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A Note on Chinese Sources and Characters

Unless otherwise indicated, the translations from classical Confucian texts are usually adapted from the translations of James Legge. Other translations, especially the Analects and Mencius by D.C. Lau and Xunzi by John Knoblock, were consulted. I have used pinyin romanization and standard Chinese characters to indicate Chinese key words and concepts in each chapter. But I do not attempt to maintain the same English words for Confucian key concepts, especially ren (仁), in different chapters. Rather, I select different words to suit particular contexts.
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Introduction

This volume has a number of points of departure. First, it is a response to the character of contemporary China: China is regaining its position as a major economic and political power. This development raises the question of the moral resources on which China can draw in order to meet its own challenges and the common challenges of humankind. Another point of departure is the moral crisis of the contemporary West. This crisis is in part socio-economic: the population basis and moral commitment needed to sustain the social welfare state are weakening, a point made by the current Roman pontiff, Benedict XVI in his book with Marcello Pera, *Without Roots* (2007). There has been a radical separation of contemporary Western European culture from its traditional roots, as well as an unwillingness to produce sufficient children for the future. As China is regaining its power, the question is whether it can escape the moral malaise of the West. This volume offers a contribution from Chinese cultural resources to this task. It is written in the conviction that the moral insights of Confucian thought are precisely those needed to fill the moral vacuum developing in post-communist China and to address similar problems in the West.

The term *Reconstructionist Confucianism* identifies the project of reclaiming and articulating moral resources from the Confucian tradition so as to meet contemporary moral and public policy challenges. This term is chosen to indicate a view reconstructed from Confucian cultural resources that have been put in disarray by a number of dramatic events in the 20th century, ranging from the collapse of the last Chinese dynasty (1911) through the May Fourth movement (1919) to the Cultural Revolution (1966). After a period during which traditional Chinese cultural and moral resources were radically marginalized from the public life of China, there is now a critical need to recover these resources.

The term *Reconstructionist Confucianism* is also used to distinguish this account of Confucian thought from Neo-Confucian attempts to recast the Confucian heritage in light of modern Western values. Contemporary Neo-Confucian scholars read back into the Confucian tradition modern Western moral and political concerns so as to bring Confucian thought in line with dominant modern Western conceits. In this way, Confucian heritage is in great measure colonized by modern Western notions, such as justice, human rights, and egalitarianism. This retrospective colonization of Confucian thought effects by translating key Chinese moral and political concepts...
in the light of Western moral and political assumptions, and thereby takes from Confucian resources the opportunity to deal with the problems that face the contemporary West as well as China. Accordingly, Neo-Confucian approaches are not only untrue to the Confucian tradition itself, but also disable the capacities of Confucian wisdom to address the problems of our times. As China enters into a period when it can again contribute in its own way to world culture, it must authentically draw on its own resources.

The reader will find that the problems facing the West will look different when seen from a Confucian perspective. This is the case because Confucian thought invites one to step outside of the individualistic moral discourse of the West with its accent on individual rights, equality, autonomy, and social justice, and instead to approach moral challenges within a moral vision that gives accent to a life of virtue (de, 德), the autonomy of the family (jia, 家), and the cardinal role of rituals (li, 礼), the social rites that define and sustain social interactions. The Confucian moral paradigm is not that of the contemporary liberal individualist West.

The first chapter of the first section of this volume develops the claim that Confucian moral thought is embedded in a set of moral-epistemological, axiological, and metaphysical premises quite different from those of dominant Western culture. To begin with, Confucianism affirms that virtue is learned first and foremost in the family, and within the bonds of obligations that structure family relationships. As a consequence, kinship love, the priority of family love over love for others outside the family, is central to Confucian moral epistemology. It is in the family that one first and foundationally learns the life of virtue. Secondly, rules for action gain their significance and force within a fabric of social relations, in particular, family relations. Accordingly, Confucian moral rules, rather than being structured by abstract general principles for right action, indicate ways in which one can achieve virtue. Finally, the family as a whole possesses a moral status and significance independent of its individual members so that the flourishing of the family is more than the flourishing of its individual members. Accordingly, the flourishing of the family cannot be reduced to the flourishing of its members. Within this moral context, favoritism to family members does not ipso facto appear as corrupt until proven otherwise. Instead, when set within a life of Confucian virtue, familial favoritism is itself virtuous. As this chapter argues, a restoration of a Confucian appreciation of virtue in Chinese life will require a restoration of an authentic Confucian familism that can combat corruption not through abstract principles but through the restoration of a lived experience of Confucian virtue. One will need once again to be able to distinguish vicious familism from virtuous familism.

The next chapter critically explores the attempt to read into Confucian moral and political theory liberal social democratic concerns with liberty, equality, and human rights. Not only do such attempts involve a naïve presentism, but they distort the significance of such cardinal Confucian concepts as ren (仁, humanity) and li (ritual) as well as the authenticity of an interdependent family life. The result is that rather than gaining genuine Confucian insights upon which one can draw in confronting contemporary moral challenges, one has only secured shadows of already established Western concepts. A Confucian future is made to
resemble the West’s liberal democratic present. Rather than finding guidance about how to become a junzi (君子), an exemplary person of good character and moral integrity, one is instead given Western moral principles with a Chinese flavor. This chapter shows that such rights-based concerns and their focus on moral principles abstracted from a life of virtue distorts what Confucian thought can contribute to a better appreciation of proper moral life and bioethical inquiry.

Given these distinguishing features of Confucian moral and political thought, what kind of civil society would it support? This question is a difficult one from a Western moral and political perspective because the commitments to liberty, equality, and meritocracy that frame the contemporary social democratic, egalitarian ethos of the West have no roots in Confucian thought. As already noted, Confucianism is non-egalitarian in treating persons as relatives, not as anonymous equals. A Confucian civil society will therefore be framed by harmony (he, 和), love (ai, 愛), and respect (yi, 義). As a result, rather than holding that society should promote individual interests by letting each choose the form of life one wishes to live, Confucian familism embeds individual choices within a commitment to the flourishing of the family. Because Confucian morality is built around rituals, civil society will be structured in terms of rituals that, following ren, require one first to love one’s family members, then to extend this love to others in proportion to the importance of one’s relationship. Confucian civil society will therefore be characterized by an interaction and interconnection of affective relationships. A Chinese civil society will therefore require both a robust commitment to the rule of law as well as to the nurturing of a familism which sustains virtue for both the flourishing of the individual as well as of the family. Seen in this light, the family is a keystone of virtue rather than a stumbling block in the pursuit of justice.

The second section of this volume is an exploration of the Confucian approach to issues of social justice. The first chapter of this section shows why the Rawlsian attempt to pursue social justice is vicious rather than virtuous. Because John Rawls (1971) is concerned about the proper distribution of resources and social status, not the pursuit of virtue, his concerns contrast foundationally with, and are distinct from, those of a Confucian account of virtue. Where Rawls focuses on equality, Confucian thought is directed to harmony. Rather than affirming liberal democratic values, the Confucian understanding of social interconnectedness affirms an aristocracy grounded in virtue. These differences arise because Rawls offers an account that is intended to bind persons who share a thin theory, but not a thick account of the good. Although Rawls takes his account as comprehensive, it is nevertheless insufficient, from a Confucian perspective, to frame a proper structure of society. It lacks a thick appreciation of virtue and human flourishing to which Confucians invite us all in order to build an appropriate society.

Among the difficulties of the Rawlsian account is that it is incompatible with the Confucian insights regarding ren and li; namely, that family love should be given a priority in one’s pursuit of universal human love through ritual practice. In virtuously pursuing that which is right and dealing in a sincere and faithful fashion with others, one will need to acknowledge both the importance of assisting society’s weak and poor while at the same time nurturing a family-centered, virtue-oriented,
and non-egalitarian approach to public policy. The point is that a thoroughgoing commitment to fair equality of opportunity would not only require setting aside the family and the favouritism that family-centered virtue nourishes, but it would as well undermine the intimate relations that within the family educate in virtue. Since the development of virtue is always family-centered, it is non-egalitarian and non-individualistic. Confucians cannot accept the liberal individualist conception of human rights. What they can uphold is only a list of rights derived from virtue obligations as a fallback apparatus.

Among the various consequences of this state of affairs is that a Confucian bioethics is not grounded in principles, a lá Beauchamp and Childress (2001), but rather in a way of life that nurtures virtue through specific ritual rules. The result is that when Confucians use the term “principle” to summarize a set of moral considerations, they are addressing issues radically different from those engaged by Beauchamp and Childress in their appeal to their so-called middle-level principles. First, unlike Beauchamp and Childress, Confucians recognize that general principles cannot, and should not, dominate over and even substitute for specific ritual rules in directing moral conduct or policy formulation. Secondly, the Confucian principles of ren-yi (仁義, humanity and righteousness) and cheng-xin (誠信, sincerity and fidelity) identify particular groundings of, and ways to, a virtuous mode of life. Rather than being middle-level principles, they sum up important considerations foundational to a virtuous life through ritual practice. They invite one to a life of virtue in which one performs suitable rituals to become a virtuous physician, nurse, patient, or family member of patient. Accordingly, a Confucian bioethics through its appeal to such principles calls on physicians, patients, and families to enter into a virtue-oriented engagement in medicine. It is for this reason that a reform of the contemporary Chinese health care system and its successful integration in the market will need to work, at least in part, from the bottom up, from virtue to policy, not just from the top down, from principle to particular choices.

The final chapter in this section explores a particular instance of the challenge of applying Confucian moral resources to contemporary health care policy: it addresses the question of how Chinese moral values such as de (virtue) and xiao (孝, filial piety), which are embedded in Confucian moral and social philosophy, should guide policy for the long-term care of the elderly. This chapter recognizes that the family has become a puzzle and a challenge in most contemporary societies. Family members are often both geographically and morally distant from each other. Moreover, many family members have lost the appreciation of filial piety, which would bring them to accept the responsibility on the part of children to care for their elderly parents. In fact, in many societies the idea of children having moral duties to their parents has largely fallen into disarray. This can be remedied only by the Confucian bonds of filial piety realized in the rituals that interconnect children to parents and parents to children. Indeed, Confucians regard filial piety as the supreme virtue of the fundamental dao (道), the way in which humans should live. As this chapter argues, the issue of long-term care for the elderly is not simply one among many bioethical questions, but instead a cardinal moral issue central to the life of virtue.
Health care policy in Singapore, Hong Kong, and mainland China is framed by a set of background moral and political commitments foundationally different from those in Western Europe and North America. In part, the differences lie in the Confucian commitment to a directed benevolent moral polity rather than to the moral vision underlying liberal social democracies. The first chapter of the third section of this volume develops through the concrete issue of health care financing, a point raised more generally in the first two chapters of the previous section. Confucian moral and political thought does not affirm liberal social-democratic structures, such as those framed in the light of Rawlsian commitments. Nor does it endorse limited democracies that could be justified in the light of classical liberal or libertarian commitments. Rawls states that his account of justice as fairness should be understood as a political, not a metaphysical or moral vision (Rawls, 1985). Indeed, Rawls seeks to draw on intuitions that underlie liberal political constitutions to construct his account, while Robert Nozick attempts to establish his libertarian account in terms of individual rights as side constraints (Nozick, 1974). Such intuitions or assumptions are not those that are at roots of the political arrangements structuring Singapore, Hong Kong, and mainland China as well as their health care institutions. Indeed, the Confucian moral and political theory that drives health care policy in much of the Pacific Rim has its roots in quite distinctive understandings, such as those of “benevolent governance” (ren zheng, 仁政). The Confucian moral and political view is grounded in moral experiences of ren and li (namely, rightly-directed ritual behaviour) that do not easily map onto Western moral concerns with rights, duties, and social justice. As this chapter argues, one will not appreciate the Chinese moral and political situation until one has appreciated the quite distinctive roles of such moral considerations as ren and li. Further, one will not be able to craft appropriate Chinese health care reforms unless these reforms are embedded in these foundational, albeit different, moral considerations. Rebuilding an adequate system for the provision of health care, as this chapter argues, will more naturally draw on family-oriented health care savings accounts (as currently illustrated in Singapore) than on social-democratic social insurance systems (as currently illustrated in Canada and Western Europe).

These differences in moral and political perspectives bear on what counts as an appropriate response to the corrupt practices that have come to characterize a significant dimension of Chinese medical care. First, it must be observed that these corrupt practices, which include the over-prescription of indicated drugs, prescription of more expensive medication than needed, and the requirement of more expensive diagnostic work-ups than indicated, resulted not from the introduction of the market into China, but from a moral and health care policy context that perversely diverts the normal human pursuit for better care and better financial rewards. There has been a loss of a Confucian appreciation of the proper role of financial reward to physicians and hospitals in the provision of health care. If one cannot appreciate why profit and reward for quality service is appropriate, one cannot properly direct such concerns for personal gains. Moreover, misguided governmental policies have established artificially low salaries for physicians while providing bonuses to physicians and profits to hospitals from the excess prescription of drugs and the use of
diagnostic procedures that are expensive but are not clearly indicated. This state of affairs, characterized by perverse incentives, has been made worse by a prohibition against patients paying physicians more for higher-quality care resulting in a practice of illegal cash payments (i.e., “red packages” [hongbao, 紅包]). A way out of this maze of corruption will only be found by recognizing both the appropriate role of remuneration for those providing superior service and a regained appreciation of profit as appropriate within a Confucian life of virtue. One needs both a rule of law that rewards virtue and an appreciation of virtue that acknowledges the goodness of profit.

The next chapter turns to the proper role of honor in a Confucian business ethics. Rather than placing centrally concerns regarding forbearance rights, claim rights, and the contractual responsibilities of employers and employees in corporations, a Confucian business ethics recognizes, first and foremost, the indispensable role played by concerns for honour, disgrace, and shame in a proper management ethos. Instead of attempting to promote moral behaviour through an appeal to a network of rights and obligations within a corporation, Confucian business ethics has an other-regarding character that acccents honour, disgrace, and shame so as to be community-directed, hierarchy-accepting, supportive of loyalty, evocative of supererogation, and productive of excellence. In contrast with the usual concerns of Western business ethics, a Confucian business ethics invites owners, managers, and employees to enter into a way of life for which rights alone are never sufficient. Confucian morality recognizes that an accent on the rule of law in the absence of the rule of virtue will be incomplete for a proper and prosperous business culture. Absent virtue and given only the rule of law, there will be corruption, despite the presence of apparently well-crafted laws and mission statements concerning rights and obligations.

Confucian moral reflection bears not just on the interrelation of humans in the family, society, the market, and corporations, but it also gives important direction regarding the appropriate relationship of humans to nature. Confucianism affirms an environmental ethic that places the natural order within a human order that reflects cosmic principles. This ethic supports a wise dominion over nature, a dominion guided by the spirit and virtue of sages. The Confucian environmental ethic is not simply anthropocosmic, it is also an anthropocentricism. One could distinguish, for example, among three forms of anthropocentricism regarding their relationship with nature, the differences being illustrated by different sets of obligations to one’s pets. First, a robustly individualistic humanism may claim that humans are in authority over their pets even to the point of being at liberty to torture them. Second, a contractual humanism would hold that different societies are at liberty to establish different rights over pets so that in some societies it would be forbidden and in other societies allowed to serve one’s pets for dinner. Third, a religious humanism would understand one’s obligations to the environment as established by a decree of God (shangdi, 上帝) or Heaven (tiēn, 天) or one’s general relationships to God or Heaven and the cosmos. The Confucian approach is a special instance of the third understanding. The decree of Heaven is manifested in the anthropocosmic principles of transformation disclosed by the sages. Nature is understood as a
garden to which one must attend and which one must transform in the light of the anthropocosmic principles. Confucians have always affirmed the agricultural role – transformation of nature to feed families and build homes within which families can live. Moreover, because Confucians understand the connection between families and ancestors, there is a commitment to burial rites which establish the continuity among persons, family, and eternity. The transformation of nature through the digging of graves, the burying of bodies, and the building of monuments humanizes the environment, just as does the tilling of soil and the building of houses. Such transformation of nature properly embeds nature in human history and brings it more completely into harmony with Heaven.

This volume closes with a section that explores the centrality of rites in the moral life. The first chapter provides an account of rites as the foundations of human civilization by reflecting on the role of the Confucian li (ritual) in the Confucian tradition. Unlike the Neo-Confucians who have attempted to defend Confucian morality by diluting the role of ritual practices and their specific rules in the tradition, Reconstructionist Confucianism recognizes that the cardinal Confucian virtue, ren (humanity), cannot be comprehended without referring to the Confucian ritual performance. Neither can ren be cultivated and mastered without appeal to the observance of the rituals. Pace the Neo-Confucians, this chapter shows that Confucian morality is not rooted in any Confucian general principles in separation from the Confucian rituals, much less the liberal general principles of liberty, equality, and individual rights. Instead, this chapter argues, the Confucian rituals are best understood as the Confucian community’s universally-employed, closed social practices, with their internal goals created and defined by a series of Confucian constitutive rules, and such internal goals are indispensable to the essential meaning of Confucian culture and morality. Accordingly, the Confucian rituals provide specific content to Confucian ethics. From this Confucian view, if a society merely emphasizes or relies on regulative principles (such as the liberal principle of self-determination) to maintain order, the society cannot be kept in good order for a long term in which individuals can pursue human flourishing. This is because individuals need the guidance of constitutive rules to form a stable character for living a good life, as well as peacefully cooperating in society.

This does not suggest that the Confucian rituals should not be reformed in consideration of Confucian virtue principles. A postscript is added to this chapter to address the logic and legitimacy of Confucian ritual reforms. A crucial issue is what a proper relation is between Confucian general virtue principles and specific ritual rules. Some may want to stress that the general principles of ren, like that of “loving the people” (Analects 12.22), do not refer to the rules of li but provide totally independent guidance. However, just as it is misleading to understand that ren can be cultivated by mechanically observing the rules of li without the need to follow these principles, it is also misleading to understand that ren can be realized by following these principles alone, without the need to observe the rules of li. This postscript argues that a complete Confucian view is not one-sidedly towards either the general principles or the ritual rules, but rather insists that both the principles and the rules are necessary – and together are sufficient – for one to nurture and express Confucian
virtue. The ritual rules are necessary because they provide concrete guidance for moral conduct. The general principles are necessary because they provide reasons for the defenses, excuses, and exceptions of the application of a ritual. Accordingly, the Confucian virtue principles are primarily the ritual principles to play their function along with the ritual rules for the Confucian moral life. They hold a dialectical, mutually-affecting relation which may be called a Confucian reflective equilibrium: all things considered, sometimes a principle trumps a rule, and other times a rule trumps a principle. This Confucian “reflective equilibrium” (between Confucian virtue principles and ritual rules) is remarkably different from the reflective equilibrium that Rawls adopts (between principles of justice and considered judgments) in constructing his theory of justice. Rawls’ considered judgments are not specific rules entrenched in practices or rituals, but are rather “new” beliefs resulting from reflections – reflections made under conditions guided by principles, or senses of principles. As a result, from the Confucian view, Rawlsian liberalism fails to give due respect to established practices and rules.

The proper character of the relationship among cultures and societies in an age of globalization is not a matter of little controversy. Social-democratic liberals affirm a globalization grounded in individual liberty and rights, along with an accent on egalitarianism, all without an appeal to any particular conception of the good life or of human flourishing. In liberal social-democratic accounts, a pattern for globalization is rooted in diverse claims regarding human rights, but without any substantive vision of human virtue. Libertarian approaches step back from an affirmation of a web of claim rights and the endorsement of a long list of human rights, but nevertheless affirm the centrality of permission as a universal principle when persons meet as moral strangers within global markets. A Confucian approach to globalization is critical of these visions for interaction across the world because of the Confucian recognition that humans are ritual-centered beings. Even global interactions must be ritual-governed. That is, proper international communication and cooperation must be embodied and fulfilled through human rites (li), no matter how sparse. The view is that one should perform different rites with different people in order correctly to achieve relational love, a love that is by its nature not egalitarian. Because rituals are realized in their fullness in particular families and in particular communities, the Confucian approach to globalization will have an accent on localization. It will not regard the whole world as a community, as would social-democratic liberals. Nor will it regard the world as constituted out of isolated moral communities bound together merely by the market, contracts, and agreements, as would libertarians. Instead, Confucians will recognize that communities are always local and that we can only collaborate virtuously at a global level through appropriate ritual.

The third chapter of this section turns to a ritual-centered personhood. Rather than embedding the status of personhood within a creative act of God (as with Christian accounts), within an abstract understanding of moral law (as with Immanuel Kant), or within a set of moral considerations (as with certain contemporary conceptions), Confucianism appeals to rites as the source of personhood and as the expression of its significance. Persons are ritual-engaging beings so that to be a person is to be able to participate in communal ceremonial rites; that
is, to understand and engage in li activities. The Confucian appreciation of ritual is always concretely present in human ceremonies, such as sacrifices, marriages, funerals, and the complex rituals governing the relationships between parents and children, princes and their subjects, husbands and wives, the older and the young, and friends with friends. The complex and rich Confucian notion of humanity (ren) can only be parsed by reference to this fabric of rituals. Accordingly, the Confucian conception of personhood is practice-oriented, relation-based, and degree-relevant. It is practice-oriented because the importance of personhood is derived from and embedded in the Confucian rites. It is relation-based because a Confucian cannot be identified independently of one’s roles in the basic human relationships. And it is degree-relevant because one can always become even more of a “true” person through ritual practice.

Contemporary China is characterized by a moral crisis, a moral vacuum. This moral vacuum has been produced by the disconnect between the immense success of China since the market reforms introduced by Deng Xiaoping and by the disarray of many traditional Confucian moral structures. The astonishing transformation of the economic realities of China over the last three decades can only be explained by the presence of vital elements of Confucian morality. Chinese were at once able successfully to enter into the market and transform China into one of the most productive market economies of the world. The operative morality of the economy of China is Confucian, although incomplete and even distorted. Yet the announced morality of the public forum and of the public discourse has remained socialist, if not communist. The result is a moral vacuum, moral disorientation, and corruption. In this last chapter of the book, I argue that the so-called moral vacuum facing current China is not due to the emergence of a new post-communist, social-moral personality, as some contend (Wang, 2002). It is rather in great measure due to a deformation, distortion, or disabling of morally healthy Confucian moral agency, the Confucian personality. This chapter adopts the concept of personality disorder to coin two particular Chinese personality disorders to account for the contemporary Chinese circumstances: “the communist personality disorder” for the Chinese communist nightmare from 1950s to 1970s and “the post-communist personality disorder” for the moral vacuum from the 1980s onward. Accordingly, the problems that face China, and indeed the world, can only be remedied by the restoration of a healthy Confucian moral personality marked by a family-centeredness, an appreciation of the goodness of material wealth within the constraints of virtue, a recognition of the relation-specific character of obligations of altruism, and a relation-skilled attention to harmony and cooperation within families, societies, and markets.

Much of the West is characterized by a similar moral vacuum. This vacuum has been engendered on the one hand by the collapse of traditional Christian understandings of morality and pursuit of virtue, and on the other hand by a successful production of widespread wealth that has nurtured egoistic and hedonistically-directed personalities. It is for this reason that the subtitle of this volume is Rethinking Morality after the West. The dominant morality of the West is in disarray and cannot be called on to aid China in this crisis. An appreciation of the threat of this moral vacuum has pushed Russia, for instance, to a de facto re-establishment
of the Orthodox Christian faith. China must make its contribution to addressing and curing this global moral crisis. This volume takes seriously what China can and must contribute to world culture in order to address this global moral disorientation. Most accounts of the human goods and human flourishing within the dominant secular individualist culture of the West are too insubstantial to direct a life of virtue. Help must come from the East.

Appended to this volume is a dialogue between the author of this volume, characterized as “Mr. Con” (i.e., the author as both Confucian and conservative in the sense of affirming the enduring values of Confucian thought) and “Dr. Lib” (i.e., Professor Andrew Brennan) who defends a liberal position. The dialogue explores the question whether the Confucian family-based communitarian ethic can be rendered compatible with liberal individualism. The answer is in the negative. In this dialogue, I advance the position that a tradition develops through reconstructing, not changing, its core values. Reconstruction is needed because a tradition often faces incomplete interpretation, misunderstanding, malpractice, or even distortion of its core values, just as what has happened to the Confucian tradition in the last century. However, reconstructing is not changing – if the core values of a tradition are changed, the tradition is ended. The core Confucian moral and political understandings are rooted in a virtue ethics, structured by unique cardinal notions, such as ren and li, shaped by a non-individualistic appreciation of the centrality of the family as an ontological entity with its own sovereignty and commitments, and sustained by a series of shared ritual practices. They are in tension with those grounding social democratic moral and political principles. Accordingly, an attempt to “modernize” Confucianism by bringing it within the ambit of liberal ethical commitments would be a way of destroying it. The authentic Confucian familial way of life through virtue cultivation and ritual performance cannot, and should not, be changed.
Part I
Beyond Individualism: Familism as the Key to Virtuous Social Structure
Chapter 1
Confucian Morality: Why It Is in Tension with Contemporary Western Moral Commitments

In ways that at first blush seem outrageous to the liberal egalitarian moral sentiments of the west, Confucianism resolutely gives priority to family love over love for anonymous others. The result is that the Confucian approach to abstract universal moral principles and to concrete moral problems such as corruption is quite different from what such a western morality would require. Indeed, a debate has taken place in present China regarding whether the Confucian family-based virtues (such as filial piety, Xiao, 薨) are the roots of morality or the sources of corruption.1

1A series of articles representing the two sides of the debate have appeared in Dao: A Journal of Comparative Philosophy VI.1 (March 2007), VII.1 (March 2008), VII.2 (June 2008), and VII.3 (September 2008). The debate has been made around the three following classical Confucian cases:

A. The Father-Son Mutual Concealment Case from the Analects:

The duke of She (齊公) informed Confucius, saying, ‘among us here there are those who may be styled upright (直) in their conduct. If their father has stolen a sheep, they will bear witness against him.’ Confucius said, ‘among us, in our community, those who are upright are different from this. The father conceals the misconduct of the son, and the son conceals the misconduct of the father. Uprightness is to be found in such mutual concealment’ (Analects 13.18).

B. The Shun’s Brother Case from the Mencius:

Wan Zhang [萬章, Mencius’ student] said, ‘Xiang [象, Shun’s brother] made his daily business to slay Shun [舜, a Confucian sage king]. When Shun was made sovereign, how was it that he only banished him?’ Mencius said, ‘he raised him to be a prince. Some supposed that it was banishing him.’ Wan Zhang said, ‘Shun banished Gong Gong (共工), sent away Huan Dou (驍兠), slew San Miao (三苗), and killed Gun (鲧). On these four culprits having been punished, the people in the empire bowed to his will with admiration in their hearts, for he had punished persons who were destitute of humanity (仁). However, Xiang was of all the most destitute of humanity, and yet Shun raised him to be the prince of Youbi (有庳). What wrong had the people of Youbi done? Does a man of ren (仁) really act thus? In the case of other persons, he cut them off; in the case of his brother, he raised him to be a prince.’ Mencius replied, ‘a man of ren does not lay up anger, nor cherish resentment against his brother. All he does is to love him. Because he loves his brother, he wishes him to be honorable; because he loves his brother, he wishes him to be rich. To appoint Xiang to be the prince of Youbi was to enrich and ennable him. If, while Shun himself was emperor, his brother had remained a commoner, could he have been said to love him?’ Wan Zhang said, ‘I venture to ask what you mean by saying that some supposed that it was a banishing of Xiang?’ Mencius replied, ‘Xiang could do nothing in his
For example, Liu Qingping declares that Confucianism involves a “deep paradox” (shen du bei lun, 深度悖論). By this he means that in Confucius, and particularly in Mencius, there are claims about the priority of family love over love for others; and at the same time there are claims about undifferentiated, universal love not based on family love. From this, he further asserts that Confucians are “confronted with an embarrassing paradox: some actions, which are typically corrupt actions in essence [sic], are praiseworthily virtuous in the light of their unique spirit” (Liu, 2007, p. 6). The question that arises from his article is why, if his account is correct, Confucius, Mencius, and other Confucians did not recognize such a paradox. The most plausible explanation, and the one for which I argue in this chapter, is that there is no such paradox at all. Those Confucian actions under Liu’s discussion would constitute forms of corruption only if one, like Liu, attempts to understand Confucian morality within some modern Western European moral perspective that condemns “placing consanguineous affection above universal principles” (p. 7). At the very least, Liu fails to take seriously the task of first accurately portraying the Confucian understanding before he mounts his criticism in the service of the conclusion to which he wants to come; namely, his moral rejection of the mutual familial support required by consanguinism. Instead, Liu takes for granted that Mencius endorses corrupt actions through favoring the benefit of family members. His account assumes that acts of familial favoritism are in essence corrupt. But this is exactly the question that needs to be addressed.

The issue is what sorts of actions, under what circumstances, should be considered corrupt. Before Liu can conclude that “Confucianism encourages a special kind of corruption through its fundamentally consanguineous affection” (p. 1), he must first establish that consanguineous affection can engender sufficient, not merely necessary, conditions for an action to be corrupt. Though favoritism in some circumstances can constitute a necessary condition for some forms of corruption, the description of favoritism as corruption would be false if any sufficient conditions for corruption are defeated by the force of a qualified favoritism in a moral tradition. In fact, in Confucianism, consanguinism is a virtue that carries the virtue-supporting force of familial favoritism in which obligations under consanguinism render certain acts of favoritism virtuous. Liu endorses the view that one has anonymous state. Shun appointed an officer to administrate its government and to collect tributes and taxes. For this reason it was described as banishment. Xiang was certainly not permitted to ill-use the people’ (Mencius 5A3).

C. The Shun’s Father Case from the Mencius:

Tao Ying [穎, Mencius’ student] asked, “when Shun was emperor and Gao Yao (嶽陶) was the judge, if Gusou [Blind Man, 惡陋, Shun’s father] killed a man, what was to be done?’ Mencius replied, ‘the only thing was to do was to apprehend him.’ ‘In that case, would Shun not try to stop it?’ ‘How could Shun stop it? Gao Yao had his authority from which he received from the law.’ ‘Then what would Shun have done?’ ‘Shun looked upon casting the empire as no more than discarding a worn shoe. H would have secretly carried his father on his back and fled to the edge of the Sea and lived there happily, never giving a thought to the empire’ (Mencius 7A35).
universal moral obligations that cannot be defeated by the obligations of consanguinism. It is likely that he comes to this position because he fails to appreciate that Confucianism acknowledges good reasons for rejecting an anonymous universalist account of morality as a system of independently valid norms. Liu does not recognize that Confucians affirm a way of life as a whole within which living up to the claims of virtue consanguinism is essential for human flourishing.

As a result of this difference in moral perspective, Liu wants to impose on Confucius and Mencius a view of morality constituted in terms of independent universal norms, the violation of any of which is essentially wrong. Instead, for Confucius and Mencius, moral norms are specific rules for action that have their plausibility in terms of their identifying the ways in which one can achieve virtue. As a consequence, in many, if not all, circumstances, favoritism to a family member does not constitute a morally improper act, but the very opposite. Given its conduciveness to and manifestation of virtue, familial favoritism can be a morally obligatory act. Confucius’ and Mencius’ position on these matters is determined by their possessing a moral perspective radically at odds with what Liu brings to his interpretation of Confucianism. Rather than regarding morality as structured around a set of absolutely anonymous principles and rules, they recognize morality as realized in a virtuous life where specific moral rules are embedded in ritual practices in which one conduct different activities with different individuals in different circumstances. In short, given the Confucian appreciation of obligations under consanguinism and the contribution made by the bonds of the family to the substance of virtue, the actions Liu describes as corrupt are not corrupt, but are in fact virtuous.

Liu is led to his conclusions by his anonymous universalistic account of moral obligations where each moral norm can be identified independently of social circumstances. For Liu, the status of persons and the governance of moral norms are not given content through particular social relations. In contrast, Confucians recognize that both persons and moral norms gain their content and authority within a fabric of social relations. As a result, the moral obligations of persons are always to be understood first and foremost within a familial context. While Liu wants to specify absolute universalistic principles, it is not clear that one can find such principles even in the most demanding of Western ethics. Kantians (as opposed to Kant) recognize that even things like telling a lie or killing are not absolutely prohibited. Philosophers like Aristotle think almost all moral judgments are particular and context sensitive. Confucians are also particularists, and they see tremendous value in properly fulfilling familial bonds. They value these relations for at least two reasons: (1) these relations are valuable in themselves, part of what makes life worth living; and (2) they are the source and paradigm for more general good acts. Neither of these beliefs means that fulfilling a familial obligation is always and everywhere good; they do mean that such acts always have some moral value and in some cases a great deal of such value. Indeed, Confucians uphold universal love. But they are not the Mohists (墨家) who want to seek undifferentiated, impartial or egalitarian love, without regard to family ties. Instead, the Confucian version of universal love is differentiated, non-egalitarian love that is familially based and centered. When Liu
mentions Mencius’ “four beginnings” and the baby-crawling-into-the-well examples, he seems to misunderstand Mencius as asserting a general moral capacity that requires egalitarian treatment of everyone. The truth of the matter is that Mencius has made it very clear that such capacity is not naturally directed to everyone with equal intensity: your affection for your brother’s baby is not like your affection for a neighbor’s baby, and rightly so (Mencius 3A5). Pace Liu, Confucians do not have two hearts – one possessing anonymous universal love, and the other differentiated universal love. Rather, they hold one unified heart that serves as the effective root of morality for a Confucian way of life (cf. Nivison, 1996, p. 133).

However, the very obligations as well as the flourishing of persons, families, and societies is put in jeopardy by those who like the duke of She affirm the uprightness of a “man who bore witness against his father when he stole a sheep” (Liu, 2007, p. 4). Confucius appropriately remonstrates that “the upright ones in my community are different from this. Fathers conceal the misconduct of their sons and sons conceal the misconduct of their fathers. Uprightness is to be found in such mutual concealment” (Analects 13.18). While some people cite it as an example of corruption, this passage does not advocate breaking the law, unless the law immorally requires one to report about one’s parents. All it says is that one does not report one’s father’s crime; it does not ask one to aid or abet him in stealing. If my father came home one day and showed me a watch he had picked up from a store and left without paying for, I would not pick up the phone and turn him in. I would take the watch back to the store, explain that my father is suffering from dementia, return the watch and offer compensation. My aim would be to avoid anyone having to report the crime. Confucius, unlike Liu or Immanuel Kant, does not affirm (or for that matter consider coherent) an anonymous moral perspective which is articulated primarily through an appeal to what can be universalized in the absence of considerations of particular relations and particular circumstances. Like G.W.F. Hegel, Confucius recognizes a kind of Sittlichkeit with its grounding in the family as well as in particularity as the source of moral content and direction that cannot be derived from appeals to anonymous universal principles.

The difference between Confucianism and the moral stance affirmed by Liu is better appreciated when one notes that Confucianism is committed to a set of moral-epistemological, axiological, and metaphysical premises denied by both Liu and Kant. Confucianism affirms the moral-epistemological insight that virtue is learned first and foremost in the family, through the particular bonds and obligations that arise within familial relationships. Thus, Confucianism denies Liu’s premises that one need not take particular kinship love as an indispensable moral starting point, and that one can instead derive humane love from “some universal principles” (p. 16). Here Liu fails to see that he is rehearsing the debate between Confucians and Mohists in the ancient time: while the differences between Mozi (墨子) and Kant are numerous and substantial, they both appeal to an abstract principle as the basis for moral judgment. Confucius and Mencius recognize that such an anonymous universalism is morally and epistemologically misleading. In addition, Confucianism endorses the metaphysical priority of the family over the individual. Persons live in a rich fabric of concrete familial obligations that guide actions as well as make
possible the moral life and human flourishing. The family as a whole has a moral significance that is more than the sum of its parts. In terms of the metaphysical thesis, one can appreciate the axiological insight; namely, that family flourishing is of richer and greater significance as a good than the good of individual flourishing. This is the case, in part, because individual flourishing regarded apart from flourishing within the family is radically one-sided and incomplete. Unlike Liu, Confucius and Mencius consider a society marked by the discharge of the obligations of consanguinism as morally more complete and noble than one that in an unbalanced attempt to prohibit vicious familial favoritism makes the pursuit of virtuous familial favoritism impossible.

This Confucian family-oriented favoritism does not contradict the rule of law, as Liu might think. Rather, it constitutes the specific content of the Confucian rule of law for a life of virtue. There is no such thing as a universal conception of rule of law that applies to all cultures or societies anonymously. In the case of Shun raising his brother Xiang to be the prince of Youbi, Shun was presumably following the legal and political system established at his time, which allowed an emperor to appoint his unvirtuous brother to an honorary, though not authoritative, position in order to enrich and ennoble him. This system is consistent with the Confucian family-oriented favoritism. It aims at avoiding an unvirtuous circumstance; namely, that an emperor would have been said not to love his brother if he had allowed his brother to remain a commoner (Mencius 5A3). While Liu thinks Shun performed a corrupt act by injuring the interests of the people in Youbi in order to benefit his brother, the truth of the matter is that under this wisely designed Confucian rule of law, the interests of the people in Youbi were not harmed because Xiang did not have real power to govern them. Instead, Shun was able to fulfill love to his brother, which Confucianism takes to be essential for Shun’s virtue cultivation and manifestation. Since the virtuous act of the emperor would influence Chinese society as a whole, it would benefit the people of Youbi and beyond.

The imagined case of Shun’s father, Gusou, differs from the above case in that there was not a law yet for Shun to follow. Faced with an unprecedented case, Shun had to take everything into account and make a decision. He should not, according to Mencius, forbid judge Gao Yao from apprehending his father, because Gao Yao had a legal obligation to so act. Neither should Shun fail to act to save his father because such a failure would violate the basic Confucian virtue of filial piety. The best he could do, Mencius argues, was secretly to take “his father on his back and fled to the edge of the Sea and lived there happily, never giving a thought to the empire” (Mencius 7A35). Mencius’ suggestion was the best option under the circumstances and is compatible with the Confucian virtue of family-oriented favoritism. It would be corrupt for Shun to use his position to shield his father. But Mencius was very clear that Shun should not do this. He should not interfere with the law. He should resign and then as a private citizen escape with his father. From my understanding, since this was an unprecedented case faced by Shun, Mencius’ suggestion should be understood as proposing an augmentation of the law; namely, that in a perfected Confucian rule of law, if an emperor’s parent commits a felony, the emperor
should abdicate and the parent should be spared from the usual punishment. This proposal is consistent with and justifiable by the Confucian consanguine morality which is eventually realized by the privilege of substituted punishment (e.g., where the son could receive the punishment usually due the father) as a part of the traditional Chinese legal system (Fan, Z. 2004). In this system the family is taken as an autonomous moral and legal agent that must first be understood as having a priority within society. It is recognized as prior in the order of knowing (the *ordo cognescendi*) in the sense that the moral appreciation of the family is necessary for the appropriate moral appreciation of society. The family is also prior in the order of being (the *ordo essendi*) in that society can only exist if there are families. The members of a family flourish and suffer altogether as a whole. The absolutist affirmation of isolated individual legal responsibility as espoused in modern Western jurisprudence goes against the grain of the human moral life.

If one would forgive a certain bias in favor of the present, Confucius, Mencius and traditional Confucians generally regard themselves facing a moral threat similar to that ingredient in the anonymous universalist morality of ancient Chinese Mohists or contemporary Western Europeans. That morality focuses on individuals apart from their place in the family. The moral life is construed in anonymous terms, separating the individual from the particular bonds that give the moral life its content. The result is that one is deprived of a familial location, the life of the isolated individual is reduced to a shallow hedonism. This European crisis of the family is the focus of the conversations of Cardinal Ratzinger, now Pope Benedict XVI, with Marcello Pera regarding the circumstance that Europeans are no longer reproducing (Ratzinger and Pera, 2007). Europeans are failing to appreciate the moral values and place of the family, because these values cannot be adequately articulated from an anonymous universalist moral perspective. The view from the family is always a view from a particular somewhere, not the anonymous nowhere of Liu’s proposed morality. Contemporary European morality leads to the death of the family. Over against the atomism and anomie of such a society defined in terms of anonymous universalist moral rules, Confucianism proposes a radically different moral perspective that takes moral particularity seriously.

When one turns to the public policy implications of all these considerations, one must not only recognize the contemporary challenges in Chinese life to a Confucian appreciation of the family, one must also concede that Chinese public and private life is marked by numerous forms of pernicious favoritism that undoubtedly count as instances of corruption. In addressing these problems of corruption, one should not obscure the status and significance of the family in the life of virtue. The corruption that characterizes contemporary Chinese life is not one that derives from the favoritism that Liu criticizes in Confucius or Mencius. The favoritism affirmed by Confucius and Mencius is set within the moral constraints of a life of virtue. Although I am not able to provide a complete list of the moral constraints that Confucianism has set on familial favoritism within the scope of this chapter, the

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2 For a detailed discussion of this case, see Section 3.5.
three cases we have discussed have suggested illuminating points: one should be prohibited from assisting or joining a family member to commit an immoral act, such as to abet one’s father in stealing; one should be prohibited from using one’s power to appoint a family member to hold a social or political position in charge of affairs that go beyond the command of that family member’s talents and abilities; and one should be prohibited from using one’s power to interfere with legal procedures in order to benefit a family member at stake. Outside of such moral constraints, favoritism becomes corruption. Set within such moral constraints and aimed at a Confucian life of virtue, Liu’s moral concerns with familial favoritism are defeated. 3

China will need to restore a notion of the family within a Confucian appreciation of virtue in order to combat corruption. At the very least, given the crisis of the family in Western Europe and elsewhere, Chinese law and public policy should

3 In his “response to critics” (Liu, 2008), Liu argues that all the three Confucian cases under discussion are morally defective because they violate the universal moral principle “harm no one and benefit humans.” I think it is eventually groundless to base his conclusion on “harm” considerations. It is true that if my father stole a sheep from the owner, he had harmed the owner. But I do not inflict any harm to the owner if I simply refrain from reporting the case to the authority. Liu should not forget that it is the latter (my refraining from reporting) rather than the former (my father’s stealing a sheep) that is at stake in the debate. Regarding the case of Shun’s raising his brother as the honorary prince of Youbi, Liu argues that Shun harmed the people of Youbi by this appointment because he made his brother “rich and honorable purely by the wealth created laboriously by Youbi’s subjects” (p. 308). However, honorary appointments are inevitable for any government because such appointees can play some beneficial functions that authoritative positions cannot or should not perform in society. As long as Liu agrees that it is morally justifiable to levy taxation for running a government – on which I take he agrees because he is not an anarchist, he cannot contend that setting up honorary positions would harm the people. Consequently, even if appointing an unqualified person to be an authoritative prince would tend to injure the people because the person will have the power to do so, appointing an unqualified person to be an honorary prince cannot harm the people because he is “certainly not permitted to ill-use the people,” as Mencius points out (Mencius 5A4). In short, the only issue at stake seems to be whether Shun’s brother is qualified for the honorary position, rather than whether appointing him to the position would harm the people of Youbi. Finally, it is true, again, that if one’s father murdered another person, the father certainly harmed that person. But it is too stretching to say that by helping one’s father to escape from punishment, one is also harming that person. Even if it is wrong to help one’s father to escape in this case (though this is a controversial issue; see more discussion in Chapter 3), it is wrong for reasons other than “harming” the person that was murdered by the father. As to the principle of “benefiting humans,” it is indeed naive to believe that an agent-neutral, “impartial” utilitarian view would “objectively” trump other views, such as an agent-relative, family-based Confucian virtue ethical view. From the Confucian view, it is precisely an indication of moral corruption more than intellectual numbness for Liu to claim that in a case in which one’s mother and a stranger are about to drown and one could save only one of them, it is morally fine that “I may first save either my mother out of kinship love or the stranger according to radical altruism” (Liu, 2008, p. 307). Confucians would say that you must save your mother in this case, period! Given the Confucian understanding of human nature, human relatedness, as well as the character of a way of life guided by virtue, saving one’s mother rather than a stranger in this case is not only the only right thing to do, but it is also the only effective way of “benefiting humans.” If one cannot even be nurtured to take an action to save one’s mother, it is hard to believe that one can be successfully educated to take an action to save a stranger.
restore the Confucian recognition of the moral status of the family. Many of the ways in which Guo Qiyong notes that various legal systems exempted family members from testifying against each other should be re-established (Guo, 2007). Such legal reform must distinguish among three levels of intra-familial legal immunity. One step would exempt family members from any duty to testify against other close family members. The second would not allow the admissibility of such testimony in court. Last, the law could fine or otherwise punish those who support a court case against a close family member. Which position the law establishes should depend in part on the legal issues at stake. For example, one might have a quite different view with regard to testimony in tort actions versus testimony in criminal cases. As one moves to remedy the various forms of corruption found in contemporary Chinese society, it would be a great error to follow Liu’s suggestions, which obscure the role of the family in the nurturing and development of a life of virtue.
Chapter 2
Virtue, Ren, and Familial Roles: Deflating Concerns with Individual Rights and Equality

2.1 Introduction

An impassioned commitment to read into Confucian moral theory a Western affirmation of human rights and human equality is producing a substantial literature. This literature has begun to take the first step to reassess this recasting and translation of Confucianism in terms more acceptable to the Western mind. For example, Po-keung Ip (2003) critically assesses the Confucian virtue-based notion of personhood and contends that it is inadequate for dealing with bioethical issues because it lacks a theory of individual rights. This chapter will address this issue by focusing on two sets of essays selected from contemporary East Asian bioethical literature. These two sets of essays, Julia Tao’s, Edwin Hui’s, and Hyakudai Sakamoto’s on the one hand, and Ip’s on the other, represent two different approaches to the nature of Asian bioethical explorations for the foundation of an Asian bioethics. In the approach of Tao (2003), Hui (2003), and Sakamoto (2003), the foundation must be established based on Asian cultures, religions, and moralities, especially Confucianism, thus providing a bioethical account more adequate in the Asian context than the account offered by modern Western individualist morality. In Ip’s approach, however, a rights-oriented bioethics must shape the core of an Asian bioethics, because, as he sees it, Asian moralities in general and Confucianism in particular fail to take individual rights seriously and are thereby fundamentally defective.

This chapter will first draw on the arguments offered by Tao, Hui, and Sakamoto to show why a rights-based bioethics is not a panacea for solving issues in Asian bioethics. Then, in response to some of Ip’s concerns and arguments, this chapter will lay out the strengths of a virtue-based Confucian account of personhood for bioethical explorations. Furthermore, it will compare the liberal accounts of equal rights and the Confucian account of unequal virtues as well as their respective underpinning principles. Finally, some concluding remarks are in order concerning Reconstructionist Confucian bioethics’ approach to dealing with specific bioethical issues.