

The Concept of “a Trust” and Its Relevance to the Right of Rebellion: *Mencius and Locke*

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Abstract

This paper explores whether Mencius defends the people's right of rebellion by applying the concept of a trust to his political thoughts. Although previous literature has developed several arguments on Mencius' position on the right, and there exists a deep controversy in their conclusions, those conclusions have several problems. 1) They are rather derivative of nearby theses, such as Mencius doctrine of human nature, Heavenly Mandate, or Kingly Governance. Related to this, 2) they do not suggest specific and proper criteria for a right to revolt so that the meaning of the right remains ambiguous in the literature. As a result, 3) the controversy is primarily an interpretational issue concerning the same paragraphs in the Mencius rather than a product of reasoning. This paper draws a comparison between Mencius and Locke's logic concerning the right of rebellion by reorganizing Mencius' political thought into the Lockean concept of a trust. By focusing on the critical difference of the role of the people between two philosophers, the paper concludes that Mencius does not support people's right of rebellion.

Keywords: contractual right, right of rebellion, a trust, Mencius, Locke

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I. Introduction

This paper explores whether Mencius defends the people's right of rebellion by applying the concept of "a trust" to his political thoughts. Since Mencius emphasized "the people" more than any other thinker in the Pre-Qin period, academics have paid much attention to Mencius' political ideology in connection with various modern concepts. This article aims to analyze Mencius' political thoughts, focusing on the concept of the "right of rebellion." Can it be said that Mencius approved of the people's¹ right of rebellion?

There are two conflicting positions in academia on whether Mencius admitted or not. For scholars who believe that Mencius admitted or defended the right, it is so evident that no argument is needed (Lee 1992, 248; Tu 1993, 6; Glanville 2010). Kim Choon-Shik argues that the Mencius' Mandate of Heaven ideology is based on the theory of mutual resonance between heaven and human beings, so the right to rebel against a monarch who has lost virtue is approved (Kim 1996, 38-45). Youn Dae-Shik argues that in Mencius' political thought, the moral completion of the monarch is a prerequisite of the political duty of obedience of the people. Therefore, Youn claims that the people can change their object of obedience against immoral monarch at any time and such a choice is rational (Youn 2002; 2005).

Some scholars argue that Mencius admitted the right of rebellion "limitedly." For example, according to Sungmoon Kim, Mencius thought that the people's right of rebellion had to be exercised according to the proper procedure. In order to avoid frequent political crises and confusion due to the reckless exercise of the right of rebellion, Mencius did not actively advocate its exercise. However, it does not mean that Mencius did not admit the right. Kim points out that, as Mencius did, Locke also added extremely difficult conditions

¹ In this paper, the term "*min*" 民 is used as a synonym for "the ruled" or "the people." Yet, it is quite uncertain the *min* includes the monarch, the nobles, the commoners, and the slaves in Mencius' terminology, and if his terminology in the *Book of Mencius* is coherent and consistent. For a study of *min*'s usage in the ancient Chinese literature, see Chang Hyeon-geun (2009) and Park Byoung-seok (2014).

to exercise the right of rebellion (S. Kim 2015, 170-171).² Yoo Mi-rim points out that in ancient China, the people were difficult to express their intentions and were regarded as having no such intentions (2004, 67). However, she concludes somewhat vaguely that the political thought of Mencius may develop into a revolutionary thought. This is because when looking at the relationship between Heaven and the people, the monarch is only an intermediary between the two, and it is the people who directly communicate with Heaven (Yoo 2004, 81-82). Other scholars argue that if the people are fully educated and morally mature, Mencius will advocate the people's right to revolt, suffrage, and even democracy (Bai 2008; Herr 2019). It means that even though Mencius admitted the right he could not advocate strongly because the majority of the people at that time were not educated.

According to the opposite view, Mencius emphasized the people's material welfare and moral enlightenment, not the people's role as political actors. It is true that Mencius is more radical than other thinkers of that time, but he also defended the ruler-centered absolute monarchy, and even the moral superior are to serve the monarch, not to replace the monarch (Pines 2009, 35-36). Although Mencius admitted that the righteous rebellion is legitimate, such radicalism considerably evaporates when we consider his doctrine of abdication that emphasizes the role of Heaven and the incumbent monarch. The expulsion of the monarch who is neither benevolent nor righteous is only approved in the exceptional circumstances in the past; that the people may overthrow the dynasty is a highly rhetorical device used to warn the monarch (Pines 2009, 72-79, 205-210). While ensuring the welfare of the people is the responsibility of the ruler and a legitimate source of authority in the first place, the people are only passive and reactive beings and have no right to rebel against tyranny (Angle 2012,

² In another article, Sungmoon Kim analyzes the views of Mencius and Xunzi on *shanrang* 禪讓 or *shanwei* 禪位—handing over of the throne to someone who deserved it because of high moral standing, and not because of the regular rules of succession—focusing on constitutionalism. According to this, Mencius' *shanrang* theory is not logically connected to the right of rebellion, but rather, Xunzi's theory of *shanrang* has more room to acknowledge the right of rebellion (S. Kim 2011, 378, 398).

38-43). The people themselves are not the agents who are responsible for getting rid of bad rulers, nor could harsh rule break any contract among the ruler and the ruled, and thus there was no right to rebel. Therefore, there is no people's revolution to be achieved, and there is no impulse for revolution in Mencius' political thought (El Amine 2015, 47). If we see the right of rebellion as 1) the case in which a monarch may lose the right to rule, 2) in this case he must be forced out, and 3) the people play an important role in the process, Mencius denies 3), so it is difficult to say that Mencius supports the right of rebellion (Tiwald 2008).

Although such conflicting views coexist, the above studies generally show the following, problems except for Justin Tiwald. First of all, they do not deal with the right to rebellion of Mencius directly, but they are rather derivative of nearby theses, such as Mencius' doctrine of human nature, the Mandate of Heaven, or Kingly Governance. In relation to this, secondly, they do not suggest specific and proper criteria for a right to revolt. As a result, the argument as to whether Mencius supported the right of revolt is a matter of interpretation, but it is hard to say that the conclusion was drawn as a result of a rational argument based upon principles. As A. Nuyen points out (2013), both claims concerning Mencius' stance on the right of rebellion have their own textual grounds within the *Mencius*, even if they interpret the same passage in opposite ways. In other words, based on the same phrases, one study argues that they can be considered to support the right to resistance, while the other research argues that it is difficult to say that the right to resistance is approved.

In order to overcome this problem, this paper approaches the subject in a different way from previous studies. Rather than refining the interpretive conclusion that Mencius does not support the people's right to revolt, this paper will present a logical structure that supports this interpretation. To this end, several words or the text from *Mencius* are analyzed and reconstructed based on the concept of a trust. The article is organized as follows. The second section examines the characteristics of the right of rebellion by analyzing Locke's logic that justifies the right of rebellion and examines whether the Confucian tradition, more specifically the political

thought of Mencius, can be discussed through a language of rights as such. The third section interprets Mencius’ political ideology by applying the concept of a trust and clarifies the political position of the people within Mencius’ trust scheme and argues that the people’s right of rebellion is not supported in Mencius’ political ideology.

II. The Right of Rebellion as Rights and a Trust

There seems to be considerable consensus among studies on the content of the right of rebellion. That is, the ruler can lose his/her sovereignty and may be forcibly ousted, and the people can play an important role in this process (Tiwald 2008, 270-271). However, by what logic is this right justified?

The right of rebellion is not a natural right because it is exerted to political power and political power is not a natural thing. It is also difficult to define it only as a legal right that is stipulated in the law and guaranteed by the law. Neither the Korean Constitution nor the US Constitution specify the right of revolt. The majority of the Korean legal theorists view the right to revolt as a basic right that is taken for granted without the stipulation of the Constitution (Oh 2009).³ To examine the nature of the right of rebellion, let us pay attention to Locke, who advocates the right in the clearest and most detailed way among the theorists of social contract.

A. Social Contract of Locke: Trust Contract and Justification of the Right of Rebellion

According to John Locke, all men are by nature equal and are free “to order their actions, and dispose of their possessions and persons,

³ However, there are many conditions for the “exercise” of the right of revolt. The right of revolt should be exercised for the purpose of restoring the constitutional order (purposive requirement), the serious constitutional violation of the exercise of state power should be objectively clear (situational requirement), and furthermore, it should be a last resort for the exercise of the right of resistance (supplemental requirements) (Oh 2009, 174).

as they think fit, within the bounds of the Law of Nature “ (Locke 1988, §4). At this time, men have three powers; the freedom to enjoy innocent delights, power to do whatsoever he thinks fit for the preservation of himself and others within the permission of the Law of Nature, and the power to punish the crimes committed against that Law. As humans enter Political Society, they give up the latter two powers (§128). Therefore, a political society can be established exist only when all individual members abandon their natural powers and surrender them to the hands of the community (§87). At this time, political power should be exercised only for the public good (§3).

But what if political power is used for other purposes? Since the purpose of giving up what was enjoyed in the state of nature and entering into a political society is only to protect one's own liberty and property better (§131), if power is exercised according to private will rather than public will, the exerciser is no longer a public figure, but a single private person without power and therefore cannot ask people obedience (§151). In this case, power is transferred [again] to the people, who have the right to restore the original freedom by abolishing the existing legislature and establishing a new one (§149; §222). In order to achieve this, Locke advocates the defensive and active use of force (§155; §235).

Interestingly, although Locke repeatedly mentions that the people quitted, resigned, and gave up their natural rights (§87; §123; §128), when the purpose of such an action is violated, people will regain their original rights. In general, if an owner “gives up” his/her possession through a deal, he/she cannot intervene to its future use.. If the original owner is constantly involved in the way it is used or its purpose, he/she did not give up it actually. Thus, we can guess that such a deal is something special; Locke describes such a contract as a “trust”.

Applying the concept of “a trust,” Locke describes the nature of political power as follows. Political power arises from the “entrust” of natural right by people to the community. Though the executive scope of political power is quite free (§161; §164), this is within the extent of the trusters' original purpose (§139; §222; §226). In addition,

an exerciser of political power should act as a public figure because political power is given to him/her, by a trust. Therefore, if he/she acts or exercises the power according to his own private will, it is an act against the trust, and he/she becomes like ordinary individual without political power (§151; §239). And due to such a limitation of trusted power, the legislature cannot arbitrarily transfer its power (§142), and only the people, the trustors, are the final judges who decide whether the trust contract is being breached or not (§240; §242).

In fact, Locke borrowed the concept of a trust from the equity law. According to Jongchul Kim (2015, 185-186), the law of “a trust” had been systematized in the late 17th century after the Glorious Revolution in England. A Trust creates “double ownership”: legal ownership enjoyed by trustees and equitable ownership enjoyed by the settlers or beneficiaries of a trust. The foremost motive of a trust has been to avoid legal responsibilities attached to property rights and, by doing so, to make property rights endure even permanently. The owner of property avoids legal responsibilities by transferring legal ownership of the property to trustees, while retaining its equitable ownership, thus continuing to enjoy the benefits of ownership. Since the early thirteenth century, the landed class in England had used the trust—and its feudal form, the *use* of land—for various reasons, for example, because an individual wanted “to escape from his creditors; or feared that a conviction for felony would result in the loss” of his/her property and lands (Martin 2001, 8). However, the most important external force that the trust or use was intended to avoid was feudal duties and taxation to the king or the state. The trustees took a legal ownership of the land but at the same time become debtors because they must pay a dividend to the beneficiaries of the trust regularly and permanently. By the contrary, the settlers and beneficiaries are no longer legal owners but become *creditors* who can ask interest-payment and can avoid the responsibility of returning the land to the king. But at the same time, the settlers and beneficiaries remain *equitable owners* according to whose order the trustees must use the land. According to Jongchul Kim, this trust has evolved to various form of

capitalist financial schemes including modern banking and modern business corporations. Thus, Trusts has been identified by economic historians as important to the financing of British domestic industry and its overseas investment during the eighteenth, nineteenth and early twentieth centuries (Kim 2015). Even during the financial boom of the late twentieth century, which ended in the financial crisis of 2008, trusts were used extensively by mutual funds, pension funds, and asset-securitization trusts for fund-raising and limited liability (Kim 2015).

There seems to be no research directly dealing with the fact that Locke's claim that the nature of social contracts is a trust was influenced by the development of equity law and capitalist finance in late 17th century England. Nonetheless, Locke clearly defined political power as a trust between people and a representative government and thought that double ownership was established regarding political power: the equitable ownership of political power belongs to the people, while its legal ownership belongs to a representative government. Locke learned the concept of a trust when he deeply engaged in business and banking. We know that he actively expressed his views on the problems of the shortage of metal currency in Britain, the increase in credit transactions, the Bank of England and private financing in the late 17th century, and he himself invested a considerable amount in the banking industry (Cooper 2020). Like in a trust, even if the people have made a contract to give up, abandon, and transfer their natural rights, the people still retain have equitable ownership of those rights. For Locke, the right of rebellion can be understood as equitable right that equitable owners exert against unfaithful trustees who have breached fiduciary duties.⁴

⁴ Two theorists of social contract, Thomas Hobbes and Jean-Jacques Rousseau, did not describe social contract as a "trust." Interestingly, both did not support the people's right to revolt.

B. Language of Rights and the Confucian Tradition

It is a well-known fact that during the 2,500 years after Confucius, Confucianism has not developed the concept of a “right” theoretically. Using this fact, many scholars have argued that Confucianism cannot be understood through the concept of rights we currently use. For example, Joseph Chan argues that it is unfair to understand political authority, *tianming* 天命 (Mandate of Heaven) in Confucianism as ownership of the world (Chan 2013, appendix 2). However, as Lee Seung-Hwan points out, we should not confuse the absence of terms with the absence of the concept itself. This is because the more complex the concept, the more likely the content of the concept is to exist scattered across various terms and expressions (Lee 1992, 246). Then, in order to examine whether Mencius advocated the right of rebellion, it would be logical to first see if Mencius had the idea of “rights.”

According to some studies, the concept of rights can be found within the Confucian tradition. Lee Seung-Hwan refutes the claim that Confucianism has no concept of rights and points out that a society cannot exist if it completely lacks a certain kind of notion of “rights.” He argues that if a society has no “right-related obligations,” the act of paying back debt would not be a due payment but a “charity.” And he also points out that ownership, sale, trading, promises, and the contracts of property would be impossible without rules that give rights and obligations. That is to say, to make a legitimate claim, rather than to ask someone for mercy, cannot be explained without the concept of a right (Lee 1992, 244-245). For example, according to Lee, in the story of an official who entrusted his wife and child to his friend and went to another country in *Mencius*, taking care of friend’s wife and child is not in the realm of “goodwill” but a “duty” that occurred through a transaction (Lee 1992, 247-248).

The British legal philosopher H. L. A. Hart calls the rights arising from these kinds of transactions “special rights,” which are characterized by the specific relationships and obligations with specific objects (Hart 1995, 183, 188). Special rights arise, simply put, through voluntary promises between the parties, in which case only the

promisee has the power to decide how specifically the promiser should behave and can free him/her from the obligation to fulfill the promise (Hart 1955, 184). In this regard, in a society where promises, contracts and transactions exist, the notion of special rights arising from these acts will naturally exist.

Of course, the above argument should not be read as saying that within the Confucian tradition all modern concepts of rights are found. Special rights are distinguished from general rights which are often referred to as human rights, the rights that everyone has to all. For example, freedom of expression is a general right. In this case, every other person has an obligation not to interfere with a person's act of speaking. However, Hart says that it is better to describe this as "no right" for anyone to interfere rather than as "obligation" (1955, 187-188). It can also be understood in the same context that the Universal Declaration of Human Rights, which is the basis of modern human rights discourse, enumerates the rights of freedom, equality, and social rights in over 30 articles, but never mentions specific obligations.

There are also a number of studies attempting to discover human rights within the Confucian tradition. These studies either discover human rights within the Confucian tradition in a way that expands the concept of being a member of the human race, in ways that define the mutual obligations of various human relationships (Sim 2004; Lee 2012). They derive socio-economic and civic-political rights from the equal moral potential of human beings presupposed by Confucianism (S. Kim 2015). There is also a study that reveals the compatibility of the Confucian tradition with human rights, centering on the universal ethical *ren* 仁 (benevolence) (Chan 2013, 115-120). However, 1) human rights differ from the relationship of special mutual obligation between contractual parties, and 2) Sungmoon Kim and Joseph Chan do not make an explicit argument that "there are the various concepts of rights in Confucianism"; rather, they use a more moderate expression of "ideally compatible." Considering these two facts, it is unlikely that there is a solid consensus in academia as to whether there is a general idea of rights called "human rights" within the Confucian tradition. Nevertheless, since it is somewhat

clear that there is a notion of special rights in the Confucian tradition, the theoretical basis for an attempt to examine whether the right to revolt is supported in the political thought of Mencius using the language of rights is sufficient.

III. Reorganizing Mencius' Political Thought and the Role of the People as a Trust

In this section we interpret the political ideal of Mencius by applying the concept of a trust. While Locke's historical background was a turbulent period when the concept of a trust, which had developed over the centuries, finally received legal approval, there is no evidence that trust contracts such as those in Britain were prevalent in the Warring States period of China, when Mencius lived. Therefore, it would be difficult to say that Mencius developed his political thoughts with the concept of a trust like Locke. Although the term trust is not used, the rhetoric and metaphors used by Mencius can be reconstructed within the trust scheme—in other words, using the characteristics of a trust, such as the purpose of a trust, trustor/trustee, double ownership, "the world" as an object of ownership, public/private person distinction, and impossibility of transfer. By doing so, we will criticize the existing studies that argue that Mencius admitted the people's right of rebellion.

A. Reconstructing the Political Ideas of Mencius by Applying the Concept of a Trust

Let us reorganize Mencius' political ideas within the trust scheme. First, Mencius pointed out that the position of monarch has its own purpose, asking three questions to King Xuan of Qi.

Mencius said to King Xuan of Qi, "Suppose that one of the king's subjects entrusted (託) his wife and children to his friend and journeyed to Chu. On returning he found that he had allowed his wife and children to be hungry and cold. What should he do?"

The king said, "Renounce him."

"Suppose the chief criminal judge could not control the officers. What should he do?"

The king said, "Get rid of him."

"Suppose that within the four borders of the state there is no proper government?"

The king looked left and right and spoke of other things. (*Mencius* 1B.6).⁵

In another conversation, Mencius repeated a similar analogy to King Xuan—If a shepherd who takes other people's livestock has not been able to raise them properly, what should he do? Mencius said that in this case, the shepherd should not just watch the livestock die but return them to their original owner. Then, the king admitted that it is his fault if the people died of starvation and scattered due to famine. (*Mencius* 2B.4).

First of all, let us delve into the meaning of "託" in these conversations. Although "託其妻子於其友而之楚遊" is commonly translated into Korean as "left one's wife and children to a friend and journeyed to the Chu," several English translations consistently translate the verb "託" into "entrust" (Legge 1970; Lau 1979; Hinton 1998; Bloom 2009). This fact that the English translation uses the verb "entrust" does not lead us to argue that the original text should be interpreted as "a trust." Nonetheless, it is possible to reconstruct Mencius' political thought through the concept of a trust, just as such translation is accepted by Anglophone academia without much difficulty, and in this way, Mencius' remarks regarding political power can be interpreted in a fairly consistent manner allowing comparison with other thinkers, especially with Locke.

Let us pay attention to three things in the above conversations. First, through the analogy it is revealed that the position of the monarch has a specific purpose. Mencius narrated the parallels among "taking care of a friend's family entrusted," "ruling the sub-

⁵ de Bary and Bloom (1999).

ordinates," "receiving and raising other people's livestock" and "the monarch's governing the country." In other passage, Mencius told King Xuan the story of how rulership emerged, citing *Book of Documents* (Shujing). A monarch is a position created by Heaven, and Heaven sent down the people and then made a ruler for them to give favor to them (*Mencius* 1B.3). Sharing this perception, the king admitted that it was his fault that the people were in trouble due to a famine.

Second, through a metaphor, Mencius induced an answer that the monarch should also resign if he fails to perform his duty properly, but King Xuan did not mention his resignation while he admitted his faults. Nevertheless, the king does not refute the metaphor made by Mencius. If the king had considered this analogy inappropriate, he could have answered that the monarch should still be the monarch, unlike breaking up with a friend or dismissing a servant. However, the king does not refute this. Therefore, it can be said that the king also implicitly shared the notion of Mencius that the monarch's status has a unique purpose and that if the monarch fails to achieve it, he should step down. These two views are consistent with Joseph Chan's "service conception" (Chan 2013, ch. 1).

Third, even if a monarch should step down if he fails to perform his role properly just as an officer of the prison or a shepherd do, the purpose of a monarch differs from those of the officer and shepherd, because the monarch is not simply in charge of other people's affairs unlike the officer and the shepherd. Mencius repeatedly mentioned that the ruler possesses the world. (*Mencius* 2A.1; 3A.4; 5A.1; 5A.5). Even the tyrant, King Zhou (紂), owned the whole world and made everyone his servants (2A.1). Nevertheless, when asked by King Xuan whether a vassal can punish his king, Mencius replied that the person who harmed righteousness was a remnant enemy who is just an ordinary man rather than a monarch (1B.8). In sum, it can be seen that Mencius attributes the possession of the world to the status of a monarch, not to a particular individual monarch. The official status as a monarch is to be recognized only when the monarch meets the purpose of a trust. This is reminiscent of Locke's claim that if a ruler uses his political power arbitrarily, then the trust has been destroyed

and thus the king became a single private person (§151). Like Locke's claim, Mencius argued that a monarch is one who by virtue of his position owns the world but if he does not give benefit to the people and is cruel, he will no longer be a monarch.

In *Mencius*, the phrase describing the monarch as a trustee of a trust does not stop here. Mencius repeatedly says that the monarch owns the world, but nevertheless he cannot give it to others at will. When Wan Chang asked if Emperor Yao gave the world to the Emperor Shun, Mencius replied that that was not the case and even the son of heaven could not give the world to others (5A.5). Not only can they not give it, they cannot receive privately. It is not permissible to give the throne to others or take it from them at will, as it is also not allowed to hand over government posts without the king's approval (2B.8). In this context, when Yao-Shun and Shun-Yu handed over the emperorship to the wise men and when the emperorship had been inherited to the emperors' children since the beginning of the Emperor Yu, according to Mencius, these successions do not mean that these heavenly children have exchanged the world with each other (5A.6).

Joseph Chan rejects the interpretation that the ruler "owns" the Mandate of Heaven (天命) or the world in Confucianism. According to the ownership perspective, 1) the Mandate of Heaven grants the ruler ownership of the territory and people; 2) the owner of the throne can decide whether to hand over the throne to someone else since the property must be freely transferable; 3) moreover, in the owner-property relationship, the property is for the owner, the owner is not for the property. However, in the documents of Pre-Qin Confucianism, such as the *Book of Documents* (書經), *Mencius*, and the *Xunzi* (荀子), it is emphasized several times that political power is for the welfare of the people, and because the ruler cannot give the world to others at will, having the Mandate of Heaven and the world is better interpreted as "the right to rule rightly within a certain territory" (Chan 2013, appx. 2). However, Joseph Chan's refutation of the ownership interpretation can be resolved by employing the concept of "a trust." Within a trust contract, 1) The trustee's rights are also recognized as ownership and 2) The trustee's ownership is valid

only within the purpose of a trust.⁶ Interpreting the phrases "own the world" in *Mencius* from the perspective of a trust is advantageous in that it allows us to include those phrases in our interpretation without adding any special explanation.

To sum up, if we reconstruct the Mencius' political ideas by applying the concept of a trust, the purpose of the trust is to be benevolent to the people everywhere and to govern the country. And the monarch, who is a trustee, owns the whole world (public person) but becomes no longer a monarch but an individual (a single private person) if he violates the trust. Furthermore, the monarch owns the world, but he cannot arbitrarily transfer his possessions to others (non-transferability). So far, it seems very similar to Locke's political ideas in *Two Treatises of Government*. However, there are other elements of a trust that have not yet been addressed in this section. Who is the counterpart of the double ownership, namely the trustor who trusted the world to the king? In the Chapter 2, Locke pointed out that another party of the trust contract is the people, and the right of rebellion is an exercise of the equitable ownership when the trust is violated. Then, when Mencius' political ideas are reconstructed applying the concept of a trust, whether the people's right to rebellion is approved by Mencius can be confirmed by considering whether Mencius regarded the people as a party to the trust.

B. Heaven and the People in the Trust Scheme of Mencius

Now let us examine whether Mencius admitted the people's right to rebellion within a logical relationship. In this section, we look into whether the people can be recognized as trustors in Mencius' political thoughts. We will then further review the phrases that have been interpreted as the Mencius' support for the people's right to revolt, along with related prior studies.

⁶ Furthermore, Joseph Chan points out that in an owner-property relationship, property is for the owner, not the owner for the property. However, this does not mean a trustee does not enjoy any benefits, accepting Chan's service conception does not mean that the ruler only serves for the material/moral welfare of the people without any benefits that he can appreciate.

As in the interesting conversation cited in the preceding section, to whom should the monarch be accountable if he fails to fulfill his duties as a monarch? If you do not take good care of your friend's wife and children, you will be no longer making a relationship with your friend. If you do not feed other people's livestock properly, you will have to give them back to the owner (1B.6; 2B.4). If the people suffer from famine and the country is not well ruled, who should the monarch return the world to? When Lee Seung-Hwan claims that Mencius' ideas had the concept of rights even though he did not explicitly use the term "rights," he seems to have misunderstood the role of the people (1992, 247). In the case of livestock, Lee Seung-Hwan explains that the original owner of livestock has the right to receive the livestock back when the livestock is not properly cared for, and that the trustee has the duty to return the livestock after feeding the livestock well. But in the case of the wife and children, he explains that the wife and the children have "rights to be well taken care of." Due to this misunderstanding, Lee Seung-Hwan draws a rather strange conclusion. He claims that since the wife and children have the right to be well cared for, if the trustee fails to provide such care, they can claim to be taken care of, or even can free the maleficent trustee from the "duty to take good care of" them by taking care of themselves. Through these steps, Lee Seung-Hwan concludes that the government has an absolute obligation to improve the welfare of the people and keep the country stable, and if not, the people have the right to revolt (1992, 246-248).

Looking back at the structure of the trust at this point, it is clear what misunderstanding has occurred. In the case of Locke, it is the people who entrust political power to the legislature or the monarch⁷

⁷ Locke considered the legislative power to be the most important part of political powers. Thus, he classified several forms of government such as monarchy, democracy, and oligarchy by looking at in whose hands the legislative power is laid (§132). On the other hand, since the only available form of government for Mencius is monarchy, it seems permissible to ignore Locke's distinction between the legislative and the monarch here. In addition to this, Locke himself actually often weakened the distinction among political powers by saying "the Supreme [power]" in "a very tolerable sense" (§151) or "whether the Prince or Legislative" (§240).

in a trust contract. The people as a trustor play various roles and have rights-obligations relationship with the monarch. Locke's monarch is accountable to the people, who are the original owners of political power, because only the people have the power to dismiss their trustee (§240; §242). Although Mencius thought that the monarch who violates the trust is not a monarch (1B.8) the same as Locke did, he did not regard the people in the same way as Locke did at this point. In the parable of the *Mencius*, the people's role is similar to livestock's or a wife and her children's, not to the role of the friend who went to Chu or of the livestock owner. Is not it a bit strange to say that "Livestock have the right to revolt against the shepherd" because they starve?⁸ It is Heaven who holds the opposite part of the monarch in this right-duty relationship. In the first place, the subject who gave the people and made the monarch is Heaven (1B.3). It was Heaven that gave the monarch the world. and it is Heaven that decides whether to give the world to a wise man or to his son (5A.5-6).

However, when it comes to judging whether the trustee is acting in accord with the trust, Mencius left some room for ambiguous interpretation. While explaining that Heaven only sees and hears through the people, Mencius declared that "So Heaven and the people had given [the world to the son of heaven of Yao, Shun, and Yu]" (5A.5).⁹ Moreover, Mencius repeatedly emphasized the importance of the people. For King Xuan of Qi, who conquered the state of Yan, Mencius recommended that he should carefully hear whether the people are willing to take Yan or not (1B.10). Since the people are more precious than the dynasty and the monarch, only when obtained from the people does he becomes the son of heaven (7B.14). In other

⁸ Interestingly, Hart uses the same example to explain who has a right and who has a duty. If X promises to serve Y's mother in the absence of Y, X is obliged to serve Y's mother. At this time, Y's mother benefits from the fulfillment of X's duty, but X's duty belongs to Y, not to Y's mother. Therefore, Y's mother does not have the "right to be taken care of." Furthermore, only Y can exempt X from this duty. Here, the Hart says that "taking advantage" and "having the rights" should not be confused. (Hart 1955, 180).

⁹ Of course, in this passage Mencius added a prior condition that Heaven ordained all that became of Yao, Shun, and Yu, and that happened to the sons of those emperors (5A.6).

words, even applying the concept of a trust here, if we want to decide whether Mencius approved the people's right to revolt or not, or further, whether Mencius advocated popular sovereignty or not, we have to understand how Mencius think of the relationship between Heaven and the people.

Nevertheless, it should be noted that even on these interpretations at this point, what Mencius granted to the people is hardly "a right" or "a right to revolt." Mencius never acknowledged the people's firsthand agency, which, as Tiwald pointed out, violates the third criterion for the right of rebellion (Tiwald 2008, 270-271). The most active roles that Mencius grants to the people is their ability to choose the right virtuous judge when making a lawsuit and to become the people of a country that employs the well-field system and no miscellaneous taxes (2A.5, 3A.4, 5A.5-6).¹⁰ Even in the cases of Tang 湯 and Wu 武's revolt against the tyrants Jie 桀 and Zhou 紂 and King Xuan of Qi's conquest of Yan, the role Mencius grants to the people is to say whether they support this new ruler in the making. On top of that, only when the ruling monarch is as tyrannical as Jie and Zhou, does Heaven give the challenger a chance to ask a question and allow the people to answer that question (5A.6). If the ruler commits a big fault but not as ruthless as Jie and Zhou, nobles of the same surname with the ruler should admonish him first, and yet if the ruler remains incorrigible they can dethrone him and choose another among their family members. Nobles with different surnames, also should admonish him first and, yet if he proves to be incorrigible they should not overthrow him but just leave the realm. The people are not mentioned in this political action (5B.9). The people are sometimes called at the moment of an important decision to appoint a sage or put someone to death. Mencius recommended that the king should seek the counsel of ministers, various lords and the people before he makes those decisions. However, even in this case, Mencius advises that the monarch directly examines and makes a decision after hearing the people's opinion (1B.7). The monarch considers the people's will before making a decision,

¹⁰ Yet, immigrations for economic welfares are seldom considered as political resistance.

but here the people does not play any role of directly “approving” something.¹¹

On the other hand, Youn Dae-Shik (2002; 2005) states that Mencius’ Kingly Way Politics (王道政治) impose a political duty on both the monarch and the subjects to conform to each other’s moral nature bilaterally. He claims that it makes sense to warn the monarch that “if a monarch fails to achieve moral perfection, the subjects may not obey because the failure does not conform to their nature.” Adhering to the moral nature is a rational choice that suits their interests, and if the monarch fails to achieve moral perfection, the subjects are obligated to complete the monarch morally. It is said that this duty is further developed to the logic of the revolutionary idea that subjects should become monarchs (Youn 2005, 25). However, if the replacement of the monarch is the result of conforming to the moral nature or making a rational choice, it is somewhat questionable whether this is a matter to be expressed as a “duty.” In addition, since Mencius’ main listeners are members of the ruling class, and thus it is correct to interpret Mencius’ logic as a warning to the ruling class (Pines 2009), this is only a general statement of the fact that “no regime can be maintained if it loses public confidence,” and hard to say that Mencius defended the right of rebellion.

As a more moderate argument, some studies have shown that Mencius did not acknowledge the people’s agency because he believed that the people are not yet morally mature, therefore once the people mature, Mencius would admit their agency (Tu 1993, 6; Bai 2008, 27-28; S. Kim 2015, 166-174). This argument is quite persuasive in that Mencius believed in the universality of human nature and in moral equality. Even so, the maximum implication of this argument is that “If the people were morally mature, Mencius would also have advocated suffrage,” which seems to be quite a distance from the original claim that “the people have the right to revolt.”

¹¹ Tiwald says it is appropriate to interpret this as a “market research” rather than a “voting right” (2008, 278-279). Just as the results of the market research are only considered before the executive makes a judgment.

Let's summarize the above. First of all, if a heaven-people-monarch is placed within the trust scheme, the parties to the contract of the trust are Heaven and the monarch, and the people are the objects of the contract, not the "party to any rights." Furthermore, considering the various grounds in the text of *Mencius*, Mencius did not describe the people as agents. Interpreting in a liberal way the relationship between Heaven and the people in Mencius' thought and thus concluding that Heaven is the people have some textual basis, but the opposite is true as well (Nuyen 2013). To sum up, it would be difficult to say that Mencius approved the people's right to revolt unless there is clear evidence that he believed that the people are heaven.¹²

IV. Conclusions

In the above, we used the concept of a trust to reconstruct Mencius' political ideas, and through comparison with Locke, we explained why Mencius did not recognize the people's right to revolt. Although there is a general similarity that both Mencius' and Locke's political ideas can be interpreted as a trust scheme, Mencius and Locke put the people in different places within such a scheme.

On the other hand, it should not be overlooked that there are also fundamental philosophical differences between Mencius and Locke. The characteristics of Locke's ontology is that humans' attributes such as freedom, labor, and life are regarded as transferable things, and external things such as land are regarded as inherent attributes of a human being from birth (Kim Jongchul 2016, esp. II-III). On the basis of this ontology, Locke presupposed that man is "Master

¹² Locke's case is suggestive as a reference point for comparison. Today, while interpreting Locke's political thoughts we do not take much of his religious position into account. However, to the extent that the core premise of the *Two Treaties* is that man belongs to the Creator God (Dunn 1984, 294), Locke frequently and heavily calls on God in the *Two Treaties*. Thus, the secular interpretation that Locke simply called God as a rhetorical device for popular sovereignty is a clear fallacy. The progressive interpretation of Mencius seems to be making a similar error.

of himself, and Proprietor of his own Person, and the Actions or Labor of it” (§44), and then a social contract is established when each person transfers his/her freedom to Commonwealth. In other words, a political trust contract cannot be established without Locke’s unique ontology that “thingifies” labor, freedom, or rights and makes them separable from a person and transferable to others. Of course, this ontology was not unique to Locke but was shared with British intellectuals in the late 17th century (J. Kim 2016, 33). Interestingly, this kind of ontology can also be found in Abrahamic religions. For example, Esau, Isaac’s first son, sells “his birthright” to his younger brother, Jacob.¹³ When reconstructing Mencius’ political ideas through the concept of a trust, an important question would be whether the Confucian tradition generally shares this ontology or not. We can say that Confucianism would not regard “birthright” as something transferable, if inferring from the debate on nature, benevolence, and righteousness between Mencius with Gaozi and other contemporary thinkers.¹⁴ However, at the same time, Mencius described “the world” and rulership as transferable objects like things that can “be possessed” (有) and thus “transferable” to others.

The scope of this study is limited to discuss Mencius’ view on the right of rebellion, and thanks to this limited scope, this study can avoid discussing whether Mencius treated personality, rights, freedom, labor, and actions as something transferable as Locke did, or to put another way in terms of Confucianism in general, whether Mencius viewed that the human relationship between father-son, rulers-subjects, husband-wife, old-young, and between friends are transferable.

This paper made several contributions. First, it leads to understand Mencius in terms of the concept of “rights.” Existing research interprets various phrases such as overthrowing a tyrant that are scattered throughout the *Mencius* as a specific kind of rights, “the

¹³ Genesis 25.31-34, RSV-CE. Jacob said, “First sell me your birthright.”

¹⁴ For example, in Mencius’ arguments against Gaozi’s argument that “*ren* 仁 (benevolence) is inside and *yi* 義 (righteousness) is outside,” we can get a glimpse of Mencius’s perspective on the attribute of “white” of a white horse and the attribute of being “older” to someone. (6A.4).

people's right to revolt," without any careful or thorough conceptual work. However, since Mencius himself did not use the language of "rights," any attempt to discuss Mencius in terms of the right of rebellion must be preceded by arguments that show how to cast Mencius' teachings in terms of the concept of "rights." This article claims that there is plenty of room to reconstruct Mencius' statements applying the concept of "a trust," and when this is done, it can examine, as a matter of logical conclusion rather than a matter of interpretation, whether Mencius acknowledged the people's "right" to revolt, that is, whether the people, "have the right" to require the ruler to be accountable for the political failure.

Second, it contributes to making possible to compare the theories of Mencius and other modern thinkers through a common criterion when it focuses on Mencius' view over the right of rebellion. Attempts to analyze the characteristics of Mencius' political thoughts in the Kingly Way (*wangdao*) politics or the theory of Mandate of Heaven (*tianming*) may contribute to revealing the unique aspects of Mencius thought. However, but from a comparative point of view, these attempts have a drawback of not being able to provide a common criterion that is shared by modern thinkers. The discussion of analyzing Mencius' ideas through the concept of the right to revolt provides a criterion that allows Mencius to be compared with modern thinkers.

Even though this article concludes that Mencius did not grant the people the right of rebellion, which is the people's equitable rights for Locke, this conclusion does not mean that Mencius' ideas were politically conservative. Mencius' political thought was radical enough at the time. The ultimate role of the monarch in ancient China was to make sacrificial offerings to heaven and to predict and interpret the will of heaven (Ching 1997, chap. I). Mencius taught the monarch that the proper means to grasp the will of Heaven was to observe carefully the feeling of the people. This teaching constitutes a radical argument that shook the existing notion of political legitimacy. Moreover, Mencius argued that revolutionary dynasty replacement might be legitimate from time to time. Many metaphors of the *Mencius* suggest that the status of a monarch is not a natural

nor an inviolable right. In other words, the change of a dynasty is a frequent event, and Mencius said this phenomenon can be "just."

Furthermore, throughout East Asian history, Mencius' arguments have held strong political and practical implications. Paying attention to the case of the Korean peninsula, during the dynastic change between Goryeo and Joseon and the two coup d'état events that took place during the Joseon dynasty, revolutionary scholar-officials (*Sadaebu* in Korean) repeatedly emphasized that their actions were according to "the Mandate of Heaven that revealed through the feeling of the people."

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