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II. EXPERIENCE IN A NON-WESTERN CULTURE

In 1947, Yale Law School, with a political scientist and economist already on its faculty, appointed a philosopher—Professor F.S.C. Northrop. While at Yale, Professor Dorsey enrolled in Northrop's course and completed independent research under his direction. That fall, Liu Shih-fang, a Yale Law School graduate, law professor, and Shanghai judge, offered a course in Chinese law. Dorsey took the course and authored "Two Objective Bases for a World Wide Legal Order," comparing the cultural basis of Roman law with the cultural basis of Chinese law.

Professor Northrop used that work as the final chapter in a book under his editorship, IDEOLOGICAL DIFFERENCES AND WORLD ORDER (1949). (The opening chapter was written by Roscoe Pound.) When the Asia Foundation began a program to send professors to visit Asian Universities, it came across Professor Dorsey's chapter in Northrop's book. The Foundation appointed Dorsey its first visiting Professor. It sent him to Taipei for the 1952-53 school year to teach constitutional law in National Taiwan University and International Law in Soochow University.

There, Herbert H.P. Ma, a brilliant young Chinese professor of law, whose father was President of the Administrative Court of the Republic of China, provided invaluable assistance to Professor Dorsey. Ma is currently a Grand Justice of the Republic of China.

THE LEGALIZATION OF CONFUCIANISM AND ITS IMPACT ON FAMILY RELATIONSHIPS

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It has often been asked: What is permanent and what is changeable in Chinese philosophy?¹ Similarly, interest has recently increased in the

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1. See generally FUNG YU-LAN, A SHORT HISTORY OF CHINESE PHILOSOPHY 27 (D. Bodde ed. 1948).

question of what is stable and what is dynamic in Chinese civilization.² Though phrased differently, the questions are basically the same. In other words, in the Chinese people's thought and civilization, what is subject to change and what is not?

The purpose of this paper is to try to confirm that in Chinese civilization, Confucius' teachings concerning human relationships, especially family relationships, have lasting value and enduring impact. However, because such teachings were subsequently affected by ideas from other schools of thought, and sanctioned by law or punishment, their original rationality has been lost. Today they must be re-interpreted in order to reveal what is timeless and lasting in them. These lasting values may well serve as guiding principles in developing a modern Chinese family system.

I. THE ORIGINAL TEACHINGS OF CONFUCIUS (551-479 B.C.) AND MENCIUS (372-289 B.C.) CONCERNING HUMAN RELATIONSHIPS

It is generally recognized that Confucius and Mencius are the representatives of early Confucianism. It is also generally accepted that one central theme of Confucianism that they represent is their teachings concerning human relationships. Though human relationships are manifold, Confucius and Mencius emphasized five: ruler and subordinate, father and son, husband and wife, elder and younger brother, and friend and friend.³ Of these five cardinal relationships, three have to do with the family, namely, father and son, husband and wife, elder and younger brother. They form this paper's focus of the discussion. It is strongly felt that in the teachings of Confucius and Mencius concerning human relationships, two points should be especially emphasized.

First, in each human relationship, both of the concerned parties must mutually fulfill their responsibilities and duties. Hence, Confucius said: "Let the prince be a prince, and the minister a minister. Let the father be a father, and the son a son."⁴ In other words, each should act in accord-

2. See program of the 31st Annual Meeting of Association for Asian Studies, Inc. (March 30 - April 1, 1979), Panel on *The Stability and Dynamics in Chinese Civilization: Some Preliminary Views*.

3. "The duties concern the relationship between ruler and subject, father and son, husband and wife, elder brother and younger brother, friend and friend. These are the five duties of universal obligation." *The Doctrine of the Mean*, in THE FOUR BOOKS ch.20 (The Council of Chinese Cultural Renaissance, Republic of China, Tapei trans. 1980) [hereinafter THE FOUR BOOKS].

4. *The Analects*, in THE FOUR BOOKS, *supra* note 3, at ch.12.

ance with his role in life. By extension, let the husband be a husband, and the wife a wife; let the elder brother be an elder brother, and the younger brother a younger brother. To be more specific, for each human relationship, an ideal exists that the two parties must jointly realize. Thus Mencius said: "Love between father and son, righteousness between ruler and subject, distinction between husband and wife, precedence of the old over the young, and faith between friends."⁵ As far as the three human relationships regarding family are concerned, to nourish love, to maintain distinction and to observe precedence are their respective ideals. The ideal of each relationship can be realized only if each of the two parties to the relationship does his or her duty best. For example, to have love between father and son, Confucius taught that "a son would not rest until he achieved filial piety, a father would not rest until he achieved kindness."⁶ In other words, the ideal of the relationship between father and son, if taken as a whole, is to have love. If considered separately, it consists in the father being kind and the son being filial. By analogy, the ideal of the relationship between husband and wife, if taken as a whole, is to maintain distinction. If taken separately, however, it consists in the husband and wife each knowing the difference of their respective functions and respecting them. And the ideal of the relationship between elder and younger brother, if considered as a whole, is to observe precedence, but if taken separately, it consists in the elder brother caring for the younger brother, and the younger brother complying respectfully.⁷

From the above, we may conclude that in order to maintain and strengthen human relationships, both Confucius and Mencius stressed that a sense of reciprocity, interdependence and sharing is necessary among the persons involved.

Second, Confucius and Mencius taught moral persuasion is the main means by which the parties to any human relationship will be made to do their respective duties. This is because Confucius advocated JEN⁸ or benevolence in human heart, and Mencius believed in SHAN or goodness

5. *Mencius Book III*, in *THE FOUR BOOKS*, *supra* note 3, at part A, ch.4.

6. *The Great Learning*, in *THE FOUR BOOKS*, *supra* note 3, at ch.3.

7. TSO CHUAN, Chao-kung, 26th year.

8. There are various English translations of the Chinese word JEN as used by Confucius and Mencius. To mention a few: Goodness (Arthur Waley's *Analects*), Perfect Virtue (James Legge's *Analects*), Benevolence (Legge's *Mencius*), Humanity (Peter Boofberg), Human Heartedness (E.R. Hughes), Moral Life or Moral Character (the revised edition of the translation of the *Analects*, under the supervision of the Council of Chinese Cultural Renaissance, Republic of China, Taipei).

in human nature.⁹ Hence, both regarded man as inherently inclined to loving others.¹⁰ Now, all the three relationships concerning family are rooted in a benevolent heart and a good nature. That is why a father can and should be kind, a son filial; husband and wife can and should have mutual respect; and brothers fraternal love. Because these sentiments are inherent in all men,¹¹ they, like benevolent heart and good nature, may be developed simply by means of personal cultivation or moral education without the aid of external compulsion.¹²

One may, of course, argue that the Confucianists always relied heavily on LI or rules of rites to regulate these human sentiments. Significantly, however, Confucius made it clear that LI or rules of rites also are and should be based on human nature and universal reason.¹³ They are, therefore suitable for implementing the Confucianists' teachings concerning human relationships. To illustrate, the sacrificial and funeral rites serve to remind one of the dead, so that the living will be better remembered. This would promote the son's practice of filial piety and, in return, the practice of kindness on the part of the father. The observance of the wedding ceremony strengthens the sentiments of mutual respect between husband and wife, thus enhancing the practice of their respective functions based on a sense of distinction.

Realizing that none of them expresses all the meanings of the word, the present writer will choose from the above translations what he deems most appropriate to the context.

9. "Human nature is good, just as water seeks low ground." *Mencius Book IV*, in *THE FOUR BOOKS*, *supra* note 3, at part A, ch.2; "therefore, as far as human sentiments are concerned, a man is capable of doing good; that is what I mean by the word good." *Id.*

10. As Confucius said, "Benevolence consists in loving man." *The Analects*, in *THE FOUR BOOKS*, *supra* note 3, at ch.12; "It is only men of benevolence who know how to love men." *Id.* at ch.4. So did Mencius say: "The benevolent man loves others." *Mencius Book IV*, in *THE FOUR BOOKS*, *supra* note 3, at part 3, ch.28.

11. "Now to be a good son and a dutiful brother — does this not form the foundation of all benevolent actions?" *The Analects*, in *THE FOUR BOOKS*, *supra* note 3, at ch.1, sec.2; Mencius said "All young children know enough to love their parents, and when they grow up, know enough to respect their elder brothers. Loving one's parent is benevolence; respecting one's elders is rightness. The reason for such behavior is none other than that the principles involved are universally valid." *Mencius, Book VII*, in *THE FOUR BOOKS*, *supra* note 3, at part A, ch.15.

12. In fact, all moral development can best be achieved by self initiation and voluntary pursuit. See KANT, *THE PHILOSOPHY OF LAW* 14, 20-23 (Hastie trans. 1887); Gierke, *Recht und Sittlichkeit*, 6 *LOGOS* 211, 228-233 (1917); SORLEY, *THE MORAL LIFE*, 8 (1911). Confucius made it very clear when he said "to be moral (JEN), a man depends entirely upon himself, and not upon others." *The Analects*, in *THE FOUR BOOKS*, *supra* note 3, at ch.12.

13. "LI is the expression of unchangeable reason." (Li Chii or Book of Rites, Yueh Chi). LI originally means a religious sacrifice but has come to mean ceremony, ritual, decorum, rules of propriety, good customs, etc. See WING-TSIT CHANG, *A SOURCE BOOK IN CHINESE PHILOSOPHY* 790 (1963).

We may therefore conclude that according to Confucius and Mencius, to ensure the performance of the respective duties of the parties to any family relationship, resort should be made only to moral persuasion. Moreover, those who are engaged in such moral teaching can best do so by personal example. Hence, when the sovereign treats his aged as the aged should be treated, the people become filial; when the sovereign treats his elders as elders should be treated, the people learn brotherly submission.¹⁴

II. THE LEGALIZATION OF THE TEACHINGS OF CONFUCIUS AND MENCIOUS CONCERNING HUMAN RELATIONSHIPS

Confucianism and its teachings concerning human relationships, as represented by Confucius and Mencius, were rivaled from the beginning. Legalism, among other schools, was strongly antagonistic to Confucianism. The Legalists regarded human nature as evil. To them, it would be vain to try to maintain social order by cultivating virtue. The only reliable tool for government is FA or HSING. FA, meaning law, is absolutely compulsory. HSING, meaning punishment, should be severe. To be effective, both should apply equally to all regardless of personal relationships.¹⁵ The Legalist doctrine certainly met the needs of the current rulers of the various Warring States, who sought quick effects in state craft. It is not surprising that the Legalists were largely instrumental in establishing the totalitarian state of Ch'in (221-200 B.C.) and in unifying China. Although the ruthlessness and oppression of Ch'in brought its speedy downfall, the succeeding Han Dynasty did not completely reject experts of law or punishment and their methods. In other words, law or punishment as an effective means for maintaining order and administering justice was generally recognized by the rulers of that time. Consequently, although Emperor Wu (140-87 B.C.) of the Han Dynasty made Confucianism the official state teaching, the early Han Confucianists had to give Legalism its proper sphere of application, even to accommodate

14. THE GREAT LEARNING, *supra* note 3, at ch. 10.

15. For instance, Shang Yang (390-338 B.C.) said: "Punishment should know no degree or grade, but that from ministers of state and generals down to high officials and ordinary people, whosoever does not obey the King's commands, violates the interdicts of the state or rebels against the statutes fixed by the ruler, should be guilty of death and should not be pardoned," (Shang-ch'n shu, Shang-hsing p'ien); Kuan Chung said: "Men by nature hate each other, so law is enacted to cope with the evil-heartedness" (Shu-yen p'ien). To this, Shang Yang added: "To wipe out evils, there is nothing like heavy punishments" (Shang-chn shu, Kai-sai p'ien).

certain Legalist ideas.¹⁶ More importantly, the Confucianists adopted from the Ying-Yang School of thought the theory that a close interconnection exists between nature and man. That is to say, because man is a part of nature, the justification of the behavior of the former must be found in the behavior of the latter.¹⁷ Thus, the Han Dynasty incorporated Legalist and Ying-Yang schools of thought to create its own Confucianism, which it established as the orthodox doctrine. This Confucianism, however, differed radically from the original teachings of Confucius and Mencius. Two possible explanations exist for how this form of confucianism, which dominated Chinese civilization for two millennia, affected the teachings of Confucius and Mencius concerning human relationships.

First, the Confucian scholars' adoption of the Ying-Yang school of thought was best represented by Tung Chung-Shu (ca.179-104 B.C.). In his book "Luxuriant Dew from the Spring and Autumn Annals", he demonstrated that all things and events are explained by the operation of the Ying and the Yang. Particularly in human relationships, the idea of "Yang is superior, and Ying is inferior" dominates. Hence, "the ruler is Yang, the subordinate Ying; the father is Yang, the son, Ying; the husband is Yang, the wife Ying." Therefore, "the ruler is superior, the subordinate inferior; the father is superior, the son inferior; the husband is superior, the wife inferior." As a result, "the son submits to the father, the subordinates submit to the ruler and the wife submits to the husband." Upon these presumptions, the son, the wife and the younger should absolutely be under the father, the husband and the elder, just like earth is under heaven.¹⁸ This subjecting one party to the other in human relationships greatly changed the original teaching of Confucius and Mencius, which was based on a reciprocity and interdependence.

Second, because both the Han emperors and the Han Confucianists themselves recognized the role of law or punishment, the latter sought to

16. FUNG YU-LAN, A SHORT HISTORY OF CHINESE PHILOSOPHY 205, 215 (D. Bodde trans 1948) [hereinafter A SHORT HISTORY].

17. The word YANG originally meant Sunshine and Light, and YIN meant shadow or darkness. Later, the YANG and YIN came to be regarded as two cosmic principles or forces, representing masculinity, activity, heat, brightness, dryness, hardness, etc. for the YANG, and femininity, passivity, cold, darkness, wetness, softness, etc. for the YIN. Through the interaction of these two primary principles, all phenomena of the universe are produced. According to Tung Chung-shu, because man is a part of Heaven, the justification of the behavior of the former must be found in the behavior of the latter. He thought with the YIN-YANG school that a close interconnection exists between Heaven and man. A SHORT HISTORY, *supra* note 16, at 138, 192.

18. *Id.* at 196-197.

turn law or punishment to their advantage. Now the Legalists' insistence on using law or punishment as the most effective instrument of government actually only emphasized the "form" of governing and not necessarily the "content" of governing. The Confucianists, on the other hand, always had clear and definite purposes for government. Therefore, it was not difficult theoretically to make Confucianism the content, and law or punishment the form. Moreover, Confucianism, after being amalgamated with Legalists and Ying-Yang ideas, helped to uphold the superiority of the emperor and greatly pleased him. Therefore, Confucian doctrines easily became the content of law, and the criminal code became the instrument for executing such content. This development has been termed the "Legalization of Confucianism."¹⁹ It is important to note that this enforcement of Confucian doctrines by means of law or punishment was the idea of the Han Confucianists. In this respect they obviously differed from Confucius and Mencius, who advocated moral persuasion in their teachings, beginning with the cultivation of personal virtue and ending with the attainment of world order.

III. THE IMPACT OF THE LEGALIZATION OF CONFUCIANISM ON HUMAN RELATIONSHIPS

The Han Confucianism, emphasizing close interconnection between nature and man and strongly supported by law, had a tremendous impact on family relationships. Above all, the law then sanctioned the doctrine of the superiority of the father, the husband and the senior over the son, the wife and the junior. This state of affairs also greatly affected the development of Chinese law. In other words, the traditional legal system of China under the influence of the Ying-Yang Confucianism began to take form. The system reached its maturity during the T'ang Dynasty (618-905 A.D.) and remained essentially unchanged through the succeeding dynasties, until the end of the 19th century when the law reform movement commenced.

Generally speaking, this traditional Chinese law demanded much more of the party of lower or inferior rank. The Code of the T'ang Dynasty provided the best illustrations. In its stipulations concerning family relationships, criminal acts committed by senior relations against the

19. The phrase "Legalization of Confucianism" is found in John C.H. Wu's *The Individual in Chinese Political Tradition* in *THE STATUS OF THE INDIVIDUAL IN EAST AND WEST* 394 (A. Moore ed. 1968).

body of junior relations were either unpunished or reduced in punishment. The same acts committed by junior relations against the body of senior relations, however, were always punished and often more severely. For instance, in the relationship between father and son, which was the most important of all family relationships in Confucian ethics, the correlative duties of filial piety were enforced by law or punishment in an extremely strict and meticulous manner. If a child scolded a parent or grandparent, he would be punished by strangling.²⁰ If he established a separate household or division of property while the parents or grandparents were still alive, he would be subjected to corporal punishment.²¹ And it was also a crime for a married son to beget a child within the mourning period.²² On the other hand, if a parent or grandparent should, on the grounds that the son had been unfilial or disobedient, kill the son, the elders usually received minimal punishment or were not punished at all.²³

The "Legalization of Confucianism" as noted above or, what amounts to the same thing, the "Confucianization of Law"²⁴ has unfortunately brought disrespect and even damage to both the law and Confucianism. In the first place, Confucian ethical doctrines are founded on the belief that man is good by nature and therefore capable of realizing benevolence and righteousness by himself. All that is needed is enlightenment and education. "Compulsory" morality would be inconceivable to Confucius and Mencius. They would be the last persons to approve of coating their teachings with legal language. Even in advocating LI or rules of rites, they focused their attention on the principles underlying them, which are derived from human nature, not on the formalities and the letter of the rules themselves. Because of the severity of the legal sanctions designed to uphold Confucian ethics, not only was traditional Chinese law made largely inhuman, but also Confucianism was bereft of much of its inherent humanity. This was precisely how Westerners and the Chinese themselves criticized Confucianism and Chinese law when Western ideas were brought in following the forced opening of China's door by foreign powers towards the end of the 19th century. While Wes-

20. See T'ANG CODE, Tou-sung, art. 28.

21. See T'ANG CODE, Hu-hun, art. 6.

22. *Id.* at art. 7.

23. See T'ANG CODE, Tou-sung, art. 28.

24. "Confucianization of Law" is used by Tung-tsu Ch' in 2 LAW AND SOCIETY IN TRADITIONAL CHINESE LEGAL THOUGHT 300-12 (1964).

terners termed traditional Chinese law as "barbarous," some Chinese described Confucianism with such expressions as "the man-eating instructions of LI or rites."²⁵

The reform of Chinese law was completed after the national government of the Republic of China came into being in 1927. Separate civil and criminal codes were formulated on the basis of Western models, particularly European codes. Consequently, Confucian ethical doctrines were almost completely expelled from the law. For one thing, this meant that the status of the parties involved was no longer considered in the administration of justice. In family law, the traditional kinship system was replaced by a classification of relations by blood and relations by marriage,²⁶ and the authority of the father was weakened. With the establishment of equality of the sexes,²⁷ the husband's superiority was no longer recognized. However, as the present writer has noted elsewhere, in the "westernization" of Chinese law and especially the law of the family, there have been apparent instances of overenthusiasm about western individualistic and democratic trends. Only when there is no such election does the headship fall on the member highest in rank or relationship, or where ranks are equal, on the member senior in age.²⁸

One fact worthy of our attention at this point is that for many years a cultural renaissance movement has arisen in every sector of the Chinese society on Taiwan. The movement calls for the revival of traditional Chinese virtues, which are part and parcel of Confucian ethics. Because family relationships as found in the traditional Chinese family system constitute the foundation of Confucian ethics, how family relationships shall be interpreted today is a question that must be considered. The following points are advanced as a possible answer.

First, in the contemporary Chinese society on Taiwan, the extended family and the nuclear family exist side by side.²⁹ However, many fear that the extended family will inevitably decrease as the society becomes increasingly industrialized and urbanized. Indeed, married sons are leav-

25. For Hsu Fu-Kuan's citation of the words of Wu Y, see HSU FU-KUAN, *CHUNG-KUO SU-HSIANG SHIH-LUN-TSUN* (COLLECTION OF ESSAYS ON THE HISTORY OF CHINESE THOUGHT) 156 (n.d.).

26. CIVIL CODE, Book of Family, arts. 967, 969.

27. CIVIL CODE, Book of Family, arts. 1049, 1052, 1089, 1124.

28. Herbert H.P. Ma, *Law and Morality: Some Reflections on the Chinese Experience Past and Present* 21 *PHILOSOPHY EAST AND WEST* 458 (1971).

29. See MEI-CHUN TANG, *URBAN CHINESE FAMILIES — AN ANTHROPOLOGICAL FIELD STUDY IN TAIPEI CITY, TAIWAN*, 69, 74 (1978).

ing their parents, and husbands and wives are taking to work at the same time. As a result, more grandparents will be left to old peoples' homes instead of spending their less active years in the company of their children and grandchildren. More grandchildren will be crowding into nursery schools, while they could be at home under the supervision of their grandparents. What a deplorable thing to happen in a society which traditionally cared so much about family relationships and elaborated on them so meticulously.

Despite the so-called general trend of modern living, a Chinese society, if serious enough about cultural renaissance, should do its best to keep what is of permanent value in family relationships. Furthermore, a family of three generations is required for achieving such purpose. Only a family of two or more generations is capable of developing such values as the grandfather and father being kind, the son and grandson being filial and the brothers sharing fraternal love.

This does not necessarily mean that in a family of three generations the three generations must be "under the same roof." They should be nearby physically. Today, however, if they could be on separate or neighboring flats in the same apartment house, they will indeed still be "under the same roof." Alternatively, in Taiwan, more parents are living with their married daughters. This arrangement has worked well, and often even better than living with their married sons. According to modern Chinese law, daughters and sons have equal rights and obligations towards their parents. The traditional father and son relationship, together with what is demanded of the parties in such a relationship, is therefore more adequately understood as a parent (father/mother) and children (sons/daughters) relationship. This means that a new opportunity has been developed for the extended family to survive.

Second, to maintain a three-generation family, the original teachings of Confucius and Mencius concerning family relationships should serve as guidelines. In other words, the reciprocal duties and responsibilities of the parties concerned should be emphasized. The father should do his best to be kind, while the son should do his best to be filial. In the relationship between husband and wife, attention should be accorded to the ancient teaching that husband and wife are matched, and that they should respect each other. It is often said that a three-generation family system is no longer workable primarily because the mother-in-law and the daughter-in-law, who have been placed on equal footing by the law, cannot get along with each other. There is certainly truth in this judg-

ment. However, if the father and the son in the same family, in fulfilling their duties, love each other and cooperate with each other, conflict between the mother-in-law and the daughter-in-law may not only be reduced but even avoided through the two couples' mutual love, respect and trust. This shows how important the relationship between father and son is. In addition, by bridging the gap between the mother-in-law and daughter-in-law, they also serve as personal examples for the grandchildren.

Third, the original teachings of Confucius and Mencius concerning human relationships are mostly general principles for action, such as the principle that the son should be filial. What should specifically be done in practicing filial piety is not absolutely unchangeable. This is similar to the concrete rules of LI or rites which allow for variation according to what is appropriate to the time and place.³⁰ For the changing society in Taiwan, it is important to realize this in the promotion of human relationships.

Fourth, whether the Confucian doctrines governing human relationships should be sanctioned by law is ultimately a question concerning the relation between law and morality. The relation between law and morality has been the concern of students of many disciplines. It is true that extreme cases in which the two are considered identical or the one is divorced from the other have been noted by legal historians, and that justification for either case has been noted by legal philosophers.³¹ The legalization of Confucianism may be regarded as one of the outstanding cases in which law and morality became one. "What the rules of Li forbid, the law punishes."³² The code of criminal law of all the dynasties after the T'ang Code had the same purpose; namely, to uphold the doctrines of Li, the equivalent of Confucianism. The agreement between law and morality often indicates that what the state seeks to enforce by compulsion largely corresponds with the sense of right and wrong of the society in general. It also often means that a consensus exists in the society — an important factor for social stability. The fact that China had been

30. For instance, "The Emperors "YU, T'ang and the Chou Emperors of Wen and Wu of three different dynasties do not imitate the LI of each other," (Li Chi, Yeh-chi); "Inhabitants in the mountains do not make presents of fish or turtle, while inhabitants near the sea do not make presents of deer or boar, otherwise it is in contradiction with LI" (Li Chi, Yeh-chi).

31. See POUND, *LAWS AND MORALS* (1924).

32. See, *Biography of Chen Chung*, HISTORY OF LATE HAN.

able to remain unchanging since Western Han Dynasty until the end of Ch'ing is good proof for this point.

However, the legalization of Confucian ethics or confucianization of Chinese law as noted above has unfortunately brought disrespect and even damage to both. Does this mean that law should have nothing to do with the strengthening of Confucian teachings concerning family relationships? Not necessarily. This is, of course, no place to discuss the basic jurisprudential question of the relation between law and morality. Suffice it to say, first, that high moral ideals and goals are not for law to enforce, lest law should be detested and feared, and the ideals and goals should also be damaged and lost. The teachings of Confucius and Mencius concerning family relationships are mostly high ideals for the development of humanity. Moral persuasion and social education are still the best means by which to strengthen them in society. Personal examples and public encouragement should especially be publicized in order to form a trend or movement.

On the other hand, law is not useless in promoting and realizing higher ideals. Law need not be content with being an ethical minimum. If the government is determined to revive the best of traditional Chinese culture and willing to acknowledge the value of a three-generation family system serving as the basis of developing the most intimate human relationships, it can use law to provide different kinds of technical assistance. Two concrete proposals pertaining to government housing projects and the pension system are suggested here. The law can demand that in any public housing project, sufficient space must be provided for three generations to live together, and the design must allow adequate privacy for each generation. It may further provide that priority of apportionment of public housing or better public housing will be given to those who practice a three-generation family system. On the other hand, the law can ensure that the retirement pension system will enable the aged to live a decent self-supporting life. Living with the younger generations is mainly for spiritual gratification and not for material needs. The economic burden therefore will not be increased for the younger generation. Instead, all generations will share a bliss that only generations staying close could realize.

All noble causes need workable ways for their accomplishment. Perhaps the least that law can do for morality is to provide the best conditions or circumstances for its promotion and development. This may

well be the ideal relation between law and the teachings of Confucius and Mencius concerning human relationships.

Finally, in maintaining family relationships, the mutual fulfillment of duties by the parties should be limited by the concept of the basic rights of the individual, which is one of the greatest contributions of Western civilization. In other words, in fulfilling one's duties, one should not be taught to go to degrees that would appear unreasonable to modern man, or would violate one's basic human rights. Chinese history abounds in records and reports in which a son, a daughter or daughter-in-law risked his or her health or life to please or help a father, a mother or mother-in-law. One popularly known case was one in which a son cut a piece of flesh from his thigh hoping that it would cure his mother's illness. Some years ago a similar case involving a daughter was actually reported in Taiwan. Although the intentions behind these acts were good, today they could be performed much more sensibly.

IV. CONCLUSION

In conclusion, the present writer would like to repeat that the teachings of Confucius and Mencius concerning family relationships have lasting value, largely because they are principles that allow development and accommodation to new circumstances. Past experience in legalizing such ethical doctrines has left impressions too persistent, perhaps, not to cause mischief. Therefore, re-interpreting such doctrines in their original purity and practicing such doctrines, conditioned by a respect for basic human rights, is urged. It is hoped that in so doing a Chinese family system based on moderate individualism might be developed for the good of the society and the law.
