



Rethinking Justice: Towards an East -West Approach in Understanding Filial Piety
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I. Introduction

In recent years, some critics in Chinese intellectual community have launched fierce attacks on classic Confucianism based on the three narratives they uncovered from the Analects and Mencius. [1]At present the fire of that debate is still raging on, even gaining its momentum and flame by moving the arena of debate from China to America. In a certain sense, this debate is the continuation of that debate during May Fourth Movement, between those radicals who insisted “wholesale Westernization” and those moderates who demanded that we should have a sympathetic understanding towards the traditional China.

The basic views of the antagonists reiterated in their series of writings are that, Confucianism is the source and hotbed for modern corruption, which should be blamed for lack of rule of law and democracy in modern China; They consider that Confucian tenet, “love with differentiation” 愛有差等, in particular, is “the most preposterous and darkest idea” of all, and purport that filial piety and blood relation are the fundamental foundation for all moral behavior; And because Confucianism endows consanguinity with supremacy, thus it leads its ethics bogging down to an inexplicable paradox. Therefore Confucian ethics possesses no universal value, which, in their opinion, should not only be relegated to the dust of history, but also should be held accountable for the corruptions, bureaucratic impotency and other social evils in today’ s China.

The protagonists responded tit for tat that tradition is not a worn jacket that we can throw away at will, that we should tackle classics from different angles, historical, philosophical ,ethical, religious, sociological, legal and anthropological perspectives in order to better understand Confucianism and its true spirit, not its letter, that the establishment of democracy and sound legal system in China is not totally incompatible with Confucian ideas, that the misunderstandings and distortions imposed upon Confucianism should be clarified in order to guarantee authentic scholarships and seeking truth from facts, so that we can really come up to the challenges and social tensions in modern Chinese society. The question that in reading classics such as the Analects or Mencius, should we adopt a method of “commenting on six classics” 六經注我, or “the six classics commenting on me” 我注六經?[2] The former yields inventive imaginative results or even unfaithful hallucinations , and a kind of creative misreading, while the la

tter generates a loyal commentary and criticism.

II. Individual as Roles and Focus on Family Values

First of all, it is my conviction that it is imperative for us to clarify the Chinese as an individual and his relationship with the society before we can proceed. We must recognize that ancient Chinese society was based on enfeoffment and feudal system, the former embodying geographical region while the latter focusing on blood relation. The rule of enfeoffment carried out according to the intimacy of the relationship, which emphasizes rites or ceremony, is typical of ritual culture as Chinese. Under the feudal system, enfeoffment was the deed by which a person was given land in exchange for a pledge of service between blood relations united by ties of consanguinity. [3] This mechanism was later used to avoid restrictions on the passage of title in land by a system in which a landowner would give land to one person for the use of another. Such a blood bond naturally forms solidarity, through which the collective conscience of the group is expressed in its tradition. Just as Emile Durkheim wrote: "What brings men together are mechanical causes and impulsive forces, such as affinity of blood, attachment to the same soil, ancestral worship, community of habits, etc. It is only when the group has been formed on these bases that cooperation is organized here." (1964:278) For anthropologists, this primordial ethnic attachment is a matter of being, doing and knowing. As phenomena of being, blood relation has always been experienced as a kinship phenomenon, a continuity with the self and within those who share an intergenerational link to common ancestors as being bone of their bone, flesh of their flesh and blood of their blood.

Therefore, the Chinese rites act the functions of regulating social relations, ceremony, moral, custom and the combination of legal and religious entity. As a Chinese, as soon as he is born, he is situated in close ties with others, especially with his relatives. Confucian obligations in traditional China were mutual only in the sense that they were relational. Thus, Confucius says: "Let the prince be prince, the minister a minister, the father a father and the son a son." (12:11) by which he means, that each is inter-dependent and each should fulfill his obligation and responsibility. The Confucian doctrine of the Five Relations (Wu Lun) involves rulers and ministers, fathers and sons, husbands and wives, elder and younger, and the friends. The Three Bonds (San Gang)[4] governs the conduct of ministers, sons and wives. According to Confucians, these five relations are determined by human nature. The modern Chinese philosopher He Lin provided "a two-tier account of the logic that inevitably leads from the Five Relations to the Three Bonds. The central idea at the first tier is that the Five Relations are reciprocal and hence conditional, whereas the Three Bonds, a natural extension of the first tier, characterized by rites or Li, impose moral duties that are unilateral and hence unconditional or absolute (Cheng and Bunnin eds., 2002: 203). In the Three Bonds, the ruler is regarded as the standard (Gang) of the min

ister. Likewise, the other relations follow suit.

Undoubtedly, the five relations are salutary to social stability for it falls in to a pattern of harmonious reciprocal relation; if the father is kind, the son filial, elder brotherly and younger polite. On the contrary, if such relationship is undermined, ministers will murder rulers, the subordinates will scorn on the superior, sons will act unfilially, and wives will not discharge their wifely duties. Especially during Confucius time (Spring and Autumn period 722-481B.C.E., Warring States period 403-222B.C.E), there were ample evidences of parricides, which ended in chaos, uprising, usurpation and turmoil. It is faced up with this grim situation that Confucius set great store in restoring the lost rites of Zhou Dynasty(1120 B.C.E.-700 B.C.E.) by emphasizing ethical and family relations.

Among the conversations collected in the Analects center on practicalities of interpersonal relationships and personal cultivation as a gentleman, superior man or "Junzi". As a moral role model, the superior man must have virtue (De) which incarnated in filial devotion, benevolence and ritual decorum so that Junzi 君子 in dealing his relationship with people is like a fish in its element. Inasmuch as he shows concern for human inter-relatedness he will understand that filial devotion practiced within one's family has a great bearing on the family, and so society and even far beyond that sphere. Benevolence, the fundamental root of the three central values of Confucianism, in turn is closely bound up with reciprocity or social etiquettes. In feudal times, as family is the basic unit of the society to implement the practices. Therefore, Confucian ethics places paramount importance on family. Mr. LIANG Shuming succinctly points out: "As soon as one is born, one is positioned in relations to others, such as parents, brothers and sisters. A person's life will always spend among the people in relation to others (he cannot live apart from the society). [5] Therefore, we know that a person actually lives among his relations with others. Such relationships are what we call ethical. The (Chinese) word 'ethical' (Lun) just refers to peer or partner, which further relates to interactions between people. In this process a relation is established. Family relation such as father and son is the natural basic embodiment of that relation; thus, (Chinese)ethics puts priority on family." (Liang, 1987: 79)

It is a truth that is acknowledged, family is a social cell where one begins one's life and his destiny. Affection between family members is a sailboat where one sets out his journey to society. Family is the foundation on which the Chinese establish their ethics and morality. Everybody is born of parents and the natural flow of feelings between father and son, protecting each other is the most natural thing. Cheng Chuangying notes, "a person does not do for others by abstract considerations, but from the feeling of a concrete 'relationship of assigned position in social intercourse' " (Cheng 57-58) This attachment to the nearest kin is a natural, psychological or biological development of human beings. Para

lled with this dependence on sanguine relationship, a prior priority of being good has simultaneously been implanted in the human heart-mind. This is what Mencius called “heart of four beginnings四端之心” [6] (“The mind’s feeling of pity and compassion is the beginning of benevolence; the mind’s feeling of shame and aversion is the beginning of righteousness; the mind’s feeling of modesty and compliance is the beginning of propriety; and the mind’s sense of right and wrong is the beginning of wisdom.”) (Mencius, 2A:6). When we saw a child falling into a well, our compassionate heart naturally went out to him and tried to save him. This is based on a common recognition of humanity, not for winning praise from others or currying favor with his parents or for certain profits. In addition, the studies by sociologists and anthropologists also demonstrate that family for human beings is eternal. The genealogy of a family is succeeded through its offspring and marriage. It is an illusion to take an “absolute free individual” out of a family.

Compared with China, in the liberal tradition of the West, the individual is comparatively free with space for his own behavior, so long as he does not interfere with the freedom of the others. The relation between the individual, in such a case, is connected through external force such as legal or religious powers. That is reason why it is hard for the Chinese to understand that the law can deprive the parents of their custody and visitation rights if they did something wrong against their children such as abusing or giving them a good spanking. This may be partly attributed to the dichotomy between mind and body, separation between self and other, subject and object. From ancient Greek times, there is clear demarcation between one’s right and duty, between inside and outside. Contrasted with Chinese homogeneous culture, the heterogeneity as well as separation is just an indispensable element of the Greek spirit. Obviously, this mental division has a lot of advantages over other thinking models, one being that the West could generate science and democracy, while one of the disadvantages is that this split of things may cause many people to suffer from multiple personality disorders.

In the West, while the family relationship is disentangled, the individual is more or less intact (in spite of the escalation of divorce rate, people are still much happier than they were), because the individual is independent free from other bonds (no trammel by Three Bonds三綱), with his free will of choice. However, Confucian relationships are internal and inherent; the self is merely a screw in big machinery, which can be characterized by selfless or invisible self. [7] Just like two circles overlapping each other, the self and family in Confucian tradition manifests close interrelatedness. When the relation is untied, the result would be disastrous for each family member. From either epistemological or axiological point of view, the individual in the West is based on each individual as a person who knows his right and duty, as he regards himself as the measure of all things. According to the antagonists view, the existence of free individuals

ould not base on his relation with others. As a son, he has the free will, so he is entitled to do what the moral imperative requires him to do (to charge his father for instance). But in a duty-bound rather than right and duty bound society, this kind of moral order is doomed to fail. In Chinese tradition, we only admit that all men are free moral agents (boundless potentials for personal cultivation) as long as they concentrate on cultivation of the mind, or on their true nature endowed by Mandate of Heaven. People, in accordance with Confucian doctrine are free, or have the potentials, to become the worthies or sages with their own efforts; that is, they are morally perfectible through education and cultivation. We can only say, in this sense they are free. No doubt, early Confucian thought marked by such a notion of moral freedom, so sanguine and thorough going, that it would startle even its rival counterparts the Greeks. Otherwise, a Chinese individual is tightly united with the totality of family.

However, on the one hand, we must ask the question: is there a universal compulsory rule or "categorical imperative" as Immanuel Kant (1724--1804) articulated in his *Practical Reason*. Kant started out by stipulating the moral law of duty and asking what it is that distinguishes a moral action from a non-moral one. According to Kant, a moral action is one which is done from a sense of duty, rather than following inclinations, desires or doing what we want. [8] In this duty versus inclination conflict, it usually involves an internal struggle between what our duty is and what we would really like to do. While it is true that we acknowledge morality is not about doing what comes naturally, but resisting what comes naturally, and ordinary people are right to believe that morality is essentially about sticking to a set of compulsory rules. Hence, there is only one categorical imperative and it is: "Act only according to that maxim whereby you can at the same time will that it should become a universal law" (Kant, 1991:30), focusing on the universality of the objective principle under any circumstances. This is on one of the grounds that the opponents of filial piety insisted that the son should indict the father in the Sheep Case. Moreover, we must see to it that in choosing duties, not consequences, Kant's system seems to be too rigid, inflexible and monolithic, because it does not admit exceptions.

However, ethical issues often seem more complicated than they appear to be. In certain situations, it is simply impossible to keep your promise, and tell the truth (for example if you know that your good friend is having an affair with somebody else, it is miserable for you to decide to lie or not to lie to his wife). In addition, given that Kant emphasizes that we shall always treat people as an end and never as means, we must be aware that as rational beings as we are, ethical choices are not "necessarily" internal or logical like simple mathematical equation. Another example is the case concerning physician-assisted suicide. Since an individual has a right and free will to choose when he or she knows that he or she is mortally ill and want to end his or her life. But according to Kant, committing suicide is illogical, thus immoral. [9] We should be aware that there are

e wide varieties of ethical beliefs and practices in different cultures. Differences in moral belief not only exist between different countries, clans and tribes, but also exist between different subcultures within a society, or between different classes. For example, on the issue of abortion, there are many different sets of moral beliefs held by feminists and religious sects or partisan affiliations. For some, it's a woman's right to choose; for others, it's murder. Even a judge in the Supreme Court would find this is really a thorny issue to decide. Open-minded liberals would quarrel with conservatives for the acknowledgment of that right at all costs. Recently Judge Samuel Alito's appointment as a nominee associate chief justice of the Supreme Court is a case in point. The strongly conflicting views of pro-choice or pro-life by the Democrats and Republicans pertinently reflect the moral faiths of the liberal and conservative trends in the United States. At the congressional testimony for his confirmation hearing, when faced with such a crucial issue, even as astute and "exceptionally qualified" a judge as Alito could not supply the Democratic Senators with a satisfactory answer, given all his superbly immaculate legal expertise. What the nation's 110th justice has to do is to beat about the bushes when facing demanding inquiry. [10] Needless to say, such an ethical issue is not subject to any absolute certainty.

What the antagonists try to seek is a universal standard of ethics that can be applicable to modern Chinese society. The danger with the ethical absolutists is that they are trying to legitimize one powerful culture, imposing this so-called moral truth on all the others. In a pluralistic society that celebrates differences, this attempt seems to be futile and invalid. In the eyes of those people who claim absolute right, absolute duty and absolute dignity, there is only one kind of universalism that transcends specific values, turning a blind eye to the appeal for tolerance of divergent ethical, cultural differences and distinctive moral values. Confronting this dogmatism, we might as well ask: in contemporary society that also encourages multiculturalism, must we follow only one universalistic moral standard?

How can the categorical imperative issue such a paradoxical command? If you follow it, in either case you will be in a Catch 22 situation described by Joseph Heller. Here lies the intricacy of an ethical problem. Furthermore, we may discuss in a little detail, what constitutes the definition of duty, and the duty of a filial son, just as Socrates differentiated the definition of piety or holiness in Plato's Euthyphro.

Slightly different than the Sheep case is the case of Euthyphro. The uniqueness lies in that the former involves a misdemeanor rather than felony while the latter concerns with manslaughter. It is obvious that Socrates did not approve of Euthyphro's decision of accusing his own father of manslaughter, as his father had allowed one of his workers to die without proper care and attention. The work

er in a drunken manner, had killed a slave belonging to the family estate on the island of Naxos, and Euthyphro's father had let him die bound and gagged (no freedom of speech) in a ditch. Socrates expresses his astonishment at the confidence of a young man able to take his own father to court on such a serious charge. He must have a clear understanding of what piety or impiety is (holy and unholy). Since Socrates himself is facing a charge of lacking impiety (worshipping gods not approved by the state) and immorality. "Impiety, in denying the gods recognized by the State; indeed his accuser asserted (see the "Apologia") that he believes in no gods at all. Immorality, implies in being, by his doctrines and instructions, 'a corruptor of youth'. Of these charges the tribunal, there is every ground for believing honestly found him guilty, and condemned the man who probably of all then born had deserved best of mankind, to be put to death as a criminal." (Mill, 1993: 94) Of course, John Stuart Mill would find the judicial iniquity not judicious. The whole dialogue of Euthyphro revolves around the definition of piety:

First Definition: "The Pious is what I am doing."

Second Definition: "The Pious is what is dear to the gods."

Third Definition: "The Pious is what is loved by all the gods."

Fourth Definition: "The Pious is the part of justice concerned with the care of the gods".

Fifth Definition: "The Pious is the part of justice concerned with the service of the gods."

Sixth Definition: "Piety is knowledge of how to sacrifice and pray".

Seventh Definition: "Piety is what is dear to the gods." (ibid second)

[11]

Throughout the dialogue, Socrates intended to show that piety is neither a concrete justified prosecution nor his affection for the gods nor something else. It is more disturbing to Socrates, because the basic unit of Greek religion is the home and the household. The household hearth does not exist just for warmth and cooking only; it is an altar, an altar to the household gods and especially the ancestors, whose misery in the Underworld is ameliorated by offerings from the living. The father of the family is thus the family priest. Roman law gave the *pater familias* the virtual power of life and death over all members of the family. Turning against one's father is thus like turning against one's religion, and a major act of impiety. Hegel explicitly points out: "A review of the patriarchal condition, in extensor, would lead us to give special attention to the Theocratic Constitution. The head of the patriarchal clan is also its priest. If the fa

mily is not yet separated from civic society and the state, the separation of religion from it has also not yet taken place; and so much the less since the piety of the hearth is itself a profoundly subjective state of feeling.” (Hegel, 1991, 42- 43) [12]This is why the issue of the Euthyphro becomes piety

It is amazing that there existed great a similarity between Confucius and Socrates in their attitudes towards the son accusing the father. The difference lies in that while Confucius focuses on the practical side of each different situation in different contexts and offers expedient strategy for achieving harmony of the family, Socrates stresses that morality is not the sort of knowledge that you can be actually taught. The “inner eye” sees what is right and real knowledge is about essence of things, like right behavior or justice, that ultimately you have to discover for yourself, and morality isn’ t about the law, but something much more spiritual.

According to G.W. F. Hegel, morality of truth is only reached in ethical observances. The primary reality of this observance is in its turn natural—taking the form of love and feeling. This is the family. In it the individual has transcended his prudish personality, and finds himself with his consciousness in a totality. The second stage is the bond of mutual deed or civic community. The third stage is the rise of state which is the union of ethical observance, the individual independence (civic community) and the state. (Hegel, 1996:.42) [13]Although Hegel considers the world spirit as the concrete embodiment of the other stages, which I personally disagree and regard it as a kind of Euro-Centrism, he does not deny that natural love and feeling of the family is the foundation of the two, without which the latter two stages cannot continue. However, what should be noticed is that the free individual and his right or what he terms “civic community” have not , if at all, taken its substantial form in China at Confucius’ time.

At the same time, we must face the fact that some of the fundamental suppositions and rules about the free individual in the West neither ignore the affective side nor exclude the individual as a social being, regarding an individual as a lonely Robinson Crusoe on a solitary island. Liberals never deny that a human being is a social being, between sociality and individuality, necessary tensions do exist. “No person is an entirely isolate being” (Mill, 2003, 143) Even, in Western tradition, abstract ethics or morality concerning free will, actually does not exist. At most it can only be deduced from logical abstraction. Moreover, it must be pointed out that in the interactive relations, some of the roles can be optional , conditional and therefore can be traded. For example, a female can both be a mother , a daughter, a wife, a lover and professional. But his role as a daughter is not optional, therefore, unconditional. She has her choices to give up other roles, but the obligation to fulfill her duty as a filial daughter is substantiated by her commitment to her parents. In Confucianism culture, in part

icular, authentic being can only be revealed among the relations. Different roles demonstrate different duties and responsibilities they ought to shoulder. Different identities in different situations play their roles in various ceremonial rites. On this multi-functional role play, Chad Hansen has offered us some illuminating views despite his Taoist presumptions towards Confucianism: he says:

Ordinarily, ritual actors fill multiple roles, some at the same time and some at different times. I am simultaneously father and son, husband and friend, teacher and student. The roles set up reciprocal and complementary normative relationships. This conventionalist position does not rest on personhood or moral agency. Society is the sum of its roles, not the sum of its individuals. Confucius did not base his humanism on the abstract conception of the human individual engaged in choosing a morality to guide his relations with others. He roots his account of the way to act in the transmitted social practices. Our humanity consists in playing whatever role we find ourselves in. The role is a conventional one and the criterion of virtuosity in performing the role is Ren humanity. (Hansen, 1992:62)

In Chinese society, role-play and reciprocity in the family is part and parcel of a ritual society. There existed no intangible individual guided by a theoretical moral command. Social way is a composite of alternatively filling complementary roles in different contexts. A typical example is that the word Jun (ruler) can be interpreted as a cognate of the word Qun 群 (group), showing the basic notion that the ruler is constantly accompanied by his ministers, which is what preached in the Analects: "Moral force (de) never dwells in solitude; it will always bring neighbor." (4:25) Also, this is tantamount to saying that if one individual practices moral duty, other individuals will inevitably be influenced by the role he plays.

From the above discussion, we can observe that the individual in traditional Chinese culture is distinctively different from that of the West in that, the Westerners, by and large, guide their moral acts by virtue of moral compulsory rule and rational consciousness while the Chinese moral principles are established through interpersonal relations, which is the spontaneous flow of human nature and mind. The principle of "love with differentiation" endorses taking different actions in relation to the closeness of familial relations. Therefore, at the beginning, the Book of Rites says: "What is called the rite is to decide the closeness of relations, differentiate doubts, tell similarity from difference, and clarify right from wrong." "夫禮者，所以定親疏，決嫌疑，別同異，明是非也。" At this point, Hegel is certainly right in saying about the Oriental World: "In China it is the Moral which constitutes the substance of the laws, and which is embodied in external strictly determinate relations." (Hegel, 1991, 166) These external relations are represented by conventional mores rather than moral reasoning. Furthermore, moral coercion at this stage is every bit as forceful as legal rule

s. Therefore, to comply with the convention is a right consequential step to take because each individual is based his choice primarily on categorical correlations of social mores rather than a rational logical selection.

III. Extension, Allegiance and Expediency

In light of various relations among the people, Confucius stipulates different relationships. As a result, these relationships are further reinforced in practice. “The master said, a young man’s filial duty is to behave well to his parents at home and to his elders abroad, to be cautious in giving promises and punctual in keeping them, to have kindly feelings towards everyone, but seek the intimacy of the benevolent.” (1:6) “弟子入则孝，出则弟，谨而信，泛爱众，而亲仁”

(《论语·学而》) Arguably, among all the relationships, Confucius attaches great importance to filiality: “The gentleman concerns himself with the root (what is fundamental), when the root is established, the Way is born. Being filial and fraternal—is this not the root of benevolence”(Humaneness, Ren) (1:2) (“君子本立而道生，孝弟也者，其为仁之本与!” 《论语·学而》); Filial piety as the generic source of all virtue, serves as the basis of public morality, maintains the spiritual continuity and connects the creative power of heaven, earth and the human order. In teaching filial piety, the Confucians show the respect to all the fathers in the world, and in teaching brotherly affection, they show the respect to all the brothers in the world. Namely, by learning to honor the members of one’s family, one learns to extend this to all other men. Love with differentiation is, therefore, based on the love for one’s family member first and then extend it to others. [14]

For instance, the very word “Ru” or “Confucian” meaning “ritualist” indicates that he is responsible for holding ceremony for honoring the heaven, ancient ancestors and gods. Although the sacrificial rites were no longer believed, at least by educated people, they are rather a means for the living to express their love and devotion to the memory of the dead, in particular to their deceased parents. It is not the rites themselves are important, but the sincerity with which they are performed and the spirit of reverence. That’s how and where filial piety derives from.

In Book Thirteen of the Analects: “the Duke of Ye addressed Confucius saying, in my country there was a righteous man (a legendary paragon of honesty). When his father appropriated a sheep he reported the theft to authorities. The son bore witness against him. Confucius said, in my country the upright men are of quite another sort. A father will screen his son, and son his father—which incidentally does involve a sort of uprightness.” (13:18) Confucius is of the opinion that the father and son screen for each other is the spontaneous overflow of natural feelings which has not been uncontaminated by the society. Therefore, it is a kind of uprightness. The universality of filial relationship thus recognized is

the fundamental structure of hierarchical and patriarchic society and the common moral denominator among people of all classes in Pre-modern China. The mutual response also considers that the duty of a son is to remonstrate with his father to keep him from wrong. Confucius, by analogy, thinks that if a son has true compassionate heart for his father, what he should do is not to prove whether his father is guilty or not, but to keep silent about the matter. What Confucius meant to do is to prevent the family from dismantling by keeping customary bonds. From another angle, we may say that: "Confucius is not denying that the father's wrong doing should be punished. What he implies implicitly is that punishing the father by law is not the son's responsibility. The love in a family must be contained within the norms of custom and righteousness. If we urge people to disregard filial piety, it would be the greatest evil of all in Confucius' mind." (Mo u, 2002:154) Also, in *Classic of Filial Piety*, Confucius expounds the view that a proper understanding of filial piety is the key to the grasping of the foundation of all moral knowledge and action in China.

No one will disagree that a person's reliance for his family displays in his adolescence period, in which he gained the opportunity to learn the living skills in order to survive and then thrive. Even in one's adulthood, an individual is very much attached to his family in terms of physiological, cultural and psychological development. The appreciative feeling of "going back to the root and rewarding the source" (a tree has root and water source) is man's true psychological reality, which can be demonstrated through anthropological evidences. The reason why Confucianism takes filial piety as the obligation of the sons and daughters is because of their identity (which equals to right-duty, Shen Fen) as sons and daughters, which is quite different from the Western ethics we know. No wonder the values emphasizing family and filial piety is the result of the special social structure of the Chinese tradition and long term development and accumulations of its natural environment. Chinese society is characterized by agricultural economy with the integration of blood relations with family and country. This blood relationship focusing on blood ties in feudal society, takes filial piety as its the core ethical value, which pays significant attention to hierarchy and harmony, thus shaping the East Asian value system taking ethics as its central focal point, with collective value and pan-harmonized target as its goal. This Confucian collective value focusing on the harmony illustrates that, to a great extent, it is typically affective rather than its Western counterpart rational. From anthropological point of view, Clifford Geertz considered that ethnic attachment comes from the "cultural givens" of social existence: from contiguity and kinship, language, religion, race and customs. He claimed that many people's "sense of self" is closely bound up in the actualities of blood, race, language and tradition. Clifford went on to introduced a vital qualification: "By a primordial attachment is meant one that stems from the 'givens' ---or more precisely, as cultural is inevitably involved in such matters, the assumed givens" of social existence.....These congruities of blood, speech, custom, and so on, are s

een to have an ineffable, and at times, overpowering, coerciveness in and of the mselves.” (Geertz, 1973:259) It is individual members who assume that these cul tural features are givens, who attribute overwhelming importance to these ties, who feel an overriding sense of coerciveness. These factors possess a power beyo nd rational calculation and interest.

Somebody may raise the question that since filial piety is so fundamental to Con fucian ethics, then compared with benevolence, is it of paramount importance or of supreme value? Historically, this issue has been brought up time and again. S ome consider benevolence is of supremacy, while others think rite and even some regard filial piety. Contentious views abound concerning Confucian supremacy. I t is clearly that although Confucius mentioned that the gentleman “concerns him self with root” (Wu Ben), however, piety is not benevolence itself; the latter p ossesses much broader concept than piety. Statistical evidence shows that Confuc ius mentioned the word Ren (benevolence) in the Analects 109 times, Li (rite) 75 times and Xiao (piety) only 11 times. We can regard filial piety as one of the a spects or contents of benevolence, and basic value in dealing with family relati onships. But the kernel Confucian value is reflected in the highest concept bene volence, which seems to be all embracing: you can find in the Analects that a pe rson:

- v who has kind feelings towards everyone
- v who knows music and rites
- v who is devoid of vanity, resentment and covetousness
- v who delights in mountain (wise, water)
- v who loves men
- v who is wise , knowledgeable, loyal, and brave
- v who is respectful, magnanimous, faithful, diligent, and clement
- v who is chary of speech
- v who can compete with his teacher (dang ren bu rang)
- v who is willing to give his life in order to achieve benevolence
(sha shen cheng ren) and seek truth
- v who is pious or filial

Most prominent of all quotations about benevolence in the Analects is that “As

for benevolence, you want to establish yourself; then you help others to establish themselves; you want to develop yourself; then you help others to develop themselves. Being able to recognize oneself in others, one is on the way to being benevolent.” (6:28) Consequently, we can say that benevolence is the core idea (Dao) that runs through all his teachings; a benevolent person is the one who through seeking self-cultivation becomes a role model in every dimension of practical life, even in filial piety. It is not an abstract notion as the Western Goodness, for “we should find that benevolence is at our side” (si ren zhi yi). If we are willing to seek it, it will accompany us through life time. Paradoxically, Confucius refused to discuss benevolence under a single category or accord the title to any of his contemporaries. Instead he provides us with a very broad conception for benevolence. The same is true in terms of profit and fate. Although we discover that Confucius does not directly say that filial piety is one of the items of benevolence, we can discern that the words “respectful, magnanimous, faithful, diligence and clement” (gong kuan xin min hui) have such implications containing elements of benevolence. This idea is further developed by Neo Confucianism in Song-Ming School of Principle such as CHENG Yi程頤(1033-1109, the story of cheng men li xue tells his student Yang Shi`s piety for CHENG), who was very articulate and clear in his discussing about benevolence and he thinks that it is not only nature but also root among Confucian values. He unequivocally expounded that filial piety and brotherly respect as function not substance, is just the application of benevolence. As far as “filial piety and brotherly respect are the root of benevolence” in the Analects is concerned, we must be conscious that the benevolence implies the practice of benevolence. Therefore, it is indicated the practice of benevolence proceeds from filial piety which proceed from one`s family. Not that filial piety is the root of benevolence, but that the former is the function of the latter. Filial piety is, in fact, a foremost display of benevolence and should ideally be applied in one`s dealings with all elders, thus making it a general norm of inter-generational relations

IV. Harmony, Interrelatedness and Justice

Today, while emphasizing individual equality and freedom, both West and East societies are increasingly reflecting on paying the price of neglecting family and group values in the history of our civilization, deliberating on the negative consequences of post modern instrumental rationalism, which brings about hyper-individualism, and a legal system emphasizing rights and neglecting duties, thus, leading to the tensions and conflicts between the people, overbearing and calculating mindset, self-centeredness and self-indulgence. Seeking profit as the top priority will only result in the battle between estranged family members, turning people away from far more satisfying humanity. At a time of globalization and market economy, as traditional Chinese values disintegrated, more and more Chinese have become solitary aliens to their families and society. They would compete or even kill each other, for the mere profits at the sacrifice of family relations.

By contrast, Confucian tradition that focuses on family and group values may serve as a reminder, if not the remedy, to the above problems.

Chinese philosophy, Confucianism in particular, besides emphasizing family values, also has the following features which are essential to our understanding of filial piety and Chinese culture:

1. Harmony between heaven and man. The Way of man and the Way of Heaven is not two separate worlds but one world. The core of Confucianism is to seek the harmony between man and man, unity between man and nature; contrary to Western idea of conquering the nature, the ultimate purpose for a Confucian is to “form one body with myriad things” (There is no strong distinction between phenomenon and noumenon.). In the narratives mentioned, what Confucius tries to seek is a harmonious solution.

2. Integration of knowledge and action. The cultivation of a person and his learning is just one thing, One has to practice what one preaches. Theory and practice comes together. The learning of knowledge is not for brandish it but for personal cultivation.

3. Combination of truth and good. Truth is good and vice versa. While Westerners separate truth from good, the Chinese consider that seeking truth and good is just two sides of a coin. From the definitions Confucius provided for “benevolence”, we can see a glimpse.

4. Emphasizing intuition over argument. Instead of long-winded argument, Chinese philosophers expressed themselves in impressionistic sayings, maxims or in metaphorical language. The Analects is expressed in form of brief conversations between Confucius and his disciples, answers to specific questions. Reflection and retrospection replaces logical demonstration because the Chinese believe “writings can not express the words and words the meaning” (shu bu jin yan; yan bu jin yi)

5. Emphasizing life over epistemology. From the Analects, we learn Confucians are mainly concerned with present life, examining life issues and trying to give solutions. He does not talk about knowledge unless for the purpose of morality.

6. Neither affiliating science nor religion. The drawback of traditional culture is that because it puts too much time and energy in cultivating the self that it did little in exploring the external world. Confucianism itself is not a religion for it provides no transcendence or holy kingdom. Confucius himself seldom talked about gods or spirits is a case in point. And Confucians internalize themselves in order to look for moral foundation and justification inherent with or proper to his nature. This anthrop-religious character is described by some

as “immanent transcendence” (Zhang Dainian, 1982).

Only by taken all the characteristics of Confucianism into account, can we have an objective picture of what Confucianism really means. Tolerance requires us to respect the cultural diversity and integrity, not to apply Western model or any other models in looking at Confucianism. It is obvious the former aims at harmony while the latter maintains a subjective-objective distance. If we read Confucian canon with a minimalist or reductionist point of view, all the rich resources of divergent cultures will be reduced to a monotonous one. And if we explain Chinese classics by applying one single standard, by using norms or concepts borrowed from other cultures, we will find our explanation would either be biased or distorted. In reading classic canon, we should recognize the inter-relatedness between man and man, man and family and man and nature play so much importance in Chinese tradition. Ideally, if we examine Chinese culture with its interrelatedness, connection, harmony, the result would be quite different. The school of minimalist thought will only strip the true essence of traditional culture to an extreme simplified form, as by the use of basic monochromatic palettes of primary colors, portraying with colored-blind eye, the kaleidoscopic patterns into a drab, dull landscape.

The problem with the antagonists is that by borrowing such philosophical discourse as “free will ” or “autonomous individual”, they are just trying to fit the concrete historical case of Chinese situation into Western model , by regarding people as “moral robots”. Doubtlessly, in disregarding the incommensurability of East-West paradigms, together with an absence of neutral standard, the antagonists have affected their value judgments. In a value -centered culture, Chinese morality is the essence of life inasmuch as it is the concrete embodiment of values of life. Filiality, a way to the harmony of the family, and a virtue for showing love to one’ s parents and ancestors, will eventually lead to reconciliation of family conflicts, even guaranteeing an afterlife. The meanings of filiality, benevolence and propriety, as Confucians elucidated , will ultimately find their basis on human nature, which in turn have been conferred by Heaven, represented by Dao. The Dao, as the all-encompassing and all pervading unity, is the ultimate source of harmony, life and value. The Way of Heaven can find its realization in the Way of human. While Western tradition based on the Christian values in general, and normative ethics in particular, places more emphasis on free will, voluntary choices of one’ s autonomous decision, Confucian culture focuses on self-consciousness and his tie with family. To be a truly free person, one has to understand the nuances.

Then, someone may ask in the narratives about the father’ s stealing the sheep, Sage Shun` s appointment of his own brother Xiang and Shun` s father’ s killing of people , should justice be done? It depends on what we mean by justice, who the carrier(executor) of justice is. As I have elaborated before, the substance of fi

filial piety, a duty can not be abandoned, except during exceptional circumstances (facing the charge of treason, for instance) and prove that it is a dominant value that should be upheld. Even in today's East Asian countries, some governments even made it illegal for offspring not to support their parents, if so, they are not only condemned by social conscience and even are meted with legal punishment. Again, a filial son in fulfilling his duty naturally feels that, ethical pressure (to be filial) is every bit as oppressive as legal coercion. Therefore, in a society such as China, the social pressure imposed is at least as consequential as its legislative imposition would be. This further entangles the complicated issues of right and duty, [15] the rule of virtue (of man) and the rule of law, justice (loyalty) and filiality, which are so complicated that it can never so perfectly solved in any society, as long as human beings exist.

As an active advocator of harsh laws, Han Feizi thought the rule by law is above all else. He wrote: "humaneness may make one shed tears and be reluctant to apply penalties, but law makes it clear that such penalties must be applied. The ancient kings allow law to be supreme and did not give into their tearful longings. Hence it is obvious that humaneness cannot be used to achieve order in the state..." (De Barry, 1999, 200) [16] Unfortunately, Han Feizi's ideal of rule by law (Not the rule of law) did not work well in his time. Because of the ruthless regulations, fortunately the State of Qin (221-206 B.C.) had built a formidable strength utilizing the legalist practice of strong central government; and unfortunately, in 207 B.C. less than fifteen years after its glorious establishment, the Qin Dynasty had come to a violent and ignoble end. The empire disintegrated and fell into disorder. Among others, the use of stringent laws, the reacting against Confucianism, by Qinshihuang (the First Exalted Emperor), the shameful acts of "burning of books and execution of scholars", in particular, may be the contributing factors of its decline. On the contrary, the Han Dynasty (AD. 206-220 A.D.) since the emperor Han Wudi, by adopting Confucianism as its orthodox teaching, and by putting the Confucian proposition "blood relations screening for blood relations" into its legal codes, surprisingly, had lasted for over four hundred years. According to Confucianism, someone who put one's parents in justice is either hypocritical or wishing to win the praise from others, a demonstration of perverted personality. Accusing one's parents is neither against his will, or his true feelings. Paradoxically, from Han Feizi's story we learnt that what law could not give a solution at that time, it could be achieved by virtue, ritual and music. [17]

This truth of the argument can be ingeniously explained by Confucius who said, "Lead people by means of regulations and keep order among them through punishment, and the people will evade them and will lack any sense of shame. Lead them through moral force (de) and keep order among them through rites (Li), and they will have a sense of shame and will also correct themselves." (Analects, 2:3) "道之以政，齊之以刑，民免而無恥；道之以德，齊之以禮，民有恥且格" 《論語·為政》 [18]

To Confucius, to punish people with severe punishment without educating them equals setting a trap for them, which is a last means the government has to resort to, while to govern people by rite and music is not only to inform them of legal obligations, but to cultivate a sense of guilt and shame. [19] In short, to educate people by rite and music is what Confucianism all about, because rite imitates the harmony in the society and music emulates the harmony of nature. In this way, rite and music can create harmony between man and nature, man and man, and man and society. Harmony regulated by rite insures that everything goes smoothly, from the cultivation of a person, to regulating one's family, to the governing of a state and finally to bringing peace the world. This is the reason why in contemporary China, the government is at the same time advocating the rule of law while focusing on the rule of virtue.

From harmony versus autonomy, freedom versus piety, justice versus expediency, we may further extend to the discussion of justice in normative ethics. Just for the contents of justice, people would differ from historical, cultural, philosophical, legal and sociological backgrounds, thus, yielding varied answers. "Many different kinds of things are said to be just or unjust: not only laws, institutions and social systems, but also particular actions of many kinds, including decisions, judgments and imputations. We call the attitudes and dispositions of persons, and persons themselves, just or unjust...The various conceptions of justice are the outgrowth of different notions of society against the background of opposing views of natural necessities and opportunities of human life." (Rawls, 1999, P.6-9) Theories abound in modern Western society concerning the theory of justice. Major players of the field are John Rawls, Alasdair MacIntyre and Charles Taylor and others. Whereas Rawls seemed to present his theory of justice as universally true, communitarians argued that the standards of justice must be found in forms of life and traditions of particular societies and hence can vary from context to context. Alasdair MacIntyre and Charles Taylor argued that moral and political judgment will depend on the language of reasons and the interpretive framework within which agents view their world, hence that it makes no sense to begin the political enterprise by abstracting from the interpretive dimensions of human beliefs, practices, and institutions (Taylor 1985: 5-8; MacIntyre 1978, : 327-330). The problem with liberalists, the communitarians consider, is that they hypothesized a vulnerable notion of self, without realizing that the self is imposed by those communities where it does belong. As a result the liberalism does not understand that personal duty, to a great extent, is determined by the community in which a person identifies with, and the role he plays in that community. It is not accidental that after becoming a member of that community, the person at the same time will regard his own objective and values as those of the community. As a member of that community, he will place the interests of that community above those of his individual. This view finds strong echo in the Confucian tradition that places the individual in a network of family and community. In di

scussing the relationship between father and son, we must face the fact that filial piety is the core of ethics in Chinese culture, while in the West; the last court appeal is reason, in exercising one's judgment about good and evil, justice and injustice. [20] If we apply modern Western discourse to examine and censure the sages such as Confucius and Mencius, at least we have committed more an error of not being rational, than anachronistic.

V. Fusion of Horizon: From Narratives to Belief

The linguistic reading of Confucian classics, on the one hand, is a hermeneutic interpretation process in which each reader's fusion of horizon is needed in order to broaden the philosophical scope of the canon. Again, by inviting to participate in the dialogue, each reader brings with him his actions as well as his statements and thoughts. As a text is open to multiple exegeses, in this sense, no one is the sole legitimate guardian of the original. Besides, new interpretations are needed in order to infuse vitality into Confucianism, because daily renewal is the greatest virtue. As each participant expresses his point of view as it merges with the moral character he manifests in his actions, so that the conflict does not remain merely verbal and intellectual. Different minds will point to different lives and an overlapping consensus is hard to come by. Therefore I welcome any divergent opinions on this topic as long as it is not provocative or biased, and as long as the explanations are not imposed by external knowledge independent of context.

On the other hand, the reader, in order to understand the force of Confucius' and Mencius' various remarks, must therefore construe the specific problems and situations which evoked them, which means understanding of the society of the time and the men with whom Confucius and Mencius were associated. Such valuable information will help one well appreciate the historical Confucius and Mencius, the rich legacy they gave us, the importance of the matrix of relationships, the context in which they conduct the discourse, the novelty of their ideas, their resourceful expediency out of a prisoner's dilemma, and even ulterior motive behind the talk. Nevertheless, the ideal of filial piety is perhaps one of the most difficult aspects of Confucian thought for contemporary westerners to appreciate, even in China today it is not only regarded by some people as the source of nepotism or favoritism, but also "it is regarded as a tiresome and outmoded remnant(not cool?) of feudal thinking, to be ignored or even openly condemned, while in most Western countries, if contemporary literature is any indication, love of a parent is considered the mark of an immaturity and maladjusted personality. To readers of such opinion, the Confucian writings on filial piety seem remote and difficult to comprehend. Yet, the effort must be made if one is to understand Confucianism and, through Confucianism, the traditional culture of China." (Watson, 1973: 148)

Can we transform the small moral narratives into one grand narrative or moral belief? What remains, to my mind, is more an issue of public faith than a theoretical solution, or engaging in polemics. China is now at cross roads . After Chairman MAO's demise came DENG Xiaoping, and after JIANG Zemin's departure comes HU Jintao. Who will follow next? Revival of Confucianism or Resurgence of Liberalism? Personally, I am very optimistic of resuscitation of Confucianism because of we are the heirs of history which we cannot extract ourselves from. At this critical juncture of transition, so many people are hesitant as to which road to take and what to believe. The "Road Not Taken" by the American poet Robert Frost (1874-1963) pertinently describes this "to be or not to be" situation, for he says:

Two roads diverged in a yellow wood,

And sorry I could not travel both

And be one traveler, long I stood

And looked down one as far as I could"

.....

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I -

I took the one less traveled by,
And that has made all the difference.

What is down the road for Chinese public faith, for the next decade, or next generation? Shall we take the road leading to this direction or otherwise direction? The choice will, indeed, make all the difference. After being condemned for a century or so, Confucianism still demonstrates its great vitality. In the 1958 "A Manifesto for the Reappraisal of Sinology and Reconstruction of Chinese Culture" co-signed and published by four overseas Neo-Confucians, Tang Junyi(1909-1978), Mou Zongshan(1909-1995), Xu Fuguan (1903-1982), Zhang Junmai(1887-1969), the scholars bemoaned the "fallen flowers and fruits" of Chinese culture while placed their ardent aspiration on "fanbenkaixin" (literally refers to "sageliness within and kingliness without"): returning to the essence of the Confucian tradition and opening up a new path. The path, or Way of Heaven and the Way of Man, will proceed in a natural justified direction that no human agents can resist. It is the path of the Dao. Ultimately, the historical course is governed by no inexorable laws other than those of human morality; supernatural forces play little or no part in its unfolding, except in response to the good or evil deeds of man himself.

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[1] From the year 2000 through 2005, two pivotal figures Prof. GUO Qiyong 郭齊勇 of Wuhan University, and Prof. LIU Qingping 劉清平 of Beijing Normal University in People' s Republic of China started this debate. Many scholars from home and abroad are involved in this debate expressing their controversial views on this issue , resulting in an anthology entitled A Collection of Contention about Confucian Ethics: Taking Blood Relation Screening for Blood Relation as a Focus 儒家倫理爭鳴集——以“親親互隱 ” 爲中心, published by Hubei Education Press 湖北教育出版社 2005 in China, with contributions by eighteen authors from China and overseas.

[2] This is a famous quotation from LU Xiangshan陸象山, a scholar of Song-Ming School of Principle. The literal meaning of "to comment on six classics" is not difficult to understand, which implies the strict interpretation according to the textual meaning, while "six classics comment on me" denotes two situations: one is that of LU Xiangshan in order to bring subject initiative into full play with an intent to exaggerate the role of the mind, he uses six classes as a weapon to wring the meaning out of context. The other kind of reading involves that the reader unconsciously is ignorant that he distorts the meaning while reading. In the final part of the paper, I am of the opinion that linguistic reading of the text must be faithful to the original meaning in a specific context and historical background of the text. Synchronic understanding must take diachronic historiography as a premise.

[3] In the Mencius, King Shun enfeoffed his brother Xiang despite the latter' s vicious attempt to kill the former. This action including carrying GU Sou, Shun' s father on his back to the far side of the sea as a hermit was deemed by the opponents of Confucianism as a typical instance of injustice and corruption. I shall argue in the ensuing lines that the act of enfeoffment on Xiang is Shun' s expediency. Although Xiang was enfeoffed, he had virtually had no power over the administration of people in Youbi because he was assisted by able officials . Thus, this enfeoffment is more a banishment for Xiang.

[4] Many people today would be very critical of the Three Bonds, especially feminists. As a liberal, I am not quite for the view that wives should obey their husbands at home. However, we must notice that moral ethics in ancient China imitated a dichotomy of Yin-Yang separation and balance with the former being passive

and latter being active. I willingly admit that some tenets can and should be creatively transformed to suit today's ethical developments of contemporary society.

[5] LIANG thinks that human beings not only need physiological welfare such as food, clothing and shelter, but also need emotional life and family is the very place human beings can establish harmonious relationship with each other. Beyond this, there is also a necessity of finding an ultimate faith in life. Compared with ancient Greeks, I think, where family is the hearth as well as a place for spiritual comfort, the Chinese counterparts finds transcendence in the realm of home in addition to the worshipping ceremony in temples.

[6] For the innateness of four beginnings must necessarily lead to man's goodness, some people would challenge that the plant metaphor seems to be naïve or an illogical step in his argumentation. For example, Chad Hansen was skeptical of the ground for Mencius' seed theory. See Han 164-195. In my view, this criticism is anachronistic in passing judgment of the Western rational model on Chinese philosophy.

[7] Usually, according to dictionary the meaning of "selfless, self-less or less-self" denotes that "having, exhibiting, or motivated by no concern for one self; unselfish"; but in the Chinese context as an individual, it connotes more than that. In *Thinking from the Han: Self, Truth and Transcendence in Chinese and Western Culture*, David L Hall and Roger T Ames gave a very detailed discussion on the Chinese self as an individual.

[8] To Kant, human is what is makes of himself rather than being made by nature with a purpose of overcoming irrational pretensions. Morality and character are related by the ability to overcome natural urges and to develop a unified inner principle of way of life. Kant's philosophy aims at asking the question "what is human?" by focusing such aspects as the public and private character of human mind (nous) and the relationship between autonomic choice and societal consensus. I am here a little skeptical of Kant's universal commitment. What I want to demonstrate from anthropological point of view that morality instead of relying on the duty and responsibility begins with interpersonal confidence from one's family and blood kinship. There is no changeless obligation all the time in this sense.

[9] This is similar to the *Catch 22* situation, in either way you are insane. According to American novelist Joseph Heller in his 1961 novel, a *Catch 22* situation is self-defeating: the very act of performing it prevents it from happening. During the combat, a soldier may only be excused from flying bombing missions on the grounds of insanity. However, if one who makes such a request to be excused is presumably in fear for his life. This directly proves of his sanity, and he is therefore obliged to continue flying missions; One who is truly insane pres

umably would not make the request. He therefore would continue flying missions, even though as an insane person he could of course be excused from them simply by asking. The logic circular bears a great similarity in certain ethical dilemmas, which illustrates that Kant's categorical imperative cannot be always valid.

[10] At the writing of this paper, Judge Alito was sworn in on January 1, 2006 as a Supreme Court justice after a Democratic bid to stop him through a procedural roadblock. Alito won a largely party line vote of 58 to 42, one of the lowest votes in 100 years history. Rather than dwelling on political or legal issues, this bipartisan clash centers mainly on the ethical issue of Alito's pro-life belief. This further reflects that ethical issue is NOT a mathematical addition or subtraction.

[11] The third question is often known as Euthyphro's paradox or Euthyphro Dilemma. "Is an action holy because the gods love it, or do the gods love it because it is holy?" To say something right is more than to say that it is commanded by God (recognized as Divine Command Theory) because since God created the universe, he naturally created morality. This is equivalent to say that there exists an objective moral standard intended by God. Both Socrates and Plato realized that there is a flaw in this understanding and analysis: if God created morality, then it is made out of his arbitrary will which undermines the objectivity of morality standard. What Socrates drives at is that what means by piety is independent of God's will

[12] Although I agreed with his succinct insight in describing the actual moral condition in Greek at that period, I reserve my opinion in his other views. In his *The Philosophy of History*, Hegel regarded the Oriental World as the beginning of history. While I objected Hegel's view that the world history occurred in that sequence, I accepted his analysis that in the patriarchal society such as China, "justice is administered only on the basis of external morality" (p.111) and "since moral laws are treated as legislative enactments and law on its part has an ethical aspect", "the laws of the state are partly civil ordinances, partly moral requirements" (pp.112-113). This historical analysis is a true picture of the society at that time. However, China is not a changeless monolithic society as Hegel described.

[13] According to Hegel, during the second the individual has to give up his right in the family in order to enter into civic community. Freedom demands that the individual recognizes himself in such acts, in which the individual be conscious of his rights and duty. In the *Philosophy of Rights*, Hegel says "But the civic community tears the individual out of the family bonds, makes his members strangers to one another, and recognizes them as independent persons. Instead of external inorganic nature and the paternal soil, from which the individual drew su

bsistence, the community substitutes its own ground, and subjects the whole family to fortuitous dependence upon itself. Thus, the individual become the son of the civic community, which makes claims upon him, at the same time as he has the rights to it” (p.228) It must be pointed out in China the filial relationship has never been torn off in order to become a “public ” son. Filial piety is largely performed in family for one’s elders. Moreover, Hegel’s analysis may shed some light in our understanding of Chinese human rights or civil society. A Chinese society may be characterized by what Tu Weiming characterized “fiduciary community” (Tu, 1989) which places emphasis on mutual trust instead of right-conscious individuals.

[14] Within Western tradition, in addition to the Greeks, Jewish culture also put positive importance on filial piety. According to Galia Patt-Shamir (see Dao: A Journal of Comparative Philosophy, Winter, 2005), in Judaism, the value of filial piety appears already in the fifth commandment to “honor thy father and mother”. In the Jewish tradition family takes precedence over universal morality because a home in which parents are honored and respected is blessed with divine presence and the respect for parents must be shown throughout their lives, as well as after their deaths (146). Interestingly, Galia Patt-Shamir also discussed the Sheep Case in which father and son conceal each other. I am happy that he shares the same opinion with me (or me with him?): that concealing implies that family members take responsibility for educating (I use remonstrate) family member who went astray. What is more thought provoking is that Galia pointed out that the Talmud says “if a man sees his father transgressing a precept of Torah, let him not say ‘Father, you are violating the Torah,’ but he should say, ‘Father, thus is it written in the Torah’ ” (Kid, 32.1) I totally agree with Galia Patt-Shamir’s view that family moral responsibility and religious commitment is not something you can abandon. There is more than one dimensional way of understanding straightness.

[15] In exploring human rights and Chinese thought, Stephen Angle, has provided us with thought-provoking ideas on this aspect. As he considers that Chinese *quanli*, which is unique from the West, has following four characteristics: (1) an ethical, rather than legal, grounding for *quanli*; (2) a positive content to *quanli*, in addition to negative restrictions; (3) a vision of personal and group *quanli* as harmonious with one another; and (4) a reciprocal relation between *quanli* and responsibility. Therefore, Chinese *quanli* are the powers and benefits that an individual or group must enjoy in order to reach its ultimate goal of fulfillment of personality. p. 179. This view sheds insightful observation on the differentiations on ethical and legal rights in China. At the same time, Angle holds that China has a rich and distinctive rights discourse and he concludes that we should seek an accommodation of differences with one another in a spirit of toleration, and on that basis engage one another on as many levels as possible. pp250-251. An open dialogue on rights may lead to potential fruitfulness between East

[16] In the legalist text “Five Vermin” (also the story of stump watcher appears in the same text), Han Feizi fabricated a story of Confucius’ teaching on filial piety which he vehemently opposes: There was a man of Lu who accompanied his king to war. Three times he went into the battle, and three times he ran away. When Confucius asked him the reason, he replied, “I have an aged father, and if I should die, there would be no one to take care of my old man.” Confucius, considering the man filial, recommended him and had him promoted to a post in the government. Thus, Han Feizi concluded, we see the man who is a filial son to his father may be a traitorous subject to his lord. It is obvious that Han Feizi is adept at telling parable stories. But the purpose of the story on the part of Han Feizi is to criticize Confucian humaneness (benevolence). Han, as a student of Xunzi believes that the rule by law, not benevolence, can curb human endless desires as human nature favors profit while avoiding harm. Han Feizi’s purpose is to contradict the role of a filial son against traitorous subject, posing the dilemma between filiality and loyalty for a son. While I admit there are situations when one cannot meet both purpose, however, there are also instances that one can fulfill both purposes. The famous Song army general Yue Fei is a case in point.

[17] Personally, it is not my intention that China should abandon the rule of law at that time or at any time. Moreover, it must be pointed Han Feizi’s idea of fa (law) must be further examined against Western notion of law. Although both are based on the thesis of “human nature is evil”, for Han Feizi fa are public and measurable standards, emphasizing draconian punishment in combination with statecraft (shu) and situational authority (shi); Whereas the western concept of the rule of law is largely based on justification of rights. While Hafez’s utilitarian intent is to satisfy ruthless, all-powerful emperor, just like Niccolo Machiavelli (1469–1527) whose purpose is to serve the Prince to maintain and consolidate his position, Western notion of the rule of law is not only retributive, but also will not subject to the ruler’s desire. And most importantly, no one is above the law. Therefore, the school of legalists is a misnomer.

[18] It so happened that in Latin there is also such a saying as “formidine poenae than virtutis amore”, which means “rather through fear of punishment than through love of virtue”.

[19] Traditionally, East Asian societies are characterized by shame culture. I am not sure if this started with classic Confucianism. Obviously it is a topic worth pursuing and a theme for another paper. The fact is through inculcating sham

e on children or adults, each individual is edified. The phrase “Shame Culture” became well known through the American Anthropologist Ruth Benedict (1887-1948), who wrote a book in 1946 entitled *The Chrysanthemum and the Sword* in which she advocated culture relativism. According to her, Japan society is a morally imperative society with strong sense of shame. In sharp contrast, the Western legal system based upon guilt relies heavily on criminal justice for injecting a sense of guilt rather than on shame. Therefore, can I conclude in this way, while in the shame society, moral force is more coercive than punishment to maintain order and harmony, in guilt society, morality is used more as an auxiliary modality of control? I think, this differentiation is very significant in the debating of the son’ concealment of his father because putting a father in a shameful position is the last ignoble thing to do in a shame culture, which would be worse than committing suicide. This rightly reconciles Confucius reluctance to ask the son to indict his own father.

[20] Although there is an urgent call of establishing legal and democratic systems in contemporary Chinese society, we have to notice that in traditional China, the law, in fact, nicely reveals the degree to which circumstances are of secondary importance to issues of obligation. From early Han, Tang Dynasties to Ming, Qing Dynasties, running through all the periods, the law permitting a person to conceal the crime of a close relative was amended by subsequent statutes. The intention to protect the patriarchal family has a strong hold even in today’ s society. For instance, In the Laws of the Republic of China, Article 1123 declares that every house shall have a head; that this headship will fall, failing an election, on the person who is highest in rank or, where ranks are equal, on the one who is senior in age (Article 1124); that the affairs of a house shall be managed by its head (Article 1125); and that the head may order an adult member or a married minor separated from the house for good cause (Article 1128). By and large, Chinese people under the Republic have continued to view family obligations in ways tinged with custom. As for detailed discussions, please refer to *Laws of the Republic of China: First Series—Major Laws* (Taipei, December 1961), pp. 331-32 and Richard W. Wilson’ s paper entitled “Change and Continuity in Chinese Cultural Identity: The Filial Ideal and the Transformation of An Ethics” in *China’ s Quest for National Identity* edited by Lowell Dittmer and Samuel S. Kim (Cornell University Press, 1993), pp. 108-113.

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