

Chapter 6

The Confucian Alternative to the Individual-Oriented Model of Informed Consent: Family and Beyond

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6.1 Confucian Ethics as an Alternative

In recent years, Confucian ethics has been considered as an alternative to the individual-oriented model of medical decision-making that is dominating in the modern West. As pointed out by Ruiping Fan,

[T]he Western pattern of medical decision making has been *individualistic*, and the Chinese pattern *familistic*. ... [T]hese two different patterns of medical decision making represent two different overall moral perspectives on human life and relations. (Fan 2002, p. 347)

Fan explained the Confucian alternative in this way:

In contrast, Confucianism holds that the ideal human relation is characterized by the principle of humanity. In the Confucian account, humanity constitutes the basic virtue of individual humans and is the foundational principle of human society... Confucianism emphasizes that humanity requires one to practice love in the light of five human relations: father and son, ruler and minister, husband and wife, elder and younger, and friend and friend. Confucians understand that these five relations represent all the important natural types of human relation and form the basic patterns of human society. For Confucians, humanity requires one to give love, yet in giving love one must differentiate, follow a prescribed order, and attend to relative importance according to the different types of human relations. This is because different types of relations convey different moral significance in relation to the requirements of humanity. Confucianism requires that love be manifested in specific virtues for particular human relations. (Fan 2002, p. 356)

I would like to take the above representation of the Confucian alternative as my reference point in my discussion below. I shall argue that while it is right to say that Confucianism regards human relationships as the basis of human morality, and puts a lot of emphasis on the importance of family in a person's moral life, there is a gap between such features of Confucianism and the characterization of Confucianism as familistic in nature.

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What is the foundation of human morality? The Confucian answer is simple: human morality has its foundation in human relationships, which in turn have their source in human nature and human sentiments (Yu and Tao 2012). We find ourselves in some relationships with other people, such as the relationship with our parents and siblings. According to Confucian ethics, such natural human relationships form the most elementary basis of human morality. As it is said in the *Book of Changes*:

Heaven and earth existing, all (material) things then got their existence. All (material) things having existence, afterwards there came male and female. From the existence of male and female there came afterwards husband and wife. From husband and wife there came father and son. From father and son there came ruler and minister. From ruler and minister there came high and low. When (the distinction of) high and low had existence, afterwards came the arrangements of propriety and righteousness. (Legge 1963, pp. 435–436)¹

On the other hand, there are also some relationships that we enter into, such as by taking up the role of a government official or a medical doctor. Such roles and relationships are the basis of our ethical obligations. The following passage implies that responsibility comes with a certain professional role that one takes up:

The Master said, “Do not concern yourself with matters of government unless they are the responsibility of the office you are in.” Zengzi commented, “The gentleman does not allow his thoughts to go beyond his office.” (*Analects* 14.26; Lau 1992, p. 141)

Confucius was once a minor official in charge of stores. He said, “All I have to do is to keep correct records.” He was once a minor official in charge of sheep and cattle. He said, “All I have to do is to see to it that the sheep and cattle grow up to be strong and healthy” (*Mencius* 5B5; Lau 1984, vol. 2, p. 213).

The traditional Chinese conception of morality is *renlun* (人倫 or human relationship). Morality is regarded as based on human relationships. There are different kinds of human relationships, and different kinds of human relationships give rise to different kinds of moral obligation. By contrast, Western conceptions of morality for the most part regard impartiality as the essence of morality.² A *lun* or human relationship is defined with reference to a self. The human relationships referred to here are relationships between individuals, but never relationships between an individual and a collective (be it a family or a state). As noted by a number of scholars, the emphasis is put neither on the individual nor on the collective, but on the relationships. As a result, neither individualism nor collectivism is advocated in Confucianism (Liang 1989; King 1985).

The moral duty one has to another person is determined by the kind of human relationship one has with the other person, and the position one has in that human relationship. It is said in the *Analects*: “Let the ruler be a ruler, the subject a subject, the father a father, the son a son” (*Analects* 12.11; Lau 1992, p. 113). What is meant is that each person should do well with his role. The role for each person is different, and depends on the position the person occupies in his various human relationships.

¹ This paragraph from *The Book of Changes* is summarized in Ban Gu (32–92 A.D.) the *History of Han Dynasty* as “The *Book of Changes* said, ‘As there are husband and wife, father and son, ruler and minister, superior and junior, propriety and rightness have a basis.’” In this summary it is made very clear that human relationships are the source of human morality.

² This is a characterization made by Thomas Nagel in his book *Equality and Partiality* (1991). Western philosophers such as Kant, Hare and Rawls fit this characterization very well.

Five major human relationships are commonly enumerated in the Confucian classics. In the *Mencius*, for example, the duties for different kinds of human relationships are spelt out: “love between father and son, duty between ruler and subject, distinction between husband and wife, precedence of the old over the young, and faith between friends” (*Mencius* 3A4; Lau 1984, vol. 1, p 105). This passage identifies five crucial human relationships (*lun*), and the principles (*li*) of these five human relationships.³

Out of the five major human relationships, three of them (i.e. father and son, husband and wife, elder brother and younger brother) reside in the family. This may give people the impression that the relation-based ethics in Confucianism has a lot to do with the family. On the other hand, it is also very clear that the family is regarded as an important domain of moral practice in Confucianism. For example, it is said in *Mencius*:

Mencius said, ‘There is a common expression, “The Empire, the state, the family.” The Empire has its basis in the state, the state in the family, and the family in one’s own self.’ (*Mencius* 3A5; Lau 1984, vol. 1, p. 141)

It seems apparently right to say that Confucianism provides an alternative model that is different from the individual-oriented model, as it puts the emphasis on human relationships and gives a more important role to the family. However, do the above observations warrant us to conclude that Confucianism is not just relation-based but also familistic in nature? My answer is no.

6.2 How Confucian Ethics is Different from Familism

It is important to distinguish between Confucian ethics and familism. The two can be distinguished in a number of ways.

6.2.1 *Multiple Value vs. Family Value*

First, family is just one value among a number of core values recognized by Confucianism. It is neither the highest value nor the only value. It is a value to be considered and balanced rather than to be unequivocally upheld as sacrosanct and to override other values whenever there is conflict. The position of Confucianism is more accurately described as upholding multiple values, rather than singling out the family as having paramount moral status. For Confucianism, the real moral challenge is to balance different values, instead of arranging different values in a

³ Some writers refer to the Confucian morality as a role-based morality. See Hansen (1993, 72). In discussing the Confucian concept of the person, Henry Rosemont emphasizes the importance of roles: “If we reject the view of human beings as free, autonomous, rights-bearing individuals, what are the alternatives?... For the early Confucians there can be no me in isolation, to be considered only abstractly: I am the totality of the roles I live in relation to specific others” (1991, 71–72).

hierarchical order (Yu 2010). According to this perspective, ethics is not just about distinguishing right from wrong, or good from bad, but also about making judgments and decisions when there is a conflict between different kinds of good. The key is not to choose between opposite values, but to balance and moderate.

According to the historian Wang Guowei (1877–1927 CE), the institutions of the Zhou dynasty (1111–249 BCE), which were designed by the Duke of Zhou (b. circa 1100 BCE), who was much admired by Confucius, and left everlasting imprints on Chinese culture and civilization, were based on three core values: *zunzun* 尊尊 (respect those who have high status); *qinqin* 親親 (maintaining good relationships with those who are related to oneself); and *xianxian* 賢賢 (appointing those who are virtuous and capable) (Wang 1973). Each of these three values is of crucial importance in itself, but each one also has serious limitations. Respecting those who have high status is essential for maintaining stability and order. Maintaining good relationships with those who are related to oneself is essential for fostering social cohesion. Appointing those who are good and capable is essential for promoting good governance. All the three values have important functions to serve, and so they should all be preserved at least to a reasonable extent. As a result, the important question to answer is not which of these three values is more important and which of these three should override the others, but rather: how can all three of them be achieved as far as possible, or how to strike a good balance between all these three areas of concern.

Likewise, in the Confucian classic *The Doctrine of the Mean*, good governance consists in a set of nine canonic principles (*jiu jing* 九經). They are: cultivate one's person; honor the good and capable; be devoted to one's kin; respect the senior ministers; understand the difficulties of the various officials; love the common people; attract the various artisans; give preferential treatment to people from afar; pacify the feudal lords (Legge 1971, pp. 408–411). The real challenge is not to do each as well as possible, but to do all of them as far as possible at the same time.

What exactly are the Confucian multiple values? Are there three or nine such values? How do we strike the appropriate balance when there is a conflict among the multiple values? These are important questions, but they are not questions that we have to answer here. It is sufficient for our current purpose to realize that family is just one aspect of concern in the Confucian scheme of values, and it is oversimplifying and misleading to characterize Confucian ethics as a kind of familism.

6.2.2 Relation-Based vs. Family-Based

It is also important to note that even if individualism is rejected by Confucianism, it does not imply that Confucianism must be associated with some form of collectivism, such as communitarianism or familism.

As pointed out by outstanding scholars of Chinese society and Chinese ethos such as Liang Shuming (1893–1988 CE) and Fei Xiaotong (1910–2005 CE), Chinese society is neither individual-based nor collective-based, but relation-based. Neither the rights of the individual nor the benefit of the collective is regarded as having priority.

In the words of Fei Xiaotong, the Chinese pattern is “self-centered,” and the *self* is connected to different people with different types and different degrees of relationships:

According to the Western pattern, all members in an organization are equivalent, just as all straws in a bundle are alike. This is quite different from the Chinese pattern. Social relationships in China possess a self-centered quality. Like the ripples formed from a stone thrown into a lake, each circle spreading out from the center becomes more distant and at the same time more insignificant. With this pattern, we are faced with the basic characteristic of Chinese social structure, or what the Confucian school has called *renlun* (human relationships). What is *lun*? To me, insofar as it is used to describe Chinese social relationships, the term signifies the ripplelike effect created from circles of relationships that spread out from the self, an effect that produces a pattern of discrete circles. *Lun* stresses differentiation. In the *Book of Rites (Liji)*, the “ten relationships” form a discontinuous classification. Gods and ghosts, monarchs and subjects, fathers and sons, the noble and the base, the intimate and the unconnected, the rewarded and the punished, husbands and wives, public affairs and private affairs, senior and juniors, and superiors and inferiors—these are principal types of human relationships. “Everyone should stay in his place” (*bu shi qi lun*); thereby, fathers are differentiated from sons, those remote from those close, those who are intimate from those who are not. (Fei 1992, p. 65)

Liang Shuming (1893–1988), in his book *Essence of Chinese Culture* (1989), contrasted Chinese society with both the individual-based and the society-based models. He argued that both the individual-based and the society-based models are Western ways of organization—the former best represented by Britain and United States, and the latter by the then USSR. He also clearly denied that Chinese society is family-based, and argued that Chinese society is relation-based. Neither the self nor the collective is given priority, but rather the different kinds of relationship a person finds himself in. In a relation-based ethics, the key question is not what is the best for an individual or the collective, but what is the best for the relationship. The key question is: what should I do given my role in the relationship. For example: what should a good son do? What should a good husband do? What should a good friend do?

In the Confucian tradition, morality was particularistic. One’s moral obligations to others were defined by their positions within one’s network of personal affiliations. In Confucian moral discourse, the configuration of Chinese society was, as the great Chinese anthropologist Fei Xiaotong expressed it, “like the rings of successive ripples that are propelled outward on the surface when you throw a stone into water. Each individual is the center of the rings emanating from his social influence. Wherever the ripples reach, affiliations occur. The rings used by each person at any given time or place are not necessarily the same. . . .” In such particularistic configuration, the nature of one’s moral obligations to another depended on the precise nature of one’s relationship to the other; for instance, a son’s obligations to his father were different from a father’s obligations to his son. (Madsen 1984, pp. 54–55)

6.2.3 *Role-Based Perspective vs. Holistic Family Perspective*

Even within the family, there are different kinds of relations, for example, father and son, younger and elder brothers, husband and wife. The ethics involved is based on the specific relationships as well as one’s place in the relationship. This approach

to ethics recognizes the important roles played by family members, but it is not familism, or specific kinds of familism such as family utilitarianism or family republicanism, which assume that there is some collective good, such as the best interest of the family, that all members of the family should try to promote, or that there is some kind of General Will, such that an unselfish true member of the family will act in a certain way for the sake of the family. In the Confucian relation-based ethics, however, different people in the family have different roles to play. What they are supposed to do is not the same. What is right for the son to do to the father may not be right for the father to do to the son. Likewise, what is right for the father to do to the son may not be right for the son to do to the father.

As there are different perspectives within the family, it is unjustified to reduce all such perspectives into a perspective called “the family’s perspective.” A relation-based ethics requires people to take up the perspective pertinent to their role in the relationship, instead of requiring everyone in the same collective unit to take up the same perspective.

The relation-based principles are stated in a number of Confucian classics.⁴ In the *Book of Rites*, for example, it is said that there are five basic human relationships, and as there are two roles in each relationship, there are ten basic kinds of patterns of moral behavior.

What is human morality? The father should be concerned with the well-being of the son. The son should be filial to the father. The elder brother should set an example for the younger brother. The younger brother should respect the elder brother. The husband should have life-long commitment to the wife. The wife should follow and support the husband. The senior should give benefits to the junior. The junior should be cooperative with the senior. The ruler should be actively concerned with the well-being of the minister. The minister should be loyal to the ruler. These ten things are called human morality.⁵

Let us for the moment forget about the larger society and just focus on the family. It is important to notice that even within a family, what each person is supposed to do in the family may not be the same. Let us use the parent-child relationship as an illustration: the parent should take care of the long-term well-being of the child, and the child should respect the will of the parent. Such a differentiation of roles has important practical implications. For example, as the parent is responsible for the long-term well-being of the child, it is justified for the parent to coerce the child to have healthy lifestyle, such as to have a balanced diet or to quit smoking. The parent is not doing his or her duty if the parent just lets the child makes his or her own choice. On the other hand, it would be wrong for the child to coerce the parent to have healthy lifestyle. The child can persuade the parent, but not coerce him or her.

We can put it this way: the priorities of values are different for the parent and child. For the parent, in dealing with the child, the care of the long-term interest of

⁴ See for example the chapter “*Liyun*” in *The Book of Rites*, and Year 26 of the Duke of Zhao as well as Year 3 of the Duke of Yin in *Zuozhuan*. For a translation, see Legge 1885, vol. 1, 379–380; Legge 1960, vol. 5, 13, 718.

⁵ “*Liyun*,” *The Book of Rites*. My translation. For Legge’s translation, see Legge 1885, vol. 1, 379–380.

the child should come before respect for freedom of choice. For the child, in dealing with the parent, the respect for freedom of choice of the parent should come before the care of the long-term interest of the parent.

The elder brother and the younger brother also have different roles to play. The elder brother should be the role model for the younger brother, and the younger brother should respect the elder brother. This implies the younger brother can adopt a more individualistic ethics, and the elder brother has to adopt a more collectivist or altruistic ethics. The younger brother just has to take care of himself, and give the elder brother due respect, but the elder brother has to bear in mind the influence that he might have on the younger brother in deliberating about what he should do. For example, in considering whether to donate a kidney to someone outside the family, the younger brother can take the decision more like a personal decision, but the elder brother has to consider whether this behavior sets a good or bad example for the younger brother. The parents, on the other hand, have a different role, and their primary duty is to ensure that the choice made by the child will not cause any significant harm to the child's long-term interest.

Unlike familism, the crucial question raised in Confucian ethics is not "What is the best for my family?" but rather "What should I do, given my role in the relationship?" The questions raised would be "What should a caring father do?" "What should a filial son do?" "What should a committed husband do?" "What should a supportive wife do?". This ethics of multiple perspectives is not adequately represented by the model of familism.

6.3 How Important is Informed Consent?

How important is informed consent? In answering this question, we will do well in taking the Confucian advice: "The gentleman devotes his efforts to the roots." (*Analects* 1.2; Lau 1992, p. 3) What is the purpose of informed consent? Why is it important? What function does it serve? To answer the question "what kind of informed consent is justified" or "how should informed consent be done?" we must first answer the question "what is the real meaning of informed consent?"

I would like to argue that (1) informed consent has remedial value; (2) informed consent has derivative value; (3) informed consent has limited value; and (4) informed consent contains composite values and internal conflicts.

"Informed consent" emerged as a remedial measure. Some practices are regarded as clearly unacceptable, and informed consent is devised as a way to prevent such kind of malpractices to happen. "Informed consent" originated as a means to protect research subjects. Nazi experiments during the Second World War were unethical because they were done without the consent of the subjects. The verdict of the Nuremberg trial listed ten principles that all research involving human subjects must observe, and one of which is "informed consent."

The voluntary consent of the human subject is absolutely essential. This means that the person involved ... should be so situated as to be able to exercise free power of choice without

the intervention of any element of force, fraud, deceit, duress, overreaching or any other ulterior form of constraint or coercion. (Nuremberg Tribunal 1947)

Two problems, however, were left unsolved by the Nuremberg Code: (1) If the patient is in coma or in emergency situation, how can the patient give informed consent? (2) If a new treatment is likely to benefit a patient in coma or in emergency situation, but the treatment cannot be given to the patient because informed consent cannot be obtained, does this contradict the original intention of protecting the patient from harm?

In order to make sure that medical practitioners will not fall into the traps of violating the patients' informed consent, in recruiting them as research subjects or in including them in clinical trials, it is necessary to work out a version of "informed consent" that is workable for the practitioners. The "Declaration of Helsinki" was approved by the 18th World Medical Assembly held in Helsinki in 1964 (World Medical Organization 1964). It was less restrictive than the Nuremberg Code, and it was drafted by the Medical Association to meet the practical needs of the medical professionals. It introduced the concept of proxy or surrogate consent—when a person (e.g. a baby, a patient in coma) cannot give informed consent, a proxy can give consent on behalf of the person concerned. It also distinguished between therapeutic research and non-therapeutic research—the proxy can give consent to participate in therapeutic research (but not to participate in non-therapeutic research).

Both Beecher's 1966 paper⁶ and the Tuskegee scandal made widely known in 1972 showed that the abuse of people as research subjects is not just a war time crime but can be a systematic misconduct of academic or clinical research. As a result, scientific researchers and medical practitioners today have to take informed consent very seriously, or else they would be accused of involving in unethical research or practice.

"Informed consent" is designed as an effective measure to protect the subject in a hostile environment. As such, it is an instrumental value, and its value is derivative from other more fundamental goods, such as the protection of the vulnerable or the respect of individual choice. However, as it is developed today, obtaining informed consent is more a means to protect the researchers from being accused of using the subjects inappropriately.

Let's consider the supposed values of protecting the interest and realizing the autonomy of the subject. How effective is informed consent as a means to achieve these purposes? Informed consent is an instrumental value. Its real value depends on how far it can promote the goal value. There seem to be two common justifications: (1) the protection justification: protection of people from being abused as research subjects; (2) the "autonomy" justification: Every human being of adult age and sound mind has the right to determine what will be done to his body.

According to the protection justification, the value of informed consent is derivative. It is, however, based on two dubious assumptions: (1) the subject knows

⁶ In his paper, Beecher gave more than twenty real examples of unethical research whose results have been published in established journals.

what is good/bad for himself and will choose accordingly; (2) the subject has all the relevant information and is able to understand and make use of it intelligently.

The second justification regards informed consent as more fundamental in nature. However, the view that a person has a right to determine what can happen to his body does not seem to be a sound fundamental value, as it justifies selling organs and disallows the prevention of suicide. Respect for person can be recognized as a fundamental value, but there is a gap between respect of a person and respect of the person's choice, as well as a gap between respect of the person's choice and obtaining the person's consent. Respecting the choice of a person is just one way to respect the person, and there can be other legitimate ways.

Moreover, "informed consent" is not one single coherent value, but a composite value. "Informed consent" has three components: voluntariness, information, and comprehension. For there to be genuine consent, three conditions have to be met. First, the subject has to agree to participate without coercion or undue influence. Second, the subject has to be given information about the nature of the activity or participation, foreseeable risks, benefits, alternatives, etc. Finally, the subject has to understand the information given to him or her. There is tension and competition within these three components of informed consent. For example, there is tension between information and comprehension. The information component requires that information be given as complete and accurate as possible. The comprehension component requires the information given to be comprehensible and manageable. These are different concerns, and may lead to different attitudes and practices. For the sake of comprehension, it is however, very difficult to meet all the three conditions satisfactorily. In spite of all the efforts, the difference that can be made may be very small, especially when the stake of participation is very low.

6.4 The Confucian Response to Informed Consent

From the Confucian perspective, the rules and arrangements for informed consent are the peripherals. The nature of the doctor-patient relationship is the crux of the matter. What exactly is the doctor-patient relationship? What is the role of the doctor, and what are the doctors expected to do? Can the doctor be trusted with a certain task, or is the patient on his own take care of his own self-interest?

The Confucian role-based ethics carries an important ethical message: ethics is a collective enterprise. It is not the work of one person, but has to rely on the cooperation of a number of persons. Instead of requiring everyone to aim at the highest goal or to follow an ultimate principle, it is better to design roles according to the pursuit of a worthwhile goal, and then require everyone to do their role.

Confucius said, "It is a better strategy to act according to one's role than to act directly according to the Way." (Legge 1960, vol. 5, p. 684)⁷

⁷ *Zuozhuan*, Year 20 of the Duke of Zhao.

Mencius said, “One who holds an office should resign it if he is unable to discharge his duties. One whose responsibility is to give advice should resign if he is unable to give it.” (*Mencius* 2B5; Lau 1984, vol. 1, p. 79)

The contemporary emphasis on informed consent in all kinds of human interactions fails to recognize the special relation between the doctor and the patient, and the special role that a doctor is expected and required to play. Informed consent is important in interaction between strangers, but people who have a loving or trusting relationship do not have to take so much effort to safeguard themselves from each other. The crucial question that has to be answered is: what exactly is the nature of doctor-patient relationship? How much trust can the patient put on the doctor, and when can it be said that the doctor has betrayed the trust of the patient?

Should the doctor-patient relationship be understood as a relationship between service provider and customer? If that is the case, then the major task of the doctor is to satisfy the preference of the client, and the major ethical principle is “*Caveat emptor*” (let the buyer beware). If the doctor-patient relationship should be understood as a trusting relationship, then the doctor is committed to the task entrusted (i.e. health of the patient), and the major ethical principle to follow is “*Credat emptor*” (Let the buyer trust).

The Confucians distinguish between two kinds of professions. (1) Noble professions: A person serving in the noble profession is called *shi*, which can be translated as “gentleman,” “knight,” or “scholar.”⁸ The main purpose of a noble profession is to fulfill a noble mission. Examples of this kind of noble profession include: government official, doctor, and teacher. (2) Common professions: the main purpose of common professions is just to earn a living. Examples of such profession include merchant, farmer, and worker. Mencius said that it is alright to take up the second kind of profession just to earn a living, but it is wrong to regard the first kind of profession just as a means to earn a living. Certain strict moral codes have to be followed in taking up the noble profession.

Mencius said, “Poverty does not constitute the grounds for taking office, but there are times when a man takes office because of poverty.... A man who takes office because of poverty chooses a low office in preference to a high one, an office with a small salary to one with a large salary. In such a case, what would be a suitable position to choose? That of a gate-keeper or a watchman. ... It is shameful to take one’s place at the court of a prince without putting the Way into effect.” (*Mencius* 5B5; Lau 1984, vol. 2, p. 213)

In Chinese history, medicine has long been regarded as a noble profession.

Here are some passages expressing such a view:

A great physician must have a tranquil mind and be free from desires. He must first be moved by the heart of compassion, and vow to relieve the suffering of all that have a soul. When those who are sick and painful come to ask for help, no attempt should be made to find out whether they are noble or mean, rich or poor. There should be no distinction with

⁸ The following are some descriptions of *shi* (gentleman): “A gentleman must be strong and resolute, for his burden is heavy and the road is long” (*Analects* 8.7; Lau 1992, 71); “What is the business of a gentleman? To set his mind on his ambition” (*Mencius*, 7A33; Lau 1984, vol. 2, 279).

regards to age or beauty. Friends or enemies, Chinese or foreigners, clever or stupid, should be treated alike—just like one’s closest family members. (Sun 1996, p. 615)⁹

Doctors have to meet very high ethical standards. Those who are not benevolent cannot be relied on. Those who are not wise and learned cannot be used. Those who do not have perfect personal integrity cannot be trusted. This is why since ancient time people choose doctors from famous families, who have generations of proven records of good ethical practice.¹⁰

It is wrong to study medicine for the sake of earning a living. Medicine is an art which reveals the secret of heaven and earth, life and death. It is an art which can intervene with the course of nature, and save people from death. Only the best type of scholars with highest level of morality should be allowed to learn this art.¹¹

6.5 Confucian Virtue Ethics at Work

Let us now consider some cases.

6.5.1 Case A

Mr. A’s father has fallen into a coma and will never regain consciousness. Mr. A can afford the time, energy, and money to take care of his unconscious father, but such expenses will substantially take away from his care of other members in his family. The hospital is now asking for his consent to turn off the life-sustaining equipments. If he himself was in such condition, he would not hesitate to turn off the machine for himself. But he worries that he would be criticized as being an unfilial son if he gives consent to turn off the life-sustaining equipment. What should he do?

If he can provide better care to his family as a whole by letting his father die, should he do so? From the perspective of familism, this may be the right thing to do. But will a truly filial son sacrifice his father for the greater benefit of the family? On the other hand, what does the son really care about—to be a filial son or to be *regarded* as a filial son? I think the above case can show very well the blind-spots of both familism and conventionalism.

In Taiwan, as in other Chinese societies, family members play a very important role in health care. Surveys have been done to find out whether people would support some form of euthanasia under some specific conditions for themselves as well as for their family members (Yang 2003). It was found that most people would prefer ending their life under some specific conditions (such as in vegetative state, or in a painful dying process) but they would not prefer the same for their parents. There seems to be some apparent contradiction here. If they prefer what they regard as the best for themselves, why would they want to have something else for their parents?

⁹ Sun Simiao (581–682), *Essential Prescriptions Worth a Thousand Pieces of Gold*, 1.2, “Sincere Attitudes of a Great Physician.” My translation.

¹⁰ Yang Quan of the Southern Qi period (479–503), *Wuli lun*, Quoted in Lin 1993, 34.

¹¹ Xu Dachun 徐大椿 (1693–1771), *Yixue Yuanliu Lun*. Cf. Xu 2002, vol. 2, 57.

The major reason given was that people were influenced a lot by the idea of filial piety. They would like to be regarded as filial, and withdrawal of treatment may be interpreted as saving resources and not caring their parent enough.

When the son is considering whether he should give consent to terminate futile treatment for his parent, what is the right ethical question that he should ask himself? In Confucian ethics, the right question for the son to ask is none of the following:

1. What should I do to promote the best interest of my family?
2. What should I do to be regarded as a filial son?

But rather:

3. What should a person with the heart-mind of a truly filial son do?

Asking question (1) may lead him to give up treatment while asking question (2) may lead him to continue the treatment regardless of its effectiveness. By asking question (3), he cannot jump to the conclusion so quickly, but has to take into consideration the well-being and the will of his parent. The question he has to answer is: what should he do to truly care about his parent and respect his or her will? The parent should not be seen as just a utility-bearer that contributes to the well-being of the family as a whole. In role-based virtue ethics, the son's duty to the parent is based on their relationship and his role as a son, and is not conditional on the parent being a vehicle constituting and contributing to the so-called benefit of the family.

The following historical story is illuminating. In the year 1393, in the early Ming dynasty period, a man called Jiang Bo-er had a mother who was not able to recover from sickness after a long time. He heard that using their son's flesh to make soup could help to cure the disease of one's parent, so he cut off a piece of his flesh, and made "spare-rib soup" for his mother. His mother did not recover. He pleaded to the gods in the temple, and he promised to kill his son to make sacrifice to the gods if his mother could recover. His mother did recover, and he killed his three-year-old son to thank the gods. The local official reported the case to the Imperial Court, and suggested commending the filial son. The Emperor, who was well advised by his scholar-ministers, gave the following edict (Xiong 2007, pp. 35–38):

The relation between father and son is a most important natural relationship. The person concerned is so foolish to kill his son. This is total annihilation of human relationship. How ridiculous it is to suggest commending such behavior!¹²

Jiang Bo-er's behavior can be justified by familism as well as conventionalism. As one's mother is regarded as a more important member in the family than one's three-year-old son, it can be argued that killing the son to save the mother is to the greater interest of the family. Jiang's behavior was also regarded as filial according to the popular opinion at that time.

However, from the perspective of role-based Confucian virtue ethics, Jiang has a dual role to his mother as well as to his son. Killing his son to save his mother is wrong, as the father-son relationship is also a primary relationship that he has, and this role also has its firmest basis in human nature and human sentiments. Jiang's

¹² Translation mine.

thinking, however, was utilitarian in nature—he gave highest weighting to his mother, lower weighting to himself, and very low weighting to his son. This is a utilitarian rather than a Confucian scheme of thinking.

6.5.2 *Case B*

Doctor B is a family doctor. He is at the same time doing medical research. Right now he would like to recruit a number of subjects. The research he is doing cannot benefit the subjects, and it may cause some discomfort and small risk. But he is quite sure that he can go through the procedures properly and obtain informed consent from his patients if he invites them to participate in his research. Is there any ethical problem if he can obtain his patients' informed consent to participate in his own research?

As a family doctor, he has a specific role to play, and he owes special obligations to his patients. The right question that he should ask is not:

1. What procedures or rules I should follow to avoid complaints and punishments?
- or
2. What agreement can I reach with my patient?

But rather:

3. What should a doctor with the heart and mind of a truly good and caring doctor do?

Of course the doctor can do his own research, and he is free to recruit subjects to participate in his research. But there is a role conflict in him recruiting his own patients as the subjects of his research. As the patients' family doctor, he is entrusted with the well-being of the patients, so far as their health is concerned. He has the obligation to protect their health interests. Recruiting them in research that will not bring them any good and may even bring them some harm contradicts his role of caring. Other people can recruit the patients in other settings, but not through the family doctor's capacity, since he has an ethical relation with the patients.

6.6 Conclusion

Seeking prior informed consent of a person whenever something of substantial impact is done to the person is appropriate and necessary in human interactions without a special relationship. When there is a relationship, informed consent is not a primary issue that has to be handled first. The nature of the relationship is the primary issue, which provides the frame of reference for deciding how relevant informed consent is, and to what extent informed consent is necessary or appropriate. In the area of health care, the doctor-patient relationship is of primary importance, not procedural issues like obtaining prior informed consent from the patients concerned.

Confucian ethics is unique in giving human relationships a central place in ethical problems. Confucian ethics is more accurately described as relation-based,

role-oriented, virtue ethics, than as familism. Giving human relationships a central place in ethics justifies not just giving family members a more important role to play in the medical decision-making process of a patient by his or her family members, but it likewise provides support to give a special role to the doctor, as the doctor-patient relationship is also an important and ethically relevant relationship.

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