Intimate Authority: The Rule of Ritual in Classical Confucian Political Discourse

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This chapter is a discussion of the nature of political authority in the normative political discourse of classical Confucianism. It is set against the background of the perceived particularism that characterizes a significant portion of the classical Confucian teaching. Classical Confucianism, as an ethical, political, and religious teaching, has often been regarded as advocating family-centered moral particularism. This is in sharp contrast with the universalism of Legalism advocating a universal legal code (Bodde & Morris, p. 29). However, both universalistic and particularistic elements are clearly present in the Confucian teaching. Those who claim that Confucianism is exclusively advocating particularism will have a hard time explaining why it became the orthodox teaching of a universal empire for much of the two thousand years of Chinese imperial history. The fact that Confucianism came to dominate the official political, ethical, and religious discourse in imperial China points to its universal appeal. It is hardly conceivable that an exclusively particularistic teaching could have become the source of political, moral, and religious legitimacy for a universal empire. On the other hand, however, one who claims that Confucianism advocates universalism exclusively will run into the apparent difficulty of explaining the family-centered nature of its moralism. The fact that orthodox Confucian texts often lean towards the interest of the family when there is a potential conflict between family and state is suggestive of its particularism. Hence, we find ourselves in a dilemma on how to categorize classical Confucianism in terms of universalism vs. particularism, since such categories appear to be misfits with respect to the nature of classical Confucianism.

David Hall and Roger Ames have proposed a focus/field model to solve the dilemma of universalism vs. particularism: "The focus/field

model results from understanding an item's relation to the world to be constituted by acts of contextualization" (1995, p. 275).[1] That is,

> At any given moment, items in a correlative scheme are characterizable in terms of the focal point from and to which lines of divergence and convergence attributable to them move, and the field from which and to which those lines proceed . . . Fields are unbounded, pulsating in some vague manner from and to their various transient foci. This notion of field readily contrasts with the one-many and part-whole models (ibid., p. 273).

Applying this focus/field model to classical Confucianism would help us to see it in terms of both a family-centered moral particularism (focus) and "the kind of inclusive pluralism that is achieved with the flourishing community" (field).[2] The focus/field model retains particularism as the focus while dissolving universalism into inclusive pluralism as the field.

In this essay I would like to propose another way to approach the issue. I will make the case that it is better not to interpret classical Confucian teaching along the lines of universalism vs. particularism at all, which presupposes a clear boundary between the two; rather, universalism and particularism are not even clearly separated to begin with in classical Confucianism. The difficulty in applying the two categories to describe the nature of the classical Confucian teaching points to its peculiar orientation. To be more specific, classical Confucianism is an intimacy-oriented discourse and to interpret it along the line of universalism vs. particularism is an integrity-oriented analysis that is premised upon a separation between the two. I am using the terms "intimacy" and "integrity" as they are defined by Thomas Kasulis in his comparative study of cultures, *Intimacy or Integrity: Philosophy and Cultural Difference*. Accordingly, intimacy refers to a cultural model whose dominant orientation is characterized by personal—instead of public—objectivity, no sharp distinction between self and other, an affective dimension of knowledge, the connection between the somatic and the psychological, and a nonself-conscious ground for knowledge. By contrast, integrity refers to a cultural orientation with just the opposite characteristics.

I will use the classical Confucian political discourse as an illustration of the overall intimacy orientation of classical Confucianism. I will argue that the classical Confucian paradigm of political authority is what I call "the rule of ritual," idealized in the rule by sage rulers and scholar/offi-

cials who exercise a personal form of authority, the source of which is their moral exemplarity in observing ritual propriety, and that it is essentially a model of intimate authority. Such a form of political authority is analogous to the traditional familial and communal authority exercised by respected elders, as opposed to the impersonal, coercive form of authority in the execution of law. The whole premise of this intimate authority is the analogical relationship between family and state, with family as the central metaphor. The efficacy of such a form of authority is established on the educated observance of ritual propriety, *li*, in every aspect of one's life, as opposed to being coerced into obeying the (penal) law, *fa*. *Li* and *fa* belong to two distinct domains of political discourse in ancient China, with Confucians advocating *li* and Legalists *fa*. We will first examine the rule of ritual in the classical Confucian political discourse; then we will see how it is an intimacy-oriented discourse, with its advantages and disadvantages; at the end, we will look into how the intimacy-oriented rule of *li* has shaped the legal practice in traditional China and explore implications it has on China's current transition towards some form of the rule of law.

Li and the Rule of Ritual

Li, usually translated as ritual, ceremony, propriety, ritual propriety, etiquette, and politeness, etc., is a core Confucian notion, and the centrality of the teaching of *li* is one of the distinguishing characteristics of Confucianism. As summarized by Benjamin Schwartz:

> The word *li* on the most concrete level refers to all those "objective" prescriptions of behavior, whether involving rite, ceremony, manners, or general deportment, acting roles within the family, within human society, and with the numinous realm beyond. . . . What makes *li* the cement of the entire normative sociopolitical order is that it largely involves the behavior of persons related to each other in terms of role, status, rank, and position within a structured society. (p. 67)

What is striking is the fact that *li* is an all-embracing realm prescribing every aspect of social, including familial, and political relationships and regulating every detail of interpersonal behavior. More importantly, it is also a gateway through which human beings are connected with the divine. Being such a highly charged concept, *li* covers an extraordinarily wide spectrum of relations and behaviors, from familial to social and

political, from the human realm to the divine. No clear demarcation is made between private and public, secular and sacred, or particular and universal. This is one of the fundamental premises of the Confucian thought.[3] In this section, I will argue that *li* legitimizes the kingship and that it offers the ideal form of governance in classical Confucian political discourse.

Li's role in legitimizing the kingship has to do with its origin, which can be traced to the practice of ancestral worship. Ancestor worship was a prevalent form of religious practice in ancient China that is based upon the belief that the ancestral spirits dwell in the world of the divine or numinous, and that the well-being of posterity relies on the blessing of those ancestral spirits. Sociologically, what is significant for ancestor worship as a religious orientation lies in the fact that it "highlights the kinship group as a paradigm of social order—that is, as a network of intimately related roles" (Schwartz, p. 23). In other words, the practice of ancestor worship, in which a clan participates as a group, provides a way of managing the intraclan relationship and regulating the behavior of clan members within the networks of that relationship. As such, as Schwartz notes, "[i]n exploring the wide implications of ancestor worship, . . . we already discern the germ of the later category of *li* which bridges a gamut of prescriptions, ranging from religious ritual to proper social behavior and even etiquette, to use our terms" (p. 22). Ancestral worship represents the embryonic form of *li* in its early development, and as *li* is perfected later on, it is gradually expanded to incorporate other domains, becoming what Schwartz calls "the cement of the entire normative sociopolitical order" (p. 67).[4]

Ancestor worship was the quintessential religious practice in ancient China, and even the king practiced it, as an exemplar of filial piety to his subjects. Be so as it may, the legitimization of a king's rule over others could not be entirely dependent upon the ancestral cult of the royal family, since all people have their ancestors and kin. The king needs a spiritual authority with universal power that can legitimate his rule over the kingdom. Heaven, worshipped by the Zhou house, fulfilled such a role. It is clearly a supreme being with universal power: "Heaven, or the dome of the sky, was worshipped as the supreme being by the Zhou"; "Heaven was not tied to any nation as kin but was omnipresent" (Hsu & Linduff, pp. 106, 108). The legitimization of a king's rule lay, in addition to his military might, in his symbolic ability[5] to communicate with Heaven. Such a communication with Heaven, however, was not a direct one, but through the mediation of ancestral spirits (Schwartz, p. 25).

The ancestral spirits of the royal lineage played a mediating role between Heaven and the king, while the king was the intermediary

between the divine realm and the human world. Through the ritual performance of ancestral worship, a unique avenue was thus established between the king, the universal ruler of the human world, and Heaven, the supreme governor of the cosmos, via the ancestral spirits of the royal lineage. This is how ancestor worship and the worship of Heaven were linked together, through *li*. We can clearly see why ancestor worship was so central to the Chinese, from the royal family down to the commoners, even though the ancestral spirits of the common people are not believed to be as powerful as those of the royal lineage. To the kings, the observance of *li*, of which ancestor worship constituted one essential part, was the source of political authority, and the appropriate fulfillment of *li* was the springboard of political legitimization.[6] Therefore, the king, in worshiping the royal ancestor, also worshiped Heaven, as the Son of Heaven (*tianzi*) in receiving the blessing of Heaven (*tianming*) to rule over the kingdom (Dubs, p. 114). Failure in its observance could even lead to the downfall of a dynasty.[7] The familial nature of the relationship between the king and Heaven is striking. Ancestor worship served as the prototype of the worship of Heaven. It is through *li* that kinship and kingship, family, and state, the two social and political pillars of traditional China, were linked together.[8] It is, therefore, no exaggeration to claim that *li* was the cultural cement of traditional China.

In addition to its legitimizing power, *li* was also a very potent means of governance, and this is demonstrated in the early Zhou, when the government was run by ritual.[9] For Confucius, early Zhou represents the ideal age of unity, peace, and justice, and ritual is *the* perfect means of governing.[10] What is truly remarkable, however, is Confucius's conviction that "all government can be reduced to ceremony [*li*]" (Graham, p. 13). This is what I call "the rule of ritual," representing the Confucian ideal of governance. Such an ideal is explicitly advanced in the *Analects*. For example,

> Rulers should employ their ministers by observing ritual propriety, and ministers should serve their lord by doing their utmost. (3.19)
>
> If rulers are able to effect order in the state through the combination of observing ritual propriety (*li*) and deferring to others, what more is needed? But if they are unable to accomplish this, what have they to do with observing ritual propriety? (4.13)
>
> If those in high station cherish the observance of ritual propriety, the common people will be easy to deal with. (14.41)

Traditionally, the Confucian ideal of governance is regarded as rule of the sage-king, or the rule of men (Peerenboom, p. 131):

> Confucius rejects such limiting notions as rule ethics, pure procedural justice, and a normatively predetermined way. That there are no hard and fast rules means that one must respond to the particular circumstances with an open mind, with a willingness to be flexible and to join in a cooperative search for a harmonious solution. (Ibid., p. 130)

While not disputing the validity of such an almost universally accepted characterization, I would argue that the rule of ritual is a more accurate description of the Confucian paradigm. That is, rule in the Confucian political paradigm is not, strictly speaking, personal rule, since the early Zhou king, the ideal Confucian model of kingship, "did not have an unfettered discretion to act as he pleased, but was very considerably circumscribed by precedent and expected to follow the 'right way to rule' as established by earlier dynasties or his own ancestors" (MacCormack, xiv). The political process in the Confucian paradigm is a rule-based operation, not a haphazard one. Such a rule is the rule of *li*, ritual propriety, constituted by various cultural, religious, ethical, political, and kinship norms.

According to Anthony Cua, *li* has three major functions: delimiting function, supportive function, and ennobling function (pp. 256–58). The delimiting function of *li* refers to the fact that "the main objective of *li* or its primary function is to prevent social disorder, which for Xunzi is an inevitable result of humans' conflicting pursuit of things to satisfy their desires" (Cua, p. 256). *Li's* supportive function provides "conditions or opportunities for satisfaction of desires within the prescribed limits of action" (ibid., p. 257). The ennobling function refers to its conduciveness to the cultivation of beautiful virtues (ibid., p. 258). Interestingly, in direct contradiction with R. P. Peerenboom's characterization of Confucius's aversion to the rule ethics, procedural justice and a normative predetermined way, Cua's characterization of the delimiting and supportive functions of *li* is analogous to "negative moral injunctions or criminal law" and the "procedural law, which contains rules that enable us to carry out our wishes and desires, for example, the law of wills and contracts" respectively (ibid., p. 257). Therefore, the rule of men does not describe the whole picture of the normative Confucian political paradigm on kingship. On the other hand, to characterize the Confucian political paradigm as the rule of ritual has the merit of drawing our attention to

the rule-based normative function of *li*, whose flexibility should not be exaggerated as the rule of men implies.

In the following, we will examine how the rule of ritual can be instituted as a viable form of governance envisioned by the classical Confucians. The central concept of *li* has received the most systematic and comprehensive treatment in Xunzi's writings. As one of the most important figures in classical Confucianism,[11] Xunzi has exerted a lasting impact on the subsequent development of the Confucian thought. Hence, our examination of the Confucian paradigm of the rule of ritual will be based on Xunzi's writings.[12] According to Xunzi, observance of ritual principles is a life-and-death matter for a ruler and his state:

> Rites are the highest expression of order and discrimination, the root of strength in the state, the Way by which the majestic sway of authority is created, and the focus of merit and fame. Kings and dukes who proceed in according with their requirements obtain the whole world, whereas those who do not bring ruin to their altars of soil and grain. Hence strong armor and keen soldiers will not assure victory; high walls and deep moats will not assure defensive strength; stern commands and manifold punishments are not enough to assure majestic authority. If they proceed in accordance with the Way of ritual principles, then they will succeed; if they do not, then they will fail. (Knoblock, 15.4)

Here Xunzi is unequivocally clear about the importance of observing ritual principles, which alone can ultimately assure the well-being of a kingdom. By contrast, strong military and severe punishment are no guarantee of success in governing the world. Such a profound commitment to the Confucian ritual principles renders Xunzi an arch defendant of the Confucian project of humane government through observing ritual proprieties, even though some other elements of his writings might sometimes lead one to regard him as non-Confucian, for example the explicit appeal to the penal law, etc.

As Xunzi conceives it, at the heart of *li* is the notion of hierarchy:

> Where the classes of society are equally ranked, there is no proper arrangement of society; where authority is evenly distributed, there is no unity; and where everyone is of like status, none would be willing to serve the other.

> Just as there are Heaven and Earth, so too there exists the distinction between superior and inferior, but it is only with the establishment of intelligent kingship that the inhabitants of a kingdom have regulations.
>
> Two men of equal eminence cannot attend each other; two men of the same low status cannot command each other—such is the norm of Heaven. When power and positions are equally distributed and likes and dislikes are identical, and material goods are inadequate to satisfy all, there is certain to be contention. Such contention is bound to produce civil disorder, and this disorder will result in poverty. The Ancient Kings abhorred such disorder. Thus, they instituted regulations, ritual practices, and moral principles in order to create proper social class divisions. They ordered that there be sufficient gradations of wealth and eminence of station to bring everyone under supervision. This is the fundamental principle by which to nurture the empire. (Knoblock, 9.3)

To Xunzi, as well as to other Confucians, hierarchy is the way of nature, as exemplified by the different natural positioning between Heaven and Earth, high and low respectively. Hence human society should also model itself after this natural hierarchy.[13] Social hierarchy is the effective way to put the society in order so that social chaos can be prevented. Equality, on the other hand, is against nature, and it gives rise to confusion leading to chaos. Therefore, the best way of governance is to follow the natural way of hierarchy that the ritual principle embodies. Xunzi declares that a true king is a ruler who can act in accordance with ritual propriety and moral principles (Knoblock, 9.10).

Li is a powerful way to regulate various dimensions of human relationship, which is the basis of social order and political stability. "The relationships between lord and minister, father and son, older and younger brothers, husband and wife, begin as they end and end as they begin, share with Heaven and Earth the same organizing principle, and endure in the same form through all eternity" (Knoblock, 9.15). Only when *li* is observed, hierarchy is instituted, and social roles are performed accordingly can the society function as a whole. This is what Xunzi means by the "unitary principle":

> In mourning and sacrificial rites, in court and diplomatic ceremonies, and in military organization there is a unitary principle. In elevating or degrading, in decreeing death or life, in bestowing or taking away, there is a unitary principle. In the lord acting as

> lord, the minister as minister, the father as father, son as son, the older brother as older brother, the younger brother as younger brother, there is a unitary principle. In the farmer functioning as a farmer, the knight as a knight, the artisan as an artisan, and the merchant as a merchant, there is a unitary principle. (Knoblock, 9.15)
>
> If the way of a society is properly structured, then each of the myriad things acquires its appropriate place, the Six Domestic Animals can properly increase, and every living thing will have its allotted fate. (9.16a)

It is clear that the ideal Confucian state, according to Xunzi, is one in which the natural hierarchy is respected and enforced through ritual propriety. For those who are not worthy enough to respect such a hierarchical system, punishment is in order (9.2).

However, Xunzi does not advocate hereditary social hierarchy. Rather, he proposes some form of meritocracy, based upon a person's moral quality and ability to observe ritual propriety; he also thinks that people should be regulated by rewards and punishment (Knoblock, 9.1). As Knoblock points out, "In both these views, Xunzi follows Mozi rather than the moral traditional Ru teaching, but unlike Mozi he uses ritual as the means to accomplish these ends" (vol. 2, p. 85).

To sum up, we have discussed in this section the central Confucian notion of *li*, ritual propriety, both as the source of political legitimization of the king's right to rule over his kingdom and as a viable way of governance. That *li* can play such a critical role in the political discourse in classical Confucianism is premised upon the analogical relationship between the family and the state. This family model of the state has dominated the orthodox Confucian political discourse (Knoblock, vol.1, p. 87). The potency of such a model on the political discourse in classical Confucianism can be seen in two aspects. The first aspect concerns the legitimacy of a kingdom or empire. To be more specific, on this model, the legitimization of kingship is achieved through an establishment of a familial relationship between the universal Heaven and the king as the Son of Heaven. Such a model of political legitimacy clearly taps into the popular sentiment of the centrality of family/kinship in ancient China. The second aspect has to do with the governance itself. As a political model, the rule of ritual is predicated upon an extension of the natural hierarchy observed within a family to the whole kingdom or empire. It is through the observance of *li* that such a form of authority is exercised.

This family model of the state authority with family interests often outweighing state interests points to the rather peculiar orientation of classical Confucian teaching. Normally, the state/empire is a universal entity and the family a particular unit within it. To establish a correlative relationship between the two is to reject the universalistic model of the state. However, a mere particularistic model of the political authority would not have worked, and the appeal to *tian*, usually translated as Heaven, in the classical Confucian political discourse is a clear indication of the presence of universal elements. I will argue that the categories of universalism and particularism fail to capture the basic orientation of classical Confucian political discourse. In order to understand the Confucian political discourse, we need a better model so that its peculiar orientation can come to light. This is precisely what we will do in the next section.

The Rule of Ritual: Intimate Authority

In this section we will examine the peculiar orientation of the Confucian paradigm of political authority, the rule of ritual. I will argue, in using Thomas Kasulis's vocabulary, that the rule of ritual is an intimacy-oriented political model, as opposed to the integrity-oriented one. Kasulis, in his *Intimacy or Integrity: Philosophy and Cultural Difference*, postulates two cultural models with different prevailing orientation, intimacy-oriented and integrity-oriented. Intimacy is characterized by the following:

1. Intimacy is objective, but personal rather than public.
2. In an intimate relation, self and other belong together in a way that does not sharply distinguish the two.
3. Intimate knowledge has an affective dimension.
4. Intimacy is somatic as well as psychological.
5. Intimacy's ground is not generally self-conscious, reflective, or self-illuminating. (p. 24)

Integrity, on the other hand, emphasizes the opposites:

1. Objectivity as public verifiability.
2. External over internal relations.
3. Knowledge as ideally empty of affect.
4. The intellectual and psychological as distinct from the somatic.
5. Knowledge as reflective and self-conscious of its own grounds. (p. 25)

We will first explain in some detail the major characteristics of the intimacy-orientation—since the integrity-orientation is not the focus here, I will not go into details with it. Following this, we will show that the Confucian paradigm of political authority, the rule of ritual, is clearly a model of intimate authority. We will conclude this section with a brief investigation of the advantages and disadvantages of the intimate model of political authority.

The first characteristic of intimacy is that it embraces a personal, instead of public, form of objectivity. Usually, personal and objective are regarded as incompatible with each other. To search for the objectivity of knowledge is to remove as much personal, hence subjective, elements as possible. Scientific knowledge is a paradigm case of objectivity that is characterized as nonpersonal. However, such an attitude towards objectivity is merely reflective of our integrity-dominated modern mentality. In fact, there are two species of objectivity: the objectivity of publicly verifiable knowledge and that of intimate knowledge (Kasulis, p. 35). What distinguishes the latter from the former is the expert nature of the latter:

> If we believe that any reasonable person *who spent thirty years in gymnastics* would come to the same evaluation as the gymnastic judges, then we believe their judgment is objective, though not publicly so. The universality assumption of positivism differs only in omitting the italicized phrase, making the objectivity "public" rather than "expert." The common core of the objectivity claim in both public and nonpublic knowledge, however, is in their common phrase "any reasonable person." (ibid., p. 36)

Clearly, the amount of training that expert knowledge requires marks it off from being merely public. Any reasonable person, after the required training, can expect to achieve a similar level of expertise. Hence, intimate knowledge is by no means subjective. In fact, knowledge requires expertise. That is, knowledge has an intimate core to it that only a trained expert can have access to.

Furthermore, "[i]ntimacy is not merely personal, but personal in a special way. When in the locus of intimacy, one feels he or she *belongs* there" (ibid., p. 36). This points to the second characteristic of intimacy, namely there is no sharp distinction between the self and the other within the locus of intimacy. Here Kasulis makes a crucial distinction between external and internal relations:

> In an external relation, the relatents (the things in relation to each other) exist independently. . . . In an internal relation, by

> contrast, it is part of the essential nature of the relatents that they are connected as they are; they are interdependent, not independent, entities. . . . To dissolve an internal relationship would not merely disconnect them; it would actually transform an aspect of the relatents themselves. (pp. 36–7)

Intimate relations are experienced as internal, rather than external, to the parties involved. In other words, that to which we are intimately related is not just our connection; it is part of me. Such a relationship is often the result of many years of cultivation, to the extent that it becomes constitutive of me. Family relationship is a clear example in this regard.

Thirdly, intimate knowledge has an affective dimension. While it is an admirable achievement of modern scientific rationality to maintain a strict separation between feeling and knowing, it is also important to recognize the limitation of such a rationality, as Kasulis points out:

> Many of life's most anguishing decisions are not resolvable on logical and empirical grounds alone. . . . Many decisions require not only logic and factual information, but also an imagination and conjecture nourished by experience. Experience, especially expert experience, can undergird rational hunches, suspicions, and intuitions. Such phenomena often involve feelings. (p. 40)

Despite its phenomenal success and efficacy, the potency of scientific rationality is confined to a well-guarded and self-defined boundary outside of which it does not possess a magic power. Apparent examples include moral and aesthetic sensitivities whose development requires empathic imagination based upon one's personal experience rather than discursive reasoning. What is significant with respect to knowledge based upon the empathic imagination is that it "is generally transmitted or taught in a nondiscursive way. That is: the content and rules of an intimate form of knowing are of secondary importance to the practical training under a master or expert." (p. 40) Put simply, knowing in such a form is preceded by training and practice under a teacher. As a result, the mind is molded in a certain way that it becomes attuned to some aspects of the world that are not so readily available to an untrained mind.

Closely related to the affective dimension of intimacy is its embodied nature, the fourth characteristic of the intimacy orientation. Here praxis involving human body becomes the key to the intimate relation-

ship. Praxis refers to "a pattern of practical behavior enacting a preconceived model" (ibid., p. 43):

> Praxis is fundamental to intimacy in two respects: First, in cases wherein intimacy involves a person, the intimate relation itself is established only through praxis. . . . intimacy must be physically enacted. The second point about praxis is that intimacy deepens as the praxis is repeated or habitualized. That is: after getting the right idea about—indeed the right *feel* for—log splitting I established a proper posture and imitated the correct movements. (p. 43)

In this regard, intimacy is an accomplishment, through praxis that involves reconditioning of one's body. Reconditioning of the body is achieved through habitualization of the praxis until it becomes one's second nature. The somatic dimension of intimate knowledge distinguishes it from a mere abstract form of knowledge that belongs to the privileged domain of the "rational" mind, often dualistically conceived as being against the "irrational" body. To highlight the somatic aspect of knowledge is to acknowledge the profound and often ignored intelligence that the human body possesses. Implicit in such a view is the assumption that a human being is always an embodied being, and her physical condition is intricately related to her mental life. Mind and body are taken to be a unity, or at least there is a continuum between the physical and the mental, as opposed to the modern Cartesian understanding of the body as an intricate machine.

The somatic nature of intimacy means that its ground is not generally self-conscious, reflective, or self-illuminating. This is the fifth characteristic of intimacy. It points to the somewhat "esoteric" or "dark" nature of intimacy. "By saying intimacy is 'dark' I mean that the foundation or ground of intimate knowledge is not obvious even to those involved in the intimate locus" (p. 47), just as we are not usually aware of the way our body moves in an everyday routine situation. There is a certain sense of magic in the way intimate knowledge works. Esoteric refers:

> specifically to the context in which a nonpublic, but objective, insight is available only to members of a certain group who have undergone special training . . . In our sense, then, the esoteric is not necessarily secretive or exclusive. It is open to everyone who has entered the intimate circle. How does one do that? By undergoing the appropriate praxis. (p. 48)

Once again, praxis and training, instead of abstract analysis and rationality, make such a shared "esoteric" knowledge possible.

Our brief summary of key characteristics of intimacy should make it immediately clear that classical Confucianism is an intimacy-oriented discourse. In no other place within the Confucian system is such an intimacy-orientation more clearly demonstrated than the teaching of *li*. Consequently, the political authority in the classical Confucian discourse, grounded on the rule of ritual, is best described as a model of intimate authority. In the following, we will analyze the central Confucian notion of *li* in light of this intimacy orientation and examine its impact upon the politics of imperial China. I will use mainly Robert Eno's highly original work on Confucian *li*.

As we have seen earlier, *li* is a central Confucian notion, especially in the writings of Xunzi. The centrality of *li* in Confucianism is further emphasized by Robert Eno when he argues that *li* is the defining characteristic of Confucianism, or what he calls Ruism. That is, it is better to understand Confucianism:

> more as a community of men than as a body of doctrine. Programs of ritual activity will appear as the distinguishing core of that community. Consequently, the explicit doctrines that were articulated as a product of these activities will be most coherently expressed by their relation to the activities themselves: either as reports of perspectives generated through core practices, or as defensive rationalizations possessing the instrumental value of promoting and preserving the ritual core. (Eno, p. 7)

This insightful observation captures Confucianism at its heart. That is, when understood as a body of doctrine, classical Confucianism might appear unsystematic and unstructured, or even messy. It is usually full of claims and sayings that do not lend themselves to logical or self-evident axiomatic analysis, as is expected in a philosophical project. However, what Eno proposes here is that to interpret Confucianism as a body of doctrine is to miss a major part of its teaching. According to Eno, classical Confucianism was first and foremost a community of men gathering together around a master studying classics and various ritual skills. Much of the collected Confucian writings are related to such activities those men were engaged in and experiences arisen therein.

What is distinctive about such a community of learners is their shunning away from abstract reasoning. Instead, their focus was on studying and practicing ritual skills. This emphasis on learning ritual skills points to an underlying assumption essential to Confucianism, namely "an indi-

vidual's repertoire of skills determines the interpretative options available to him for understanding the world" (Eno, p. 9). In other words, the interpretative options are not themselves the product of nature, but are rather conditioned by one's repertoire of skills which in turn comes from training. "The heart of Ruism lay outside its texts in a detailed training course of ritual, music, and gymnastics" (ibid.). For the Confucians, those who have mastered the ritual skills after the vigorous training and praxis would find at their disposal power of wisdom that is inaccessible to ordinary people. In other words, such power is the result of the ritual praxis that provides the basic framework for the subsequent rational thinking and political action.

A disciple who was trained to be a Confucian committed himself to "the practice of *li* and to the notion that mastery of *li* was the path to Sagehood" (Eno, p. 33). Confucian political activism is therefore preceded by the program of *li*-centered self-cultivation. Such a commitment to *li* would be shared by the educated elite literati class, whose members filled the imperial bureaucracy as scholar/officials after the Confucian triumph in the early Han Dynasty. In other words, the commitment to *li* became a shared group mentality of the Chinese ruling elite. Only those who have successfully cultivated themselves by completely ritualizing their personal conducts and becoming a moral exemplar would be regarded as qualified to engage in political action.

> For the master of ritual, government is simple. But a man unskilled in the art of ritual will only blunder if he attempts to exploit the political power of *li*: "Can *li* and deference be used to rule a state? Why, there is nothing to it. He who cannot use *li* and deference to rule a state, how can he manage *li* at all?" (A: 4.13). For the Ruist, then, the study of ritual and a grasp of the values that govern the application of *li* must precede ritual government. The Ruist disciple must begin by cultivating his virtue within the Ruist group: political action must be deferred. (Eno, p. 44)

The magic power of a ritual government can be tapped into only by a person who is a master of ritual and has become a moral exemplar. To be able to run the government by ritual, or to use Eno's word, "to transform society into a field of ritual action" (p. 41), is a clear indication of a virtuous sage-king, since only a virtuous sage who is a master of ritual propriety can effectively use ritual politically. For those who are unqualified due to the inadequacy in their self-cultivation of *li* and virtue, the political power of the ritual cannot be exploited. Hence the conclusion

is that one should cultivate oneself first before taking up political action. Or simply, in order for *li* to generate order in society, it would require a sage-king and his officials who are superb ritual actors and moral exemplars.

To recap what we have covered so far in this section, when Confucianism is understood as a community of men who were engaged in the study of classics and ritual praxis in cultivating themselves, shared insights about the world as the result of such a cultivation, became experts in ritualized actions in both daily life and the political arena, and were able to exploit the magic power of ritual action in government, it clearly demonstrates an intellectual discourse with an intimacy orientation. The ideal Confucian political norm, the rule of ritual, is built upon a model of intimate political authority, exercised by the sage-king and a group of learned scholar/officials whose shared experience of moral and ritual cultivation gives them the authority to govern. The Confucian education molded the Chinese ruling elite in such a way that there was a shared commitment to the observance and praxis of *li*. This ruling literati class became an intimate group with intricate relationships among themselves, governing the empire on behalf of the emperor.

If our analysis of the normative Confucian political authority, grounded on the rule of *li*, is of some validity, let us briefly examine the advantages and disadvantages of this intimacy model of political authority. The clear advantage of the model of intimate authority is that it fosters a harmonious relationship among participants of the political order of *li*, with a background of common experience in the self-cultivation through the study of classics and ritual praxis.[14] The clear disadvantage, on the other hand, is that "insofar as intimacy privileges a form of knowledge that is unsaid, intuitive, and cannot be shared with nonexperts, it is difficult, maybe impossible, for an outsider to analyze and challenge this knowledge" (Kasulis, p. 145). Furthermore, to criticize and challenge it from the inside is rendered difficult, as the challenger faces the scenario of being ostracized as a traitor of the ruling elite (ibid., pp. 145–46). Such a tendency in the intimacy-oriented political practice prompts Kasulis to characterize such an orientation as "inherently totalitarian" (p. 147).[15]

This charge of totalitarianism poses a serious challenge to the Confucian model of intimate authority. While we might not agree that the Confucian model of political authority is inherently totalitarian, its authoritarianism is less controversial. In this connection, we do find that Xunzi's discussion of *li* leans towards authoritarianism, more so than Confucius's. In A. C. Graham's observation,

> Confucius himself had conceived the ideal of a society in which all relations between persons function not by force but by ceremony, so that punishments will lapse. It is possible to think of this as one of the varieties of Chinese 'anarchism', with some stretching of the word; one would have to conceive a hierarchical anarchism, in which the ceremonial acts which are perfectly voluntary for all participants include the issuing and obeying of a properly ritualised command of ruler to minister. (p. 302)

If it is still possible to construe Confucius as a hierarchical anarchist, the image of Xunzi is decidedly a hierarchical authoritarian, even though both uphold the rule of *li* as the supreme way of governance. To be fair to Xunzi, he lived at a time when China was plunged into unprecedented social chaos and suffering. Consequently, a stronger measure was called for in order to deal with the grave situation. Despite his struggle, sometimes visibly intense as manifested in his writings, Xunzi was still committed to the rule of ritual as the ideal form of governance, and this puts him within the orthodox Confucian school. If Xunzi's political thought has demonstrated a clear authoritarian tendency, such a tendency would become a full-blown totalitarianism in the hands of Legalists, some of whom, not surprisingly, were his own disciples, including Han Fei Zi and Li Si, the former being the grand synthesizer of Legalist philosophy and the latter the first prime minister of the first unified Chinese empire, Qin, who was instrumental in implementing policies and measures in consolidating the unification and establishing a centralized government bureaucracy followed by the subsequent Chinese empires. The role the Confucian notion of *li* has played in the political practice of imperial China was not a clear-cut positive or negative case. Let us direct our attention to the influence the Confucian rule of *li* has exerted in the *actual* political practice of imperial China.

The Rule by *Fa* and Its Confucianization

In contrast to the Confucian ideal of governance by *li*, the rule of ritual, the Legalists formulate a powerful instrument of statecraft, the core of which is the rule by *fa*, penal law.[16] Legalism calls for a much more powerful and centralized form of government, to absolutize the power of the ruler so that he can fend off the intense pressure from both within and without the kingdom. We will briefly examine the Legalist teaching on *fa* through the writings of its great synthesizer, Han Fei Zi,

whom Graham regards as "the most immediately relevant to his times of all Chinese thinkers" (p. 269).

At the core of Legalism was the conviction that "good government depends, not as Confucians and Mohists supposed on the moral worth of persons, but on the functioning of sound institutions" (Graham, p. 268). According to Legalists, if the institution was established strictly based on rules and standards with vigorous enforcement, it could work automatically by itself. The effectiveness of the Legalist theory is grounded upon their observation of human nature as articulated by Han Fei Zi:

> In ruling the world, one must act in accordance with human nature. In human nature there are the feelings of liking and disliking, and hence rewards and punishments are effective. When rewards and punishments are effective, interdicts and commands can be established, and the way of government is complete. (qtd. in Fung, p. 162)

Since the Legalists saw people as selfish and responsive only to the hope of reward and fear of punishment, penal law and rewards were necessarily the most effective means for the ruler to bring the people to his feet.

Han Fei Zi synthesized three of his predecessors' theories, namely *fa* (law) of Shang Yang, *shu* (statecraft) of Shen Buhai and *shi* (authority) of Shen Dao (Chan trans., pp. 255–56), to create an amazingly coherent theory of power politics:

> Statecraft involves appointing officials according to their abilities and demanding that actualities correspond to names. It holds the power of life and death and inquires into the ability of all ministers. These are powers held by the ruler. By law is meant statutes and orders formulated by the government, with punishments which will surely impress the hearts of the people. Rewards are there for those who obey the law and punishments are to be imposed on those who violate orders. These are things the ministers must follow. On the higher level, if the ruler has no statecraft, he will be ruined. On the lower level, if ministers are without laws, they will become rebellious. Neither of these can be dispensed with. They both are means of emperors and kings. (ibid., p. 255)

Apparently, *fa* (law) here mainly refers to the penal laws instituted by the ruler to deal with the masses, while *shu* (statecraft) is the means to

manipulate ministers and the whole bureaucratic system. The purpose of *fa* is to keep people "from doing any evil." The intent of *shu* is to ensure that the ministers picked by the ruler are qualified both in their abilities and loyalty, and that the whole bureaucratic system is functioning properly. There are always too few in the state who can please the ruler, and if the ruler relies on these few, he would be ineffective in dealing with the whole populace (De Bary et al., p. 141). *Fa* is proclaimed to the public, while *shu* remains secret to the ministers—clearly the Legalists believe that officials are harder to control, therefore some flexibility is necessary on the part of the king to keep them in line.

Han Fei Zi incorporated *shi* (authority), introduced by Shen Dao but neglected by Shang Yang and Shen Buhai, into his Legalist framework as the authority of rulership. In light of his scheme, the source of authority, or the power-base, lies in the function of kingship instead of the person of the king.[17] In other words, for Han Fei Zi, political power depended upon the power-base itself being ordered through the vigorous enforcement of laws instead of the particular person of the king, or his charisma or morality. Han Fei Zi realized that it would be a disastrous mistake to rely on the sage-kings to bring peace and prosperity to the state, since sages are always in the extreme minority, and therefore such reliance would condemn the world to almost endless chaos with few exceptions of peace whenever some true sages happen to be at the throne. His concern was more worldly: he felt that through his theoretical framework the world could avoid the extreme scenario of despotic rulers like Jie and Zhòu (Graham, p. 281). His solution was to build a solid power-base, structured in such a way as to function automatically and by itself, no matter who was in charge. Were this the case, the moral integrity of the ruler would become irrelevant. Han Fei Zi's theory, and for that matter the Legalist theory in general, was essential in replacing the rule by a sage-king who follows the ritual propriety—idealized in the Zhou feudal system—with an impersonal rule by the bureaucratic machine.

Both the Confucians and the Legalists were seeking ways to accomplish peace and stability over the known world, but what distinguished the one from the other was twofold: the nature of that peace and stability and how to achieve it. The Confucians, by preaching a return to rule of ritual, *li*, betrayed their commitment to a noncentralized form of governance wherein the political operations are under the guidance of cultural and religious order, embodied in the practice of *li*; the practice of *li* put some restraint upon the execution of political power through the mechanism of traditional religious and moral values and kinship rule.[18] On the other hand, Legalists advocated an absolutization of power by placing it in the hands of the ruler, under whom an impersonal bureaucratic system

operates of itself by following the laws of punishment and reward, but the laws do not apply to the ruler himself.

The Confucian triumph over Legalism in the Han Dynasty, at least from the perspective of the normative political discourse, signals the failure of *fa* and the political model it represents in dealing with Chinese society, which was organized into clan families based upon blood ties rather than legal norms. Nevertheless, the Legalists have left an indelible mark on the Chinese political operation, the most important of which are the increasing bureaucratization of the state and centralization of power in the hand of the ruler. However, Confucianism, through its control of the educational system that produced scholars who later entered the imperial bureaucracy as officials, was able to exert a powerful influence over the political and social life of the Chinese people. The most substantive influence is reflected in what T'ung-tsu Ch'ü calls "Confucianization of law" (p. 267). Let us take a closer look at this unique phenomenon of legal practice in traditional China.

Li and *fa* represent two fundamentally different governing models in the Chinese political discourse. At the heart of *li* is the social hierarchy, whereas equality under the ruler is at the core of *fa*.

> The Confucian School denied that uniformity and equality were inherent in any society. They emphasized that differences were in the very nature of things and that only through the harmonious operation of these differences could a fair social order be achieved. Any attempts to equalize what was unequal, to give all men an identical way of life, would be irrational and would only result in the destruction of the rational division of labor and inevitably in the overthrow of the social order itself. (Ch'ü, p. 226)

Li fulfills exactly such a differentiating function in traditional China. *Li* dictates various distinctions according to nobility or baseness, old or young, poor or rich, insignificant or important (Knoblock, 19.1c).

This is in sharp contrast with the Legalist vision of society. Despite its totalitarianism, the notion of equality in advocating one unifying legal system without differentiation in treating both the noble and the commoner deserves some recognition, although it was put forth in the sense that *under the ruler*, everybody should be equally treated, albeit equally harshly, before the law, meaning that the ruler remained in a privileged position outside the legal system:

> The law no more makes exceptions for men of high station than the plumb line bends to accommodate a crooked place in the

> wood. What the law has decreed the wise man cannot dispute nor the brave man venture to contest. When faults are to be punished, the highest minister cannot escape; when good is to be rewarded, the lowest peasant must not be passed over . . . Were the ruler of men to discard law and follow his private whim, then all distinction between high and low would cease to exist. (Han Fei Tzu, pp. 28–9)

With the Confucian victory in the Chinese political discourse, efforts were made to reconcile the conflict between *li* and *fa*, resulting in the Confucianization of law. Confucianism stamped itself upon the legal code in several important ways: "the legal bolstering of the human relationships [was] held to be necessary for the well-being of society" (MacCormack, p. 7), "factors of benevolence and individual merit or position [were allowed] to influence the incidence of punishment" (ibid., p. 5), and punishment "was carefully proportioned to the gravity of the offense" (ibid.). Put differently, the consequence of the Confucianization of law was at least twofold: it moderated the harshness of punishment and took circumstances of the crime into consideration; it also rejected the principle of equality before the law, taking into consideration the different social and political status of the offender.

However, the relationship between *li* and *fa* remained an uneasy one within the traditional Chinese political system. This uneasy balance between the two can be characterized as the practice of "the rule of ritual and the rule by law" in imperial China, accommodating both the Confucian rule of ritual and the Legalist rule by law.[19] The ritual order, as an imitation of the natural order in regulating all facets of the society and the empire including even the imperial household, was deemed as higher than the legal order, regularly applied to the lower strata of the political system or the mass. As Derk Bodde and Clarence Morris point out,

> The concern of the Legalists was political control of the mass man, for which reason they have been termed totalitarian. Yet in their insistence that all men high and low should conform to a single law, they were egalitarian. The concern of the Confucians was moral development of the individual man, for which reason they have been termed democratic. Yet in their insistence that for a graded society there has to be a graded law, they were undemocratic. (pp. 50–1)

The Confucian model of intimate authority that may regard "as not merely excusable but obligatory what for Legalists (and for us) is nepo-

tism, corruption, the aggrandisement of one's family at the expense of the weaker" (Graham, p. 302) has often been blamed for the ills of contemporary China. Such a mixed legacy of the Confucian impact on the legal practice in traditional China poses a serious challenge to the possibility of the rule of law[20] in China's future, assuming that China is still largely Confucian (Hall & Ames 1999, p. 9). In light of our discussion of different cultural orientations, the rule of law instituted in the West is clearly an integrity-oriented political practice. For Confucian China to accept the ideal of the rule of law, it will require nothing short of a radical cultural transformation from the intimacy-dominated political culture to the integrity-dominated one, even as intimacy retains its influence on the Chinese society. As for the possibility of such an outcome, it is beyond the scope of this chapter.

To sum up, in this chapter, we have tried to solve the problematic of universalism vs. particularism in classical Confucianism by focusing on its peculiar orientation, which, strictly speaking, defies being characterized by the two categories. We have used the issue of the Confucian ideal political model as an example to illustrate the peculiar orientation of the Confucian discourse. We have argued that the ideal Confucian political model is that of the rule of ritual, instead of the rule of man. In using Thomas Kasulis's vocabulary, we have come to view the rule of ritual as a model of intimate authority, the basis of which is the analogical relationship between family and state. Based upon the discussion of its intimacy orientation, we have looked into the actual impact the Confucian rule of ritual had on the legal practice in imperial China. In that regard, we have come to realize the mixed legacy of the Confucian model of intimate authority, namely the moderation of harsh punishment but the promotion of unequal treatment before the law. Given the intimacy orientation of the Confucian political model of the rule of ritual and the integrity orientation of the rule of law enshrined in the West, a radical transformation is required in order for China to make the transition to some form of the rule of law. Another option is to establish the rule of law based on the intimacy model, but that would radically redefine the nature of the rule of law with its liberal rights-based premise. As for what shape that might eventually take, it will take another separate effort.

Notes

1. A more detailed discussion of the focus/field model can be found in Hall & Ames 1995, pp. 268–78.

2. This particular wording is from Roger Ames's comments during the online conference on "Cultures of Authority in Asian Practice" hosted by the East-West Center in September 2003.

3. "The ancients who wished to manifest their clear character to the world would first bring order to their states. Those who wished to bring order to their states would first regulate their families. Those who wished to regulate their families would first cultivate their personal lives. Those who wished to cultivate their personal lives would first rectify their minds. Those who wished to rectify their minds would first make their wills sincere. Those who wished to make their will sincere would first extend their knowledge. The extension of knowledge consists in the investigation of things. When things are investigated, knowledge is extended; when knowledge is extended, the will becomes sincere; when the will is sincere, the mind is rectified; when the mind is rectified, the personal life is cultivated; when the personal life is cultivated, the family will be regulated; when the family is regulated, the state will be in order; and when the state is in order, there will be peace throughout the world." *The Great Learning*, translated by Wing-tsit Chan, in *A Source Book in Chinese Philosophy* (Princeton: Princeton University Press, 1963), pp. 86–87. However divergent the Neo-Confucian interpretations might have been, the general theme is no different from the Confucian ideal of "inner sageliness and outer kingliness," further elaborated as engaging in the cultivation of the self, bringing harmony in the family, achieving order in the country and accomplishing peace over the world (*xiu qi zhi ping*). In *The Doctrine of the Mean*, there is a clear indication that human beings embody the sacred dimension in our nature: "What Heaven (Tian, Nature) imparts to man is called human nature. To follow our nature is called the Way (Tao). Cultivating the Way is called education. The Way cannot be separated from us for a moment. What can be separated from us is not the Way" (Chan, p. 98). The distinction between the transcendent and human, the sacred and the secular is not at all clearly demarcated.

4. As Anthony Cua summarizes, *li* evolves through three stages in its increasing extension, "The earliest usage . . . pertains to religious rites. . . . In the second stage, *li* becomes a comprehensive notion embracing all social habits and customs acknowledged and accepted as a set of action-guiding rules. In this sense, the scope of *li* is coextensive with that of traditional comprising established conventions, that is, customs and usages deemed as a coherent set of precedents . . . The third stage in the evolution of *li* is connected with the notion of right (*yi*) and reason (*li*). In this sense, any rule that is right and reasonable can be accepted as an exemplary rule of conduct" (p. 254).

5. Such a symbolic ability should not be looked down upon as merely a symbol, but rather as how the charisma of a ruler is revealed; charisma proved crucial in rulership, as Schwartz observes. (Schwartz, p. 43.)

6. "Ritual performance offers a means of legitimation of royal authority, demonstrating to the king's subjects his position as mediator between Heaven, Earth and human beings" (Ching, p. 23).

7. One of the most important apologies Zhou used to justify their action to drive the Shang house out of power is "failure to sacrifice properly to the gods" (Creel 1960, p. 147).

8. Robert Eno, in his *The Confucian Creation of Heaven*, argues that "the rise of *li* as a cardinal value can be seen as a function of the fall of T'ien" (p. 19). It is an interesting but radical interpretation between the relationship of *li* and Heaven. My argument, however, follows a more traditional interpretation.

9. As Cho-yun Hsu and Katheryn M. Linduff point out, "The conquest of Shang was symbolically proclaimed by the Chou not as a hostile act against the Shang, but rather as a pledge to continue the Shang level of domination over the world of the Chinese. Moreover, their commitment was countenanced by Heaven. The gesture made by the Chou king added coherence to rule and responded to particular circumstance of the moment. The Chou had accomplished the nearly impossible task of allying and uniting the semi-independent and independent powers of north China. The small armed force that they controlled directly was not strong enough to hold the vast territory by force. Part of their solution was to maintain the ties established by the Shang and to legitimate them through moral decree. Compromise and cooperation were necessary to succeed, and the first Chou gesture for so doing was to adopt the sacred ceremonies customarily conducted by the Shang in their old, sanctioned center. The Chou could then be seen as generous and licit. They expressed such authority because they were obligated to do so by Mandate and by political and psychological reality" (pp. 100–1).

10. "The ritual order remained the pivot of the patriarchal feudalism which supported kingship and kinship during the eight centuries of the Chou dynasty, and even long after" (Ching, p. 33).

11. "In many matters, especially as showing the fundamental authoritarianism of Confucianism, he reveals an attitude more truly Chinese than can be had from a cursory reading of either Confucius or Mencius" (Dubs, xviii).

12. In Dubs's opinion, Xunzi is even more of a representative of what he regards as the authoritarianism of Confucianism than Confucius or Mencius (xviii).

13. As Jean Escarra states, "One of the most ancient guiding principles of the Chinese spirit is the belief in the existence of an order of nature and in the efficacy of an accord between it and the social order" (quoted in Creel 1980, p. 42).

14. Since Kasulis's discussion here (pp. 144–45) does not specifically address the political domain, I will paraphrase his analysis by applying it to the political discourse, relevant to our purpose here.

15. There are two other disadvantages that Kasulis has listed (pp. 147–48), but since this one poses the most serious challenge to the Confucian model of intimate authority, we will focus our discussion on it.

16. In some important sense, the translation of the Chinese term *fa* into law is an unfortunate one, since *fa* in the traditional Chinese political discourse and law in the Western political parlance bear little resemblance. Law overlaps with both *li* and *fa* in various ways.

17. Legalists were fully aware of the fatality of relying on a sage-king who might come once every hundred years, as Han Fei sharply points out, "It is not that there is any ability in the power-base itself to get itself invariably employed by the worthy rather than the unworthy. The world is ordered when it is the worthy who are employing it, disordered when it is the unworthy. It belongs to man's essential nature that the worthy are fewer than the unworthy, and the benefits of authority and power being available to unworthy men who disorder the age, it follows that those who use the power-base to disorder rather than order the world are the majority. The power-base is what facilitates and benefits the orderly and the disorderly alike. . . . Supposing that Jie and Zhòu had been commoners, before they had taken the first step they would have been executed with all their kin. The power-base is the nurturer of the tigerish and wolfish heart and the accomplisher of tyrannical deeds. This is the world's greatest misfortune" (qtd. in Graham, p. 280). We have to admit that Legalists, at least in theory, realized the dilemma in the Confucian scheme, namely the rareness of sage-kings and the vast majority of common or even corrupted ones who might use the system to their advantage. They actually did recognize the sagehood of Yao and Shun, as reflected in another passage (ibid., p. 281), but their concern was, as Han Fei articulates, the rulers who did not "reach as high as Yao and Shun or sink as low as Jie and Zhòu" (ibid.).

18. "Eastern Zhou texts indicate that the head of the *tsung* maintained considerable authority over his member *tsu*: he could execute offenders or exile members; he must be consulted by the king in any action taken against his members; and he served as leader in military campaigns" (Chang, pp. 74–75).

19. I am making a distinction between "rule of law" and the "rule by law": the former enshrines the ideal that no one is above the law, whereas the latter deems the law only instrumentally as an effective way to govern the mass, which does not apply to the ruler. By the same token, the Confucian ideal is the rule *of* ritual with the ritual governing all facets of society including the ruler, not the rule by ritual.

20. "The essential elements currently associated with the rule of law are constitutional guarantees for civil liberties (due process, equal protection), guarantees of the orderly transition of power through fair elections, and the separation of governmental powers" (Hall & Ames 1999, p. 215).

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