

**Confucian Principles of Governance in the Modern Chinese Society**  
**Guo Bing**  
**Конфуцианские принципы управления в современном китайском обществе**  
**Гуо Бин**

*Гуо Бин / Guo Bing – доктор философских наук,  
Школа Марксизма,  
Китайский университет политики и права, г. Пекин, Китай*

**Abstract:** *Confucian existed for thousands of years in China; it has a very far-reaching influence in China. Confucian affects the state, society and every one of us. In contemporary China, Confucianism is still has a profound impact. Today's China is a more open China, politics, economy and culture and the world together. Confucianism as the mix of China and the world has become increasingly internationalized. Confucianism is accompanied by the development of China to the world. Never like today become in the history of China in the center of the world's cultural convergence and agitate, China's problem is increasingly becoming the world's problems, and the problem that the world has become a problem facing China, in the depth of fusion in China and the world today, we carry forward the Chinese culture represented by Confucianism civilization inheritance of wisdom, it was in order to more to solve various problems facing China and the world, to explore the stability and peaceful development of China and the world and efforts.*

**Аннотация:** *Конфуцианство существовало в Китае в течение тысячи лет, и оно имеет очень большое значение. Конфуцианство влияет на государство, общество и каждого из нас. В современном Китае оно до сих пор оказывает огромное влияние. Сегодня Китай является более открытой страной, что касается политики, экономики и культуры. Конфуцианство Китая и всего мира становится все более интернационализированным и идёт параллельно с развитием Китая в мире. Сегодня в истории Китай стал в центре культурной конвергенции мира. Проблемы Китая становятся мировыми проблемами. Мы переносим китайскую культуру, представленную конфуцианством, цивилизацию унаследованной мудрости для того, чтобы решить различные проблемы, стоящие перед Китаем и остальным миром, чтобы исследовать уровень стабильности и мирное развитие Китая в связи со всем миром.*

**Keywords:** *doctrine of Confucian, Governance principle, modern Chinese society, Confucianism civilization, modern law mechanism.*

**Ключевые слова:** *учение Конфуция, принцип управления, современное китайское общество, конфуцианство, современный юридический механизм.*

## **Introduction**

Confucius was and still is one of the most eminent Chinese philosophers. Such is the importance of Confucius's teachings; it had influenced all aspects of social life in Chinese societies. What Confucius advocated was a non-legal, social mode of regulation based on moral ideals that should be embedded into the minds of every person. Whilst this is an ancient concept from primitive societies, its relevance and merits could be seen in modern Chinese society. In essence, Confucian principles of governance build on relational and paternalistic order based on moral ideals.

On the 12th January 2011 China has unveiled a statue of Confucius in Tiananmen Square. This is one of the latest sign of the ancient philosopher's comeback after decades in which Mao Zedong suppressed his teachings. Even though Confucius's revival in China is politically motivated, the Chinese Communist party's aim is to champion a harmonious and stable society. But what exactly does Confucian doctrines espoused, and how does it apply to state administration? Why Confucius does advocate governance without laws? And how the study of Confucius can help to solve today's legal problems?

Pertaining to the Confucian value system and logic concerning regulation and governance, one has to begin by retracing and relating some his complex and interlinking ideas and ideals. This involves describing and explaining his work, then breaking it down and analyzing those concepts in three sections. The first section would focus on Confucius's attitude about

law and regulation through jurisprudential debates, and the second about the governance of society and family. The third section is devoted to the influence of the traditional legal system on the modern one. In the conclusion are considered the ideas of using the Confucian principles to solve today's legal challenges.

## **1. Confucian Principles of Governance**

Much of Confucian thoughts and teachings focus on the governance of the state and family, as well as self-cultivation towards moral excellence. The concepts are overlapping and at times interchangeable, which could add to the confusion over Confucian doctrines, yet this in line with Chinese multi-layered dialectic rationality and integrative process of thinking. [1] At the crux of Confucius thesis, he believed that human nature is good, so his regulatory and governance principles were aimed at restoring this moral goodness in every individual [2].

The Chinese people, educated or educated, do not need to have studied Confucius formally as Confucianism is the grammar and the vocabulary, literally and metaphorically, of Chinese culture and language through which the Chinese live and communicate their life [3]. Chinese culture and Confucian values are transmitted through living as a Chinese and being a Chinese. Culture and Confucian culture exists in different levels. Formal education is only one of many means of cultural transmission. This applies to both recent and future generations.

To begin with, Confucius (551-479 BC) had a disdain for laws and codes [4]. He believed that a nation led by laws was condemned because perpetrators could find ways to avoid punishments. Even if compliance was achieved, those acts are insincere and the law is powerless to transform the inner character of these individuals. He asserted that only morals could remedy wrongful attitudes and conduct. In addition, Confucius did not believe that having robust systems and sophisticated social structures would lead to justice and good governance because these are fallible mechanisms and instruments created by men. If the architect of these instruments were not morally righteous, the systems that they had created would be flawed or deficient, unable to provide natural justice (tianli) in the spiritual sense to masses [5].

The central thesis of Confucius's doctrine is for individuals to embrace moral principles to internalize a sense of righteousness (yi) and attaining virtue (de), as well as achieve social harmony through the practice of propriety (li). This reflected his belief that human nature is good, thus the role of li was to steer people towards a moral life. [6] He advocated that the king and his ministers should lead by example through the cultivation of moral principles. In this scheme of things, law and punishment was considered as secondary instruments or as a last resort to maintain social order.

The society as a whole plays the critical role of applying the principles of li in all aspects of social life, especially concerning the regulation of one's conduct in his or her relations to others in social life [7].

Albeit Confucius's teachings were adopted as a jurisprudential doctrine, the principles espoused was more than just a legal doctrine, they had clear regulatory effect. Confucius's justifications for the application of li as a regulatory method were linked to the concept of tianli developed before Confucius's time in antiquity during the reign of sagely Kings (Yao, Shu and Yu) [8]. Tian refers to heaven, often employed to denote the natural powers that governed all creatures in the universe. Therefore, tianli is moral rules of conduct mandated by heaven.

Moral principles as source of regulatory standards could be justified as doctrines emanating from natural law, but for Confucius he believed that morality tied to humanity, and a kind of higher truth that is innate in part of human nature. However, unlike the Christian traditions, Confucius did not subscribe to the notion men are born with equal rights. [9] In addition, unlike the Christian traditions where the law of man is connected the law of God, Confucius's take on Chinese antiquity heaven is rooted in humanity, and that human are born good (this is distinct from the Christian believe in «original sin»). Thus, the regulatory function of li is to ensure humanity preserve this goodness.

## **2. Confucian Hierarchical Order and Family-centered Governance Principles**

For Confucius, the building blocks of a morally harmonious society come from the regulation of the family. He deemed a well-regulated and governed household is a microcosm of a well-governed state. Confucius said, in order for the king to rule the state well, it is necessary to regulate the family first. Even magistrates, who were delegated the task of acting on behalf of the king or emperor within his district or province, were popular known as the Fumu Guan (Father-mother official) – which meant when solving disputes between subjects; [10] they should act with parental care over the litigants' grievances.

The ethos of the regulation of the family is found in the concepts of five key relationships (wu lun) and three bonds

(sangang). It is the foundation of an orderly and civil society. Confucius believed each person in society has multiple roles relative to who they are and these five relationships are universal relational obligations. The five relationships are those between: 1) father and son; 2) ruler and subject; 3) husband and wife; 4) elder and younger siblings; and 5) between friends [11]. These five relationships prescribed behavioral standards based on a differentiated hierarchical order. This meant that the Chinese society are neither individual-based nor society-based, they are relation-based, where the focus is not on any individual, but on the nature of the relations, each having a set of reciprocal but differentiated obligations.

Out of the five relationships, three bonds (sangang) - ruler and subject, father and son, husband and wife - were singled out as possessing great significance for the family and the society. The ultimate goal of sangang is to create social harmony and harmonious relationships.

To sum up, the Confucian virtuous society is mapped out under a hierarchical order of three core relationships stipulated in sangang. Ultimately, moral values were aimed at creating social order and harmony [12].

In addition, it is equally important to note that the Confucian principles of governance are not rule based, it is relational centered and paternalistic. Relational because Confucian teachings focus on humaneness and reciprocity where consensus between parties based on moral ideals is central, paternalistic as it maintains order via a chain of command underscored by assumptions of paternal care for the welfare of others, altogether forms the vision of a harmonious social order.

### **3. The Impact of Confucian Principles on the Modern Law**

Philosophy has been the most powerful influence shaping the Chinese culture, the conceptions of Chinese for thousands of years. Undoubtedly, it is composed of the dominant value system in Chinese societies. In Confucianism, nothing is more important for good government and peace than proper family relationships. In Confucianism, the family is the framework for establishing graceful interactions with others [13]. It is still the single most important social institution in imparting ways of learning to be human.

Today the Chinese government's view of law's role in society is highly instrumental, as a number of scholars have observed. The present-day 'legalization' program was not generated by a Chinese enlightenment based on a concept of natural, inalienable rights, nor was it the product of a compromise between central state and feudal or merchant élites, or the rise of a bourgeoisie [14]. Rather, it echoes a longstanding tradition in late developers (Confucian and otherwise) which accorded the state a key, proactive role in political, economic and social development.

At present the Chinese legal system suffers from a number of major problems and limitations, such as the shortage of well-educated legal personnel among those involved in the operations in the legal system, the short history of legal system building and hence lack of experience and tradition, the past habit on the part of law-enforcement officials of not-paying attention to the law, the dominance of the Party apparatus over the state, and the Party's unwillingness to subject itself to the supremacy and autonomy of law [15]. There also exist cultural and ideological obstacles to the strengthening of the legal system. The traditional Chinese approach to law has already been mentioned in the preceding chapter. Marxist-Leninist ideology converges with Confucianism in sense: they share a common distrust of or lack of respect for the rule of law [16]. For many decades in the history of Chinese communism, law had been perceived as an instrument for class rule, and law in the socialist society as a tool for the dictatorship of the proletariat and for suppression of the enemies of the socialism [17]. The idea of law as a vehicle for enshrining the individual's rights and human dignity will take time to mature.

Today in China, even if the number of written laws increased, there are still problems with the systematic enforcement of those. Modern-day officials charged with the implementation of law feel obliged to apply it in accordance with such residual norms. The combination of localism, the Confucian legacy and the novelty of such concepts as 'impartiality of implementation' and 'equality before law' has led to the particularized implementation of universal norms in the form of 'preferential treatment'. [18] Such is the form that policy implementation takes in China – policy is dependent on a particularistic and very personalized style of administration, emphasizing the crucial role of the alliances, connections and influence of individual officials. The same officials who for many years were responsible for the implementation policy in this way are now responsible for the implementation of law. It is therefore no wonder that legal implementation so closely resembles policy implementation. The source of the problem does not necessarily lie in the content of legal norms themselves – it lies in the internal world of regulator [19].

As well as being an actual legal structure, law exists as the subjective experience of administrators, legal officials and citizens. It only exists in the sense that it is embodied as a set of expectations or understandings about behavior. If administrators in China do not adjust their expectations in a way that implies recognition of the law as westerners would understand it, then it is impossible to say that law in the western sense exists with any sociological relevance. It is therefore necessary to recognize the underlying 'common sense' rules that motivate the outlook of the individual regulator to understand why legal implementation takes the form that it does in China.

In order to analyze the extent to which law actually reflects the basic frameworks of social life, it will be necessary to explore the relationship between values and law as it has evolved from the final stages of the Qing Dynasty until the present, as well as the implications of this relationship for the viability of the modern legal order.

China must seek unique development path now. Not only is this road with Chinese characteristics, but also should embody the humanistic features. And the Confucian thought is a good way to define the cultural identity of China. Dig deep traditional culture resources, the development of Confucian governance thought, maybe can help us in the market for social, business, unstoppable impact of culture to achieve a balance. I am very touched of hangzhou and intellectuals from all walks of life work together to explore the profound philosophy meaning behind the concept of «we», and devoting to practice. In this process, participants not only including academia, also including the government, the media, our community and the general public. Together, they build a vibrant, good function of public space, through talks to discuss the social from all walks of life, perceptual experience and rational contract negotiation, cultural learning, consensus to achieve and promote a better life. Hangzhou has a good group of intellectuals, they always care about politics, actively participate in society, but also attach importance to culture. They are not only of hangzhou citizens, and citizens in zhejiang province, China's citizens, can even become a citizen of the world in the future. They represent the root is a place of universal significance and modern spirit. This "we" is derived from traditional culture, and learn the spirit of The Times to form a new kind of constructive social force. Therefore, China needs through the place of these specific practices to show to the core concept of belief and practice. Like what we Chinese call righteousness and propriety wisdom letter, those are universal values, is not the only such as it is to the Asian values. Chinese should not only according to the principle of economic man to ask themselves, culture should also be at the same time, become a strong ecological consciousness; Develop a culture of peace, China should create and good-neighborly and friendly, but also need to have for what we call heaven and earth and all things of reverence and respect, and to develop a respect for history, for local cultural heritage values.

### **Conclusion**

At present the Chinese legal system suffers from a number of major problems and limitations, such as the shortage of well-educated legal personnel among those involved in the operations in the legal system, the short history of legal system building and hence lack of experience and tradition, the past habit on the part of law-enforcement officials of not-paying attention to the law, the dominance of the Party apparatus over the state, and the Party's unwillingness to subject itself to the supremacy and autonomy of law. There also exist cultural and ideological obstacles to the strengthening of the legal system. The traditional Chinese approach to law has already been mentioned in the preceding chapter. Marxist-Leninist ideology converges with Confucianism in sense: they share a common distrust of or lack of respect for the rule of law. For many decades in the history of Chinese communism, law had been perceived as an instrument for class rule, and law in the socialist society as a tool for the dictatorship of the proletariat and for suppression of the enemies of the socialism. The idea of law as a vehicle for enshrining the individual's rights and human dignity will take time to mature.

Still, even if in traditional Chinese law the concept of the rights of the individual or of the people did not exist, and the legal system was based on people's duties and obligation rather than their rights and interests, the Confucianism as moral base have big influence on formulation the Chinese concept of human dignity. According to the Confucian principle, the regulatory function of li is to ensure humanity, because all men are born to be good. So the purpose of the state and its law system is to protect this goodness in humans, and this is very close to the western understanding of human dignity as the source of all human rights and reason of all state obligations towards an individual and the society. Now the Chinese constitutionalism defines the concept human dignity simply as the protection of the reputation or a person's good name. But the hidden reserves of the Confucianism in the field of humanity can develop this concept into an effective instrument of implementation of laws.

## *References*

1. *Tang Yijie, Yan Xin* «The Contemporary Significance of Confucianism», *Frontiers of Philosophy in China*, Vol. 3, 4. pp. 122, 2008.
2. *MacCormack Geoffrey* «The Spirit of Traditional Chinese Law», University of Georgia Press, pp. 85, 1996.
3. *Kim Hyung* «Fundamental Legal Concepts of China and the West: A Comparative Study», Kennikat Press, pp. 343, 1981.
4. *Tang Yijie, Yan Xin* «The Contemporary Significance of Confucianism», *Frontiers of Philosophy in China*, Vol. 3, 4. pp. 20, 2008.
5. *Tang Yijie, Yan Xin* «The Contemporary Significance of Confucianism», *Frontiers of Philosophy in China*, Vol. 3, 4. pp. 21, 2008.
6. *Fitzgerald John* «China and the Quest for Dignity», the National Interest, 1999.
7. *MacCormack Geoffrey* «The Spirit of Traditional Chinese Law», University of Georgia Press, pp. 84, 1996.
8. *Kim Hyung* «Fundamental Legal Concepts of China and the West: A Comparative Study», Kennikat Press, pp. 36, 1981.
9. *Tang Yijie, Yan Xin* «The Contemporary Significance of Confucianism», *Frontiers of Philosophy in China*, Vol. 3, 4. pp. 98, 2008.
10. *MacCormack Geoffrey* «The Spirit of Traditional Chinese Law», University of Georgia Press, pp. 85, 1996.
11. *MacCormack Geoffrey* «The Spirit of Traditional Chinese Law», University of Georgia Press, pp. 98, 1996.
12. *Tang Yijie, Yan Xin* «The Contemporary Significance of Confucianism», *Frontiers of Philosophy in China*, Vol. 3, 4. pp. 34, 2008.
13. *Kent Ann* «Waiting for Rights: China's Human Rights and China's Constitutions, 1949-1989», *Human Rights Quarterly*, Vol. 13, No. 2, pp. 67, 1991.
14. *Chu Tung-Tsu* «Law and Society in Traditional China», The Commercial Press, pp. 15, 2011.
15. *Chen Albert Hung-yee* «An Introduction to the Legal System of the People's Republic of China», LexisNexis, pp. 363, 2004.
16. *Corne Peter Howard* «Foreign Investment in China: The Administrative Legal System», Hong Kong University Press, pp. 210, 1997.
17. *Donnelly Jack* «Human Dignity and Human Rights», University of Denver, pp. 92, 2009.
18. *Corne Peter Howard* «Foreign Investment in China: The Administrative Legal System», Hong Kong University Press, pp. 208, 1997.
19. *Chen Albert Hung-yee* «An Introduction to the Legal System of the People's Republic of China», LexisNexis, pp. 28, 2004.
20. *Chu Tung-Tsu* «Law and Society in Traditional China», The Commercial Press, pp. 30, 2011.