’s life (1856-1939) fell within standardized mass-production age, the Second Wave.

Luciano Floridi describes the transformation toward the Third Wave civilization in terms of re-self-conceptualization.

**After Copernicus, the heliocentric cosmology displaced the Earth and hence humanity from the centre of the universe. Darwin showed that all species of life have evolved over time from common ancestors through natural selection, thus displacing humanity from the centre of the biological kingdom. And following Freud, we acknowledge nowadays that the mind is also unconscious and subject to the defence mechanism of repression thus displacing it from the centre of pure rationality, a position that had been assumed as uncontroversial at least since Decartes.**

Floridi, then, presented his neologisms, *inforgs* and *infosphere*, saying that since the 1950’s, computer science and ICTs have changed our understanding of who we are and how we are related to the world. In his account, we are now gradually accepting the view that we are informationally embodied organisms (*inforgs*), mutually connected and embedded in an information environment (*infosphere*)<sup>31</sup>.

In addition to the impact of ICT, recent human failure to controlling climate change is dethroning us as the sovereign of the universe, the earth, and living entities. In my account, we are gradually acknowledging ourselves as one of many and a part of a greater life. The shift from an anthropocentric view to an ecological and informational one forces us to reexamine the modern scientism originating in the West, in order to

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<sup>28</sup> *ibid.*, p.7

<sup>29</sup> *ibid.*,p.8.

<sup>30</sup> Heinz Kohut, *How Does Analysis Cure?*, the University of Chicago Press, 1984, pp.59-60.

<sup>31</sup> Luciano Floridi, *The Ethics of Information*, Oxford University Press, 2013, P.14.

transform our mind-set and turn to the more humble worldview based on bounded human rationality. For this purpose, the traditional East Asian political ideal of “Heavenly Principle, State Law, Human Sentiment” is worth revisiting for conceptualizing a universal but unique modernity which paves the way to the age of the Third Wave.

#### 4. Heavenly Principle(天理), State Law(国法), Human Sentiment(人情)

“Heavenly Principle, State Law, Human Sentiment” is the East Asian political ideal that basically means that state law must comply with the Heavenly Principle, transcended from any secular authority, and must resonate with human sentiment as the embodiment of the Heavenly Principle in the human heart. I hold that this political ideal is worth reexamining as a guiding principle in facilitating public dialogue about energy policy in the age of the Third Wave for three reasons.

- 1) This ideal is indigenous and easier for most people in East Asia to accept and utilize in order to transform social, political and economic systems as well as human mind-sets.
- 2) This ideal is still relevant in East Asia, particularly in China, as the guiding political principle and may inspire and encourage the public in Japan to overcome a parochial superiority complex with respect to their Asian neighbors, fostering a foundational mind-set suitable for the Third Wave era.
- 3) This ideal includes human sentiment and emotion as an element and could illuminate the unconsciously embedded emotional attitudes that fundamentally frame the reasoning employed by both opponents and proponents of nuclear energy.

Radical transformation of social, political and economic systems, including human mind-sets, could be accomplished more easily if the people regard it as a reasonably acceptable development of local traditions and conventions.

The point of departure between the West and East Asia is, at the risk of oversimplification and overgeneralization, a dichotomy regarding the way each views the connection between the human and the world. As Charles Taylor arguably explained, humanism, as the basis of democracy and human rights in the West, tends to regard the human self as detached and free from the rest of the world, including the providential order<sup>32</sup>. In East Asia, on the contrary, the human self is generally considered as a center

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<sup>32</sup> Charles Taylor, “Conditions of an unforced consensus on human rights” in Joanne R. Bauer and Daniel A. Bell eds., *The East Asian Challenge for Human Rights*, Cambridge University Press, 1999, p.129.

of relationships and as a dynamic process of spiritual development<sup>33</sup>.

“Heavenly Principle, State Law, Human Sentiment” arguably grasps this unique characteristic of the moral outlook in East Asia. It should also be added that the dichotomy between reason and emotion is not commonly accepted in East Asia<sup>34</sup>. From this viewpoint, “Heavenly Principle, State Law, Human Sentiment” has tremendous potential insofar as it declares that even rulers must obey the universal norm (the Heavenly Principle) and should heed human emotions, although it is not human-centric like the humanism of the West.

Arguments about nuclear energy focus on the balance between benefits and risks. Proponents argue that nuclear energy is more secure as quasi-local energy source, environmentally less burdensome than fossil energies and the most cost-effective. Opponents hold that focus should be shifted to the intergenerational burden in terms of radiotoxic wastes, the risk of nuclear proliferation (particularly with respect to plutonium) and health risks from exposure to the radiation that would be released by a nuclear power plant accident.

It seems to me that neither side pays due attention to the deeper dimension of emotion or sentiment. The emotions underlying opposing arguments include indignation at the risks that are imposed without prior informed consent and the lack of opportunities for their voices to be heard in decision-making processes about energy policy, each of which is their fundamental human right that must not be overlooked. The underlying emotions of proponents include those derived from their insulted confidence and their wish to develop better and safer nuclear technology. They may also include indignation over arbitrary political interventions without scientific and rational justification.

Benham Taebi, Sabine Roeser and Ibo van de Poel have suggested that addressing emotions as starting points of debates, rather than taking them as endpoints of debates, would disclose and articulate underlying ethical and evaluative judgements and facilitate further dialogue<sup>35</sup>. Emotion or sentiment has in the past been considered

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<sup>33</sup> Tu Wei-Ming, *Confucian Thought : Selfhood As Creative Transformation*, State University of New York, 1985,p.113.

<sup>34</sup> I don't suggest that respect for human sentiment is unique to East Asia. As Charles Taylor eloquently described, there is a strong spiritual current focusing on human sentiment as an internal source of morality in the West. Charles Taylor, *Sources of the Self: The Making of the Modern Identity*. Cambridge: Cambridge University Press, 1989. I mean only that each society needs own unique institutional and spiritual modernization.

<sup>35</sup> Benham Taebi, Sabine Roeser and Ibo van de Poel, The Ethics of nuclear power: Social experiments, intergenerational justice, and emotions, *Energy Policy* 51(2012)202-206, p.205.

a vital element in East Asian politics, and we should reexamine it in public dialogue about nuclear energy. “Human Sentiment/Compassion” was considered a manifestation of the cosmic order as embodied in law, *The Great Ming Code*, in Ming Dynasty China (1368-1644 A.D.). Jiang Yonglin<sup>36</sup> refutes common assumptions that the law was merely an oppressive political tool and had nothing to do with “superhuman”<sup>37</sup> values in imperial China and argues instead that the establishment of law reflected a cosmology consisting of the world of spirit, the realm of human beings and the emperor. In this cosmology, the emperor received the Mandate of Heaven as the cosmic mediator for maintaining harmony between the spirit world and the human realm<sup>38</sup>. According to Yonglin, law was considered a concrete embodiment of the cosmic order, and the Heavenly Principle was understood as the ultimate origin and fundamental pattern of the cosmos. Human sentiment was one dimension of the Heavenly Principle<sup>39</sup>. Accordingly, ethically justifiable emotions or sentiments such as indignation should be taken seriously, and “Heavenly Principle, State Law, Human Sentiment” should be reexamined as this ideal could take human sentiment and emotion into due consideration if it is derived from and represents the universal norm (the Heavenly Principle).

Moreover, emotion is playing a more vital role in the post-industrial society of the Third Wave, characterized by exponentially expanding information flow through digital multi-media that transmits not only a spoken and written language but also other modes of communication such as image and music. In this society, sharing, dialogue and cooperation become more vital than competition. “Heavenly Principle, State Law, Human Sentiment” has great potential to prepare East Asia for the era of the Third Wave civilization by reexamining and reconstructing its modernity.

## **5. Two proposals – A human rights-based nuclear energy policy dialogue and human**

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<sup>36</sup> Associate professor at the Department of East Asian Languages and Cultures of Bryn Mawr College(Pennsylvania, USA).

<sup>37</sup> Bradley Thames, associate professor of Ashford University, kindly reminded me that in English, “superhuman” brings to mind something like Nietzsche’s *übermensch*, which neither Yonglin nor I meant, and suggested “supernatural” or “transcendent” instead. I finally selected “non-anthropocentric” rather reluctantly because it seems to me that “supernatural” connotes something beyond nature, which does not resonate with the East Asian traditional worldview and “transcendent” also does not denote immanent element of the East Asian spiritual world. Taking this opportunity, I would thank Thames for his kind comments.

<sup>38</sup> Jiang Yonglin, *The Mandate of the Heaven and the Great Ming Code*, University of Washington Press, 2011, pp.175-180.

<sup>39</sup> *Ibid.*, p.4.

## rights story-making in East Asia

I propose linking a regional/international energy cooperation framework with regional/international human rights bodies. I also insist that accordingly, we need to develop a set of new underlying stories in order to transform the regional political orders in the Asia Pacific in a way that is based on universal norms such as human rights, democracy, and rule of law, and that the new stories must be grounded in common narratives about humanity, society and the non-anthropocentric values of the region.

First, I begin with human rights-based nuclear energy policy dialogue.

All stakeholders admit that “TEPCO’s Fukushima nuclear accident” caused grave human rights violations. It is also widely recognized that any form of energy production carries its own risks. So, it seems reasonable to incorporate human rights monitoring and protection mechanisms into the regional/international energy cooperation frameworks.

The 4<sup>th</sup> strategic energy plan proposed expanding the framework of multilateral energy cooperation<sup>40</sup>. It states:

**It is necessary to actively contribute to the IEA, which has abundant accumulated experiences in the field of emergency response and in a broad range of energy policy fields, stable multilateral frameworks with substantial secretariat functions, such as the IAEA, and international and regional forums such as G8, G20 and the Asia-Pacific Economic Cooperation (APEC) forum. If Japan plays a leading role in initiatives to enhance the stability of energy supply and demand in Asia, where energy demand will grow considerably, it will improve Japan’s own energy security environment. It is imperative to further develop the East Asia Summit (EAS) into a more effective multilateral framework for discussions about energy security with the Economic Research Institute for ASEAN and East Asia (ERIA) as the core organization. In addition, by making use of Japan’s strength in terms of policy and technology, GOJ takes the initiative in forming public opinions in the international arena under multilateral frameworks for specific themes, such as the International Energy Forum (IEF) for producer-consumer dialogue, the Clean Energy Ministerial (CEM), International Renewable Energy Agency (IRENA), and International Partnership for Energy Efficiency Cooperation (IPEEC).**

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<sup>40</sup> The 4th Strategic Energy Plan, p.79.

On my account, in an increasingly interconnected world, a multilayered governance system is emerging together with several non-traditional mechanisms for human rights protection and multiple channels for much wider participation of people in decision-making processes. For instance, the Asian Development Bank (ADB) has developed the Safeguard Policy Statement (SPS) and Accountability Mechanism which aims at protecting the human rights of the people affected by ADB funding and at providing them with channels for filing complaints against recipient states as well as the ADB. Many codes of conduct in different sectors, a great number of memorandums of understanding (MOUs) signed by multi-stakeholders, and even de-facto standards in new technologies established by private companies constitute the regional human rights protection arrangements, as well as numerous NGO networks in the region.

At the global level, in resolution 26/9 from 26 June 2014, the UN Human Rights Council established and mandated the open-ended intergovernmental working group to elaborate a legally-binding international instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises with respect to human rights. The fourth session took place between 15 and 19 October 2018 and discussed a draft proposal for an international treaty and optional protocol. The business sector plays a major positive role in sustainable development but it needs to follow internationally established standards and international human rights law, and the obligations of businesses will soon become legally binding through the international human rights treaty.

Given this recent development, it seems to me appropriate to consider establishing regular contact between , for instance, regional energy cooperation frameworks in East Asia and regional/international human rights bodies such as the ASEAN Intergovernmental Commission on Human Rights (AICHR), the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) as well as major international human rights bodies. It is also worthwhile organizing inter-regional consultations between ASEAN & East Asia and Europe, for instance through the Asia-Europe Meeting (ASEM) framework about human rights and the energy industry.

The 2013 survey by Plan International disclosed that the Committee on the Rights of the Child did not mention much about natural and human-made disasters in the state report monitoring process<sup>41</sup>.

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<sup>41</sup> *Disaster Risk Management, Conflict and Climate Change in the Monitoring of the UN Convention on the Rights of the Child* in Child Rights Series, Plan International, 2013, pp.8-9.

- 1) There was little mention of natural hazards in the State and NGO reports, even in countries that were regularly subjected to them. When included, there were only a few references to the impact of natural hazards, disaster mitigation or disaster prevention on children. Disasters were not always acknowledged in the concluding observations as a factor impeding the implementation of the Convention in countries that experienced a high number of them, and the Committee made very few specific recommendations with respect to disasters.
- 2) Human-made hazards were not covered in any State or NGO report and were not referred to in any concluding observations by the Committee on the Rights of the Child.

Highly complex socio-technological issues such as nuclear energy is a new frontier for major international human rights bodies, and their regular consultation with energy institutions will enrich and expand the horizon of human rights.

My second proposal is that it is vital to develop a new common narrative in East Asia. Charles Taylor stresses that to transform a society, we need not only specific policies but also articulated stories of what we are doing. Such stories are the commonly held narratives in the background of the social imaginaries that enable common practices and a widely shared sense of legitimacy within a certain society<sup>42</sup>.

Akiko Ejima<sup>43</sup>, after research on the impact upon the human rights situation in Britain of regional individual complaint mechanisms that are based on the European Convention on Human Rights, concludes that human rights precedents accumulated through individual complaint mechanisms at the European Court of Human Rights about the European Convention on Human Rights have contributed to confidence building and strengthening the legitimacy of the Convention among the member states and made it easier for them to understand and apply the Convention in national courts. Ejima also reports that the human rights policies of the European Parliament, the European Union, and the Organization for Security and Co-operation in Europe (OSCE) have contributed to laying the foundation of effective implementation of the European Convention on Human Rights. Ejima emphasizes that the creation of the Asian regional human rights convention alone would not be sufficient enough to enable the effective implementation of the rights<sup>44</sup>.

In my research workshops, it also turned out that international individual

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<sup>42</sup> Charles Taylor, Interculturalism or multiculturalism, *Philosophy and Social Criticism*, Vol.38, No.4-5, May/June, 2012, pp.415-416.

<sup>43</sup> Professor of international human rights, Meiji University.

<sup>44</sup> Akiko Ejima, *A new phase of human rights protection(Jinken hoshou no shinkyokumen)*, Nippon Hyouronsha, 2002 (in Japanese).

complaint mechanisms need to be closely linked to and work with national human rights organizations like human rights ombudspersons and human rights committees. For instance, when a survivor and/or their representative prepares a complaint to a certain international human rights body such as the Committee on the Elimination of Discrimination against Women (CEDAW), it is essential to involve the national ombudsperson and lawyer, and also it is necessary to collaborate with women's organizations to get survivor's testimony at national level. Also, consultation with the ombudsperson and relevant lawyers is important to screen and select the cases which are admissible for the relevant international human rights body. In other words, national human rights organizations and regional individual complaint mechanisms complement each other, and intraregional network of national human rights organizations and relevant NGOs can be a solid foundation for the Asia Pacific regional human rights protection mechanism<sup>45</sup>. In short, the creation of regional human rights protection complements and strengthens the national structure to protect human rights, and in order to make human rights protection effective, the foundation needs to be laid at national and regional levels simultaneously. The "foundation" means not only the judicial structure and its human resources but also a public mind-set supportive of and favorable to human rights as underlying society, and for this end, human rights education must be integrated with intercultural education<sup>46</sup>. Hence, the projects of continuous and incremental intercultural exchange must be promoted in parallel with building structures for regional human rights protection.

As a concrete project, it might be worthwhile conducting joint research in the Asia Pacific in exploring the human rights pioneers in the region and tracing the history of their interaction for strengthening the foundation of human rights culture in the region. For instance, in 1927 a Japanese pioneer of human rights, Toyohiko Kagawa (1888-1960), presented 9 rights of children, which include the rights to choose parents and be treated as an individual person<sup>47</sup>. Interestingly, the right to choose parents is the

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<sup>45</sup> About details of my research workshops, refer to Akihiko Morita, *Guidebook on the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (CRC/OP3)*, Houbun-sha, April 2013 (in Japanese).

<sup>46</sup> Association for Historical Dialogue & Research, *Policy paper: Rethinking Education in Cyprus*, K&L Lithofit Ltd, 2013.

<sup>47</sup> Kagawa presented 6 child rights in Fukagawa, Tokyo on June 9th, 1924, three months before the adoption of the Geneva Declaration of the Rights of the Child, the first official document of the rights of the child, at the General Assembly of the League of Nations in September 26th. Toyohiko Kagawa, *Kodomo no Kenri (children's rights)*, the dictation of his lecture at the seminar for child protection at Sarue-ura, Fukagawa, Tokyo in June 9th, 1924 (attachment of "Introduction to the theory of children's rights", Toyohiko Kagawa memorial/Matsuzawa Museum, 1993).

title of the first chapter of *The Century of the Child* (1900) by Ellen Key (1849-1926), an early Swedish advocate of a child-centered approach to education and parenting. This book was translated into Japanese in 1906, and there is evidence indicating that Kagawa read Key's book. Additionally, the right to be treated as an individual person is exactly the same as the first provision of 'Commitments for Children', presented by Bang Jung Whan (1899-1931), a Korean writer and child rights activist. In fact, Bang Jung Whan stayed in Japan from 1920 until 1922, and he launched a children's movement, announcing the 'Day of Eorini' on May 1<sup>st</sup>, 1922. 'Eorini' is a Korean term meaning child or youth, which he used to indicate for the first time children as individual persons with full human rights like adults. It is likely that Kagawa might have learned the provision from Bang Jung Whan either directly or indirectly. A third interesting finding is that Naofumi Tamura (1858-1934), who was a Japanese pastor and a graduate of Princeton University, presented the very perception of children as holder of rights in 1911, well before Kagawa<sup>48</sup>. Tamura came up with this revolutionary idea through observing and reflecting on the gradual change in the theological view of children among U.S. Christian communities at the time<sup>49</sup>.

It seems that the more carefully we scrutinize and examine the history of the pioneers of children's rights, the more fully we become aware of the fact that the concept of human rights is not merely a Western norm, but rather one developed through interactions and mutual learning beyond the national borders. Hence, discovering pioneers of human rights across the Asia Pacific and tracing the history of their interactions, including those with the U.S., could contribute to developing a solid foundation for Asia Pacific regional human rights protection mechanisms.

In summary, I propose that we should develop a set of new underlying stories to transform the regional political order in the Asia Pacific, including East Asia, based on universal norms such as human rights, democracy, and rule of law, and the new stories must be grounded in common narratives of humanity, society, and their non-anthropocentric values in the region. In this sense, "Heavenly Principle(天理), State Law (国法) and Human Sentiment(人情)", is worth revisiting and reexamining.

## 6. Some final remarks

In the late 1990's, Jeremy T. Paltiel held that the language of national identity

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<sup>48</sup> Naofumi Tamura, *Rights of the Child*, Keiseisha-shoten, 1911. This book was said to be translated into Hangul. See Naofumi Tamura, *Child-centered Christianity*, the publishing department of Taishō kindergarten, 1926, p.58.

<sup>49</sup> Naofumi Tamura, *Child-centered Christianity*, pp.82-85.

does not find widespread adherence in the professional classes who are pushing for the expansion of legality and rights language in China. In his account, Chinese intellectuals, wishing to expand their personal and intellectual autonomy from the state, were concerned that discourse around national identity and reference to Confucianism would be exploited by the state to strengthen its authoritarian control over citizens, including intellectuals<sup>50</sup>.

**Only when the contest for authority and legitimacy has yielded to a search for meaning will greater effort possibly be put into restoring Confucianism as a living tradition from which to draw universal values<sup>51</sup>.**

Paltiel's concluding remark still seems relevant in 2019.

On the other hand, as Chongko Choi has said, East Asian legal scholars have been too busy learning from Western law to develop a theory of East Asian Common Law (ostaiatished Jus Commone) until now<sup>52</sup>.

“Heavenly Principle(天理), State Law (国法) and Human Sentiment(人情)”, the East Asian political ideal that state must accord to the Heavenly Principle transcended from any secular authority, and that the state must listen to the voice of citizens whose sentiment is an embodiment of the Heavenly Principle in the human heart, should be revisited for overcoming intellectuals' sense of reluctance about soul searching.

In my account, the ideals of the rule of law, democracy, and human rights must find appropriate philosophical justifications in order to be incorporated into non-Western societies, and such justifications must be attractive and inspiring for ordinary citizens in those societies and be based on their own intellectual resources, including local languages<sup>53</sup>. For this purpose, “Heavenly Principle, State Law, Human Sentiment,” should be reexamined and utilized.

This paper is intended to be the first step in such an enterprise.

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<sup>50</sup> Jeremy T. Paltiel, Human Rights and Chinese Tradition in Political Discourse, in WM.Theodor de Bary and Tu Weiming eds., *Confucianism and Human Rights*, Columbia University Press, 1998:270-296, pp.283-289.

<sup>51</sup> *ibid.*, p.289.

<sup>52</sup> Chongko Choi, *East Asian Jurisprudence*, Seoul National University Press, 2009, preface vii.

<sup>53</sup> Akihiko Morita, A neo-communitarian approach on human rights as a cosmopolitan imperative in East Asia, *Filosofi a Unisinos*, 13(3), Dec 2012.

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