IS HUMAN IDENTITY AN ARTIFACT? HOW SOME CONCEPTIONS OF THE ASIAN AND WESTERN SELF FARE DURING TECHNOLOGICAL AND LEGAL DEVELOPMENT

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I. INTRODUCTION

In considering the theme, "Technology and the Human Future," it might be interesting to examine what we mean by the human part of the future that we share with technology. Such an inquiry does not imply that the human dimension is separate from or in some significant sense in opposition to technology; rather, its aim is to ask about the nature of human identity and how it fares during technological and legal development.

I insert legal development into the equation, since law, as an institution, is itself a positive *techne* whose artifacts promote and curtail certain behaviors in the same way machines do. Copyrights, for instance, largely a late nineteenth-century and early twentieth-century legal invention, protect intellectual property—more so in highly industrial countries that have vested economic interests in such protection, and less so in developing economies where the idea of private property is less fully established. The concept of intellectual property, and the instruments that support it, such as copyrights and trademarks, propels market economies which embody the process of modernization in much the same manner that technology does.

There is a second way in which legal development is analogous to technology development. Inventors and developers of technology often entertain radically incompatible conceptions of nature. So, too, laws and legal instruments are crafted by persons whose visions of natural law may differ dramatically. In short, legal development, along with technology development, assists, for better or worse, the process of modernization through rules to which persons are subject, and it seems to do so, at least at some level, irrespective of an explicit

conception of human nature or identity.

It is an assumption of this paper that the way we conceive of persons and of human identity shapes the intellectual framework in which we not only produce machines but also craft rules, and thereby, invent the human future.

What of human identity? If it is an artifact, and thereby in some sense artificial, in what sense do we identify the self as human and part of nature? If it is an artifact, then is the self merely a product of our own reflective creation, of technological advance, of history, or a by-product of the latest cultural trends? On the other hand, if the self is not an artifact, are we committed to positing an underlying ontology of self which much contemporary philosophy is loathe to defend? Perhaps the self cannot adequately be located within the realms of artifice or nature and the integrity of persons necessarily defies and eludes these categories? Finally, is the natural or created self primarily a separate and atomistic entity, or is its history and community constitutive of the self's identity?

To be sure, there is a sense in which all *thought* is a kind of artifact, or a product of history, a *Wirkungsgeschichtliches Bewußtsein*, in the words of Hans-Georg Gadamer (1989). Insofar as our conception of the self is central to the way we think and act in the world, it is central also in shaping the terms of political discourse, of technological advance, and of legal development. What we think of individuals and how we conceive of the integrity of persons implicitly or explicitly determines how we think we ought to go about building nations, economies, and legal systems, and how we in fact operate in our own and other cultures.

Given that the late twentieth century has been vociferously anticipating the twenty-first century as the first truly global century, it is important to understand how non-western conceptions of the self differ from the prevailing, though often not explicit, conceptions of the self which underlie western technology and western law.   While Asia does not, by any means, make up the balance of the rest of the world, Asia does have traditions of thinking of the self that can fruitfully be compared with our own.

Since over 3 billion people live in Asia in vastly differing political, cultural, and economic systems, Asia is not a homogeneous region with a

monolithic conception of human identity. In this paper, I consider some prevailing conceptions of the self in the industrialized west and in Japan through a selection of philosophical, historical, legal, and cultural studies.

It is a common assumption that the highly individualistic self that predominates in the most technologically advanced regions of the west is either a necessary condition for, or a necessary by-product of, living in a highly technological country. For this reason, it is instructive to look at the Japanese conception of the self, since Japan is at once highly technological and self-consciously traditional. Japan's example suggests (though it does not prove) that a culture that is not by tradition highly individualistic can, nonetheless, become technologically advanced without transforming itself into a nation of highly individualistic people. Comparing the United States and Japan helps to illustrate the extremes of individualism and communitarianism among the major modern industrial societies (see Parker, 1996). This observation leads to questions about convergence and the global community: If, as many suggest, there is an inevitable technological convergence of all systems toward the western market economy and western rule of law, does convergence imply the inevitable rationalization or homogenization of human identity?

II. CONCEPTIONS OF THE SELF

There are, roughly, two main perspectives about the self in current western philosophical literature: individualism, based on the liberal-rights-based conception of the self, and communitarianism, based on the conservative conception of the self in society. In his book *Liberalism and Its Critics* (1984), Michael Sandel discusses the liberal claims for justice and individual rights, and the communitarian challenges to those claims. Sandel's analysis points to the incompatible conceptions of personhood on which the broadly conceived claims rely in the west. The ensuing debate between liberal and conservative ethical theorists can also be shown to highlight some of the ways in which stereotypes underly certain claims regarding the differences between the Asian and the western conceptions of the self. Communitarian views of the self, it turns out, are not exclusively the province of Asian thought. But, more importantly, the debate illustrates what is at stake for human identity in the course of technological and legal development.

Classical liberalism, at least as it was construed in strictly utilitarian terms, has been forced onto the defensive since many classical liberals accepted the argument that public policy based on the principle of "the greatest good for the greatest number of people" was a just basis on which to make policy. Given its commitment to egalitarianism, classical liberalism, in short, failed to take account of important differences of worth among individuals. Contemporary liberals, by contrast, argue for the recognition of difference in worth and merit among individuals, since they recognize that political power wielded in the name of the classical utilitarian maxim can easily turn into a totalitarian failure to respect individuals rights.

Following Kant's criticisms of the relativism inherent in appeals to empirical concepts of happiness and utility, modern individualists (Rawls and Dworkin) argue that individual rights, on which western legal systems rest, must be regarded as fundamental. Each person's dignity requires that s/he be treated as an individual, not as a person fulfilling a role in a greater societal scheme.

As Rawls has stated, classical "utilitarianism does not take seriously the distinction between persons"; instead it conflates "all persons of a society as if all were one" (1971). Rather than follow the conservative line of reasoning interpreting individual rights in terms of a predetermined good, contemporary liberals like Rawls argue that the individual is pre-eminent: "Each individual has an inviolability . . . which even the welfare of everyone else cannot override. . . . Justice denies that the loss of freedom for some is made right by a greater good shared by others . . . the rights secured by justice are not subject to political bargaining or to the calculus of social interests."

Contemporary liberals thus seize upon Kant's distinction between a right and the good in order to secure a pre-eminent place for individual rights. According to their view, rights have priority over the good, and conversely, the good is inconceivable without first administering to the particular interests and integrity of individuals. The conception of human identity in this view is that persons' dignity is inseparable from their individuality and separateness from others and from the society in which they live. The self involved in this conception is a free moral agent, and a person's individuality is prior to his or her ends, or *telos.*

While it is the proper function of the state to regulate and protect individual rights, the contemporary liberal conception of the self requires that the state remain neutral with respect to an idealized conception of the good. Otherwise, individual rights are in jeopardy, much as they were with the classical utilitarian view, since any particular vision of a particular type of end, such as "the good of the economy" or "the good of all educated persons," would dominate, and thereby fail to respect the rights of some individuals not predisposed to share, or in a position to share, in that end.

The conservative or communitarian challenge (represented by the work of MacIntyre, Taylor, Oakeshott, and Sandel) to the liberal view expressed above is based upon a different conception of the self, one that grounds human identity in the community. The communitarian view, accordingly, is based upon a conception of the good which emphasizes public life. Because in this view the good is prior to the self, some ways of living are deemed more worthy than others. Communitarians hold that it is in principle impossible for an individual self to be independent or detached. Nor, they hold, can the self be appreciated or even fully understood apart from the ends which define it and which define its role in society.

In his book, *After Virtue* (1984), Alasdair MacIntyre argues for a narrative conception of the self, since humans in his view are essentially story-telling animals. MacIntyre opposes the view espoused by the empiricists whose conception of the self is based on psychological continuities and discontinuities. The concept of narrative presupposes the intelligibility of personal identity, because the unity of any individual life consists in the unity of its narrative: "I am what I may justifiably be taken by others to be in the course of living out a story that runs from my birth to my death; I am the *subject* of a history that is my own and no one else's, that has its own peculiar meaning" (MacIntyre, 1984, p. 221). Since the detached self of modern individualism has no story, it consequently has no identity or morality. My identity is always "embedded in the story of those communities from which I derive my identity."

Charles Taylor tries to reconcile liberalism with comunitarianism by utilizing Hegel's arguments against Kantian liberals in advancing his own thesis. Taylor agrees with the communitarian refusal to give rights priority over the good. "To be a person or a self in the ordinary meaning, is to exist in a space

defined by distinctions of worth. . . . a self is a being for whom certain questions of categoric value have arisen, and received at least partial answers" (Taylor, 1985, introduction). Taylor (1989, p. 52) adopts MacIntyre's idea of narrative as constitutive of human identity, but argues that selves are necessarily oriented to the good. In addition, Taylor argues that while human agency in part defines the modern self, it is not the agency of a disengaged self that is independent of society. Rather, the development of modern culture demonstrates that the community "is not simply an aggregation of individuals. . . .[but is] also constitutive of the individual, in the sense that the self-interpretations which define him are drawn from the interchange which the community carries on" (1985, p. 8). Taylor (1975) adopts Hegel's doctrine of morality according to which morality reaches its completion only within a community. This "requires that man be a part of a larger life in a society."

Foucault's picture of the self is of an individual who is essentially wrought from relations of power. Self knowledge is knowing the ways that power manipulates knowledge for veiled ends. All practices, institutions, and theories are propped up, in their origins, by underlying implicit knowledge which is being implemented by the practice or institution in question. In his book *Technologies of the Self* (1988), he assesses the attention the Greeks paid to the dictum "to take care of yourself" which he points out was originally as important as the better-known dictum "know thyself." One reason Foucault gives for our cultural abandonment of "taking care of oneself" has to do with the inheritance of the "secular tradition which respects external law as the basis for morality" and asks "how then can respect for the self be the basis for morality?"(p. 22). Self-cultivation is another way to describe Foucault's technologies of the self, and he delves into an examination of Christian rituals of penance as a technology of rooting out the evil intentions of the self. Technologies of the self are governed by power relations, in terms of which the self struggles to define and shape its identity.

Watsuji Tetsuro (1889-1960), an early twentieth-century Japanese philosopher who studied briefly in Germany with Husserl and Heidegger, developed a reputation in Japan as an ethicist and cultural historian. Watsuji is known for his attempt to express Japanese ethics in western categories, much as Nishida had attempted to do for Japanese metaphysics. In Watsuji's book, *The History of Japanese Ethical Thought* (1952; see Piovesana, 1969), he castigated

western individualism as the consequence of bourgeois egoism and described Japanese morality as essentially communitarian. He interpreted *rin,* the first character of ethics (*rinri*), as meaning a communitarian relation with others, *nakama.* Ethics was essentially the relational connections (*aidagara*) of a person to his in-group, viz., his family, clan, society and state. Morality consisted in denial of the individual. In fact, the individual was thought to be realized only through the Buddhistic negation of the self. Watsuji's communitarian position, however, devolved into the idea that once the self is denied, fulfillment comes with identification with the State. Thus, one of the sharpest criticisms of the communitarian position is that the idea of the "good" can be manipulated by the State for its own purposes, as Foucault points out.

According to Watsuji's analysis, Japanese society has traditionally cultivated the self to be a "situated self," to use MacIntyre's phrase—situated within the group in which the self plays a role. While the popular press suggests that the average Japanese person is highly motivated towards achievement, it is a motivation based not on training for independent success, but for fulfilling a role in order to uphold and sustain the interdependence of the group (Smith, 1983, p. 71). The Japanese denial of individuality is further suggested by the fact that the Japanese infrequently use a personal pronoun to refer to themselves, and use only terms that indicate the given relationship between the self and the other (Takie, 1992, p. 111). In traditional Japanese culture, it is improper to use a syntactical equivalent for the self, or the personal pronoun "I" which would refer to a personal and individual self. The Japanese self is, according to most assessments, a highly interactional self, one that, in its broadest outlines, is not at all at odds with the communitarian views expressed by MacIntyre or Taylor.

Even Japanese heads of prominent companies, as Yamazaki (1994, p. 70) has pointed out, shun individualistic behavior. CEO behavior, Japanese style, in the majority of large corporations, upholds the principle of achieving consensus through circulating a proposal for all concerned to sign; and also through *nemawashi,* behind the scenes negotiation.

More than one able social and cultural critic has argued against stereotyping differences between Asians and westerners. Recently, in an article published in the Japanese journal, *Chuokoron,* Akio Kawato (1995) the Japanese Consul General in Boston, objected to stereotyping "Asians as group oriented and

westerners as individualistic," because it lacks historical and geographic perspective. However, while Japanese society is certainly becoming more heterogeneous, it is still reasonably homogeneous and arguably still a society in which one's social role is more fundamental to self identity than any other factor.

Kenjo Hamano, professor of philosophy at Nagano Institute of Technology, recently told me (in a private conversation) that technology and the pressure of competitiveness in Japan in particular have forced people to conform and thereby relinquish their uniqueness, in contrast with the notion of competitiveness in the United States, which suggests individual achievement. Further, Hamano added, the invasiveness of modern technology and culture makes an inner self barely possible. Telephones, TV, e-mail, and associated interruptions pre-empt people from having a self of any significance. Sylvia Brown Hamano, professor of law at Ryukoku University, indicated that the pocket telephones (pokketto-beru/pocket-bells) are used so frequently in public, by Japanese teenagers especially, that the *pocket-beru* is becoming a national nuisance. So much so that the Japanese Rail System is experimenting with the possibility of applying a special coating to the windows of the trains to prevent transmission of phone calls. It is the fact that the pocket telephones ring in public and call attention to their owners that violates the traditional societal norm of blending into the group. It is egoistic, and therefore morally wrong for people to stand out and demonstrate their individuality. Portable telephone technology has become a convenient vehicle for teenagers to counter traditional pressures to be discreet and avoid calling attention to themselves as individuals.

Richard Parker also argues for the traditional stereotype of Japanese non-individuality in his article, "Law, Language, and the Individual in Japan and the United States" (1996). He recounts a discussion he had, in his classroom of Japanese law students, about a Japanese woman in California who attempted to commit suicide while bringing her two children with her into the ocean. The three were dragged from the water, but the woman's children were drowned and she was not. Parker argued, from an American perspective that the woman was morally irresponsible for failing to distinguish her interests from those of her children. However, as Parker recounts, his Japanese students defended the woman according to the Japanese principle of *isshin dootai*, or "one heart," insisting it was to her credit that her attachment to her children was so strong that she could not imagine them living without her. The students found the woman's action

unfortunate, but they defended her on moral grounds, precisely because the mother was performing her proper social role in identifying her life with her children's.

Another example of the Japanese conception of the self as inextricably tied to the self's connection or relation to others can be found in the disparity between a law and the practices that are associated with its execution. The Japanese Equal Employment Opportunity Act, implemented in 1985, ostensibly guarantees that all persons, women as well as men, have the right to equal access to equal employment practices. However, the procedures that a person must follow in order to obtain fairness prevent them from acting independently from their employers or the Labor Ministry with whom they are in disagreement. The plaintiff "must obtain the consent of the employer and the approval of a Labor Ministry official" in order to apply for permission to obtain a mediation (Miyazawa, 1995, p. 54). Not surprisingly, of 11 applications filed in 1995, two were rejected by the companies in which the women worked and 8 were rejected by the ministry.

In Japan, as in the industrialized west, some selves clearly count more than others. When the influence of global markets or global consumerism suggests that individuals who traditionally do not count should count, new selves gradually begin to assert themselves. At the same time, established, already empowered individuals inevitably claim that their culture is being invaded by unfriendly foreign influences.

III. CONCLUSION

While it is generally assumed that western individualism underlies modern technology and competitive market economies, the prevailing communitarian ideal of the self in Japan suggests that individualism is neither a cause of nor a necessary condition for economic expansion. If this is the case, then it is a mistake to promote individualism as a means of achieving technological or economic development, as Kawato (1995) has argued.

There may be other reasons, however, to pursue more individualistic conceptions of the self, reasons related to fairness, equity, or self-expression, but

they are not considered in this paper. Even in predominantly communitarian cultures, there are always individuals who count more than others.

While cultural orientations differ, cultures do not provide unambiguous answers to philosophical questions. Indeed, it may be that culture has nothing to do with the way selves are created or identified. J. Mark Ramseyer has forcefully argued for this point (see Ramseyer and Rosenbluth, 1993). According to him, it is a mistake to invoke the peculiarities of culture to explain the behavior of its individual people.   Emphasizing the circularity of the use of culture as a device for explaining human behavior, he recalls Clifford Geertz's observation that it is a mistake to interpret the way a group of human beings behaves as an expression of their culture while defining the culture as the way in which they behave. Ramseyer's preferred instrument for explanation is a rational-choice model, according to which individuals behave in ways not peculiar to any society, but rather according to incentives which have to be structured within the political or economic system, regardless of the underlying culture.

Whether all economic and technological systems will eventually converge, given the incentives, is still not clear. If we assume convergence is likely, then what of human identity? If human identity is structured by technological convergence, what about the role of human agency in creating, fashioning, and shaping one's own identity?

My answer to the first question posed in my title is, obviously, "yes"— human identity *is* an artifact. But in two senses: first, human agency creates, constructs, and fashions itself, to some extent; second, human identity is also to some degree the product of the technological, economic, and legal systems which create the conditions out of which particular identities are wrought and according to which they work.

As for the second question posed in the title of my paper: how does the self fare during technological and legal development? My answer is: "with difficulty." In part, because there continues to be a "self fashioning," in the words of Stephen Greenblatt (1980), a continual effort to re-invent, to situate and to assert ourselves both because of and despite pressures caused by the twenty-first century. But self-fashioning is full of ironies. In the western industrialized cultures which glorify rugged individualism, detached and unsituated individuals

do indeed thrive, but these individuals are also in part determined and shaped by the very systems which laud their individuality.

One can look upon the debates between proponents of individualism and communitarianism as a struggle between competing artifacts (artifacts taken broadly to mean competing explanations or devices for seeing ourselves) to gain predominance. Whether it is better, in an ethical sense, or more useful, in a practical sense, to see our selves as separated individuals rather than as connected selves depends somewhat upon where we find ourselves situated in the first place. Powerful individual persons in communitarian cultures will argue that communitarian values are more truly human; whereas individuals submerged in low status positions in communitarian cultures look toward individualistic cultures with hope of liberation. Likewise, powerful individuals in individualistic cultures praise individual striving and achievement, whereas individuals submerged in low status positions look toward kinder, gentler, communitarian values to help them survive.

To say that human identity is an artifact is not to diminish its significance. Artifacts, being artifacts, are useful in getting us to the next stage. Even if cultural convergence means a subversion of the self, then a new self will likely adapt and construct a new identity.

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