

## A Genealogy of Mercy in China

Scott Davis

文化の相違に関わりなく、人が誰も互いに"mercy"を示し合うのは当然で、これこそまさしく人間たるものの普遍的特徴であると私たちは考えている。本稿はこの論題を中国の行動様式に照らして吟味しようとするものである。幅広い事例を詳細に検討し、他の行動様式で通用する文化的な意味合いに立って、或る行為を見てみると、我々が持っている"mercy"という概念の普遍妥当性には疑問の余地が生じる。中国の文化と他の文化とでは"mercy"なる語の主要な内容が相違するので、"mercy"なる語の概念に矛盾しない行為を直ちに確定しようとするると翻訳上の困難な問題が発生する。"mercy"の仏教的概念及び「国家儒教」的概念を吟味し、それと同時に法制におけるその用例、そして中国古代の文化を検討してみると次のようなことが初めて分る。即ち、"mercy"のごとき倫理思想的な価値測定は、その文化的背景と完全に切り離して行なうことはできないものだが、しかもその行為が発生した文化と密接な関係にあることが分るのである。それ故"mercy"に基づく行為なるものは或る特定の文化に限られるもので、その文化の外にある世界には見られないものなのである。本稿は系譜的な研究方法がこれらの課題をよりよく理解する上で有効であるということを示そうとするものである。

We might think it a matter of course that people in all cultures show mercy to each other, in one way or another. We think it is surely a universal human trait. This essay examines this thesis in the context of Chinese tradition. From close investigation of a range of cases, we can learn that demonstrating the thesis of the universal applicability of our concept of "mercy" becomes quite problematic when we look at behavior against the background of the cultural meanings available within other traditions. Due to the differences in conceptual emphases in Chinese and other cultures, there is a deep problem of translation for anyone attempting to locate directly a field of behavior congruent with what we call "mercy." By examining Buddhist concepts, so-called "state Confucian" concepts as well as their use in jurisprudence, and finally archaic Chinese culture, we begin to realize that the identification of ethical values such as "mercy" across cultures, although not totally dependent on cultural background, is nevertheless highly contingent upon the cultural circumstances in which the behavior takes place. In part, therefore, merciful behavior is limited to particular cultures and is not found outside of those cultures. This essay attempts to demonstrate that a genealogical approach to studying these issues helps us to understand them better.

Let's imagine that someone wants to ask a question such as the one that follows. Let's ask: At any given time within the long history of Chinese culture, have Chinese people ever acted in merciful ways towards others?

When we try to answer such a question, we work cross-culturally with examples of putative merciful behavior, which we take as paradigm situations. Let's suppose these paradigms will be comprehensible in the following way: Where one party can claim the power in their actions to bring about undesirable outcomes with regard to the well-being of another, we could think of mercy coming into play when, for one reason or another, this action is forgone for the sake of the other, less powerful party. The potentially harmful power exercised by one individual is overcome in favor of the less powerful party. Mercy thus appears as a subset of phenomena of compassion or sympathy, where one individual's emotional tone and subsequent behavior become placed at the disposal of another's suffering.

This vague definition suffices for a start, even though we do not yet know what is meant in the target culture by terms such as "power," "action," "individual party," and so forth, and even though it indicates its object in rather negative terms, as a double negative (declining to do some undesirable action).

This paper will suggest and develop a framework for a commonsense understanding of the quality of mercy in Chinese culture. By this, I mean that the approach taken here will acknowledge both that the specific conceptualization of a quality of mercy proves to vary when materials from greatly differing cultures are

considered, and, in spite of this variation, that we can expect to find ideas about merciful behavior analogous to what we know from our own cultures. It would be unwise to be misled, on the basis of linguistic units, to imagine that our comparison is taking place between different manifestations of some essential moral quality, named "mercy." Yet, as the paper will show, the comparison does reveal a family of common orientations and values.

The conclusion to be drawn from this is as follows. It is possible to recognize similarities of moral thought and behavior across cultures, just as it is to do so within cultures, even though in neither case are we dealing with simple, single-level comparisons of similarity and difference between unitary objects of comparison.

Naturally, a cross-cultural study of mercy, in an anthropological setting such as this paper explores, is as interesting for what *fails* to match the preliminary prospectus of the study as for the similarities the preliminary definition brings to light. We come to a better understanding of our target object as we gradually clarify the terms of our definition. This feature reminds us that we are, of course, working within a hermeneutic circle. Out of the (doubly) negative definition we have begun with, our task will be to discover, as we better delineate the terms involved in the definition, what more positive characteristics this sort of merciful behavior has, in its manifestation in Chinese culture.

It is necessary to begin this discussion indirectly, in reference to the "hermeneutic circle," because Chinese, not being in the Indo-European family of languages, does not furnish us with ready analogues to our target object. The associated ranges of meaning of whatever terms we arrive at will, therefore, lack resonances which fill out our own concept "mercy." Our English term, "mercy" carries with it distinct etymological baggage, reflecting interests recognizable in its historical development. Its connections to "mercantile" are as evident as its theological elaboration as divine "grace." As is to be expected, none of the basic forms for discussing mercy given in contemporary Chinese languages convey the slightest etymological similarity to the English word. We are therefore forced to adopt an indirect yet principled technique in order to gain satisfactory purchase on the problem. As often happens in such research, this paper proposes both to articulate a theory of, and to demonstrate a way of interpreting, the cultural phenomena of merciful behavior in China.

The appropriate strategy for managing this complex problem would seem to be to work the way ethnographers do when they do field research. We need to discover something that is similar enough to our own experience to serve as a touchstone for further inquiry and understanding. In our case, we could proceed as follows. Looking for some way to find our feet in this very different cultural arena, we will begin with the contemporary expressions which approximate the usage in Western languages, and note some features of their interpretation. As it happens, the handiest contribution to the discussion of issues concerning mercy in Chinese has come from Buddhist teachings imported into China, and developed there over a period of almost 2000 years. We will thus find some means of preliminary orientation from sources that ultimately, though in tenuous fashion, preserve some connection with Indo-European thinking. The feeling of familiarity, however, will be of limited use to us, since our evidence immediately pushes us to consider specific manifestations of the imagination of mercy, and it pretty much goes without saying that the symbolic materials adopted in various instances, in both the classical

and in the folk spheres, leave us with that mixture of recognition and shock that is common in field work, and is in fact a goal of this essay itself to convey.

From the contemporary expressions we can distill not only the preponderant Buddhist components, but also substantial overtones from a pre-Buddhist stratum, of what is usually called "Confucian" thinking. This is the level where the analysis of mercy both takes on its most serious import and also becomes most difficult. One index of this fact is a notable bifurcation in types of discourses. It must be stated clearly again from the start that *neither* of these discourses strictly speaking is a discourse about mercy as we conceive it. However, they contain sufficiently similar core elements that on occasion they have led scholars to translate them by that Western term. We ought to find it peculiar that the "Confucian" (i.e. the Rú 儒 tradition in all its connections with the state) discourses in this domain have divided their treatments of the problems which we think of as one phenomenon of "showing mercy," into a quasi-substantive sphere and a strictly performative sphere, with very different terminologies and alternative approaches in each. This situation leads us, in a double way, to reformulate our concerns with mercy and power, and also to undertake to resituate our target object, relying less on focal terms and their connotations and associations, and more on an extensive network of oppositions. Only such an interpretive strategy will provide us with an adequate account of the Chinese ethical orientation.

At the point where we can realize this, we can go further back into a more basic stratum of Chinese culture, and briefly examine archaic ways of thinking about "power" and "mercy" which, while not of course framed in terms immediately accessible to interpretation in our concepts, have assumed an axiomatic position for subsequent Chinese thinking. In this way, the paper will trace a genealogy of family relations. The emphasis here will be on the logic of the network of these moral concepts, rather than on presenting their historical reconstruction. We begin with the contemporary situation in China and work towards the more ancient configurations. This procedure, indefensibly teleological as it may seem for a historian, simply takes advantage of the systematic outcome of the historical evolution as seen from our present point of view. Our concern will be with the cultural logic of this systematic character.

The overall patterning suggested by this logic is well-illustrated by a comprehensive example such as the "kow-tow" (i.e. *kòutòu* 叩頭 in Mandarin Chinese), a ritualized bowing in which one person puts himself or herself at the mercy of a more powerful master. We would do well to avoid characterizing such a scenario strictly in terms of the power differential displayed in the gesture; we may recall that diplomatic disputes arose when European state representatives refused to submit to what has been strongly described as "rituals of abject servitude." However, it has been argued that the European approach to the body's role in political action has for centuries been premised upon functions of representation (putting the body at the service of abstract principles and political realities) and of the primacy of the visual modality (the body's attitudes of submission for visual display), whereas a late imperial Chinese approach to polity clearly recognized that the ruler and subject were in a relative relation of mutual co-definition, that state ritual was an active, living creation of the sovereign order, and that, "The *kòutòu* empowers the lesser in a dependent relationship with a superior. In this sense the act is a nuanced negotiation of power."<sup>1</sup> In other words, we are likely to overlook

key issues in the subtle cultural background of the problem if we do not also question our own understanding of power in its context of deployment. As contemporary ethnographers have noted:

Though villagers refused to *koutou* at times, on other occasions those who wished to *koutou* were restricted from doing so. The 'abject servitude' interpretation of *koutou* seemed to explain neither why rural Chinese men and women chose to *koutou* on many occasions, nor why they were hesitant to *koutou* on others. [Kipnis 1994:211]

It is evident that the claim to mercy, institutionalized in such ritual forms, is strategically used in China, in a calculating, quasi-compelling manner—like a gift, it implicitly demands its return—and that for those in a position to exercise power, there may be internal constraints within that position, other than what we think of in terms of general moral law and individual specifications of it. We will suggest the cosmological setting for such cultural considerations as the investigation continues.

### Contemporary Usages and Their Buddhist Background

As stated above, in contemporary Mandarin Chinese, as well as in other contemporary Chinese languages, there are two main ways to express an ethical orientation similar to our term "mercy." The more colloquial Mandarin expression, *tóngqíng* 同情, is best translated as "sympathy" since the components of its binome are "same" and "feeling." The other, more precise Mandarin term for "mercy" would be *cíbei* 慈悲, which has a more restricted and elaborated use just as, in English, "compassion" does, compared to "sympathy." We note immediately that no definitive distinction between an idea such as "mercy," and other words such as "compassion" or "sympathy," designating fellow-feeling and commiseration, will be achievable in this context. The further specification of mercy, in terms of action forgone by an agent empowered to carry it out, within the general domain of compassionate behavior, will mainly be the result of our own analytical discriminations. We might say that a "field of mercy" exists potentially, in the intersection of the terms related to compassion, with the terms denoting the gifts or rewards stemming from the gracious acts of the king (particularly the terms *en* 恩 or *enhui* 恩惠); in such a case, we are obliged to learn about the basis of Chinese socio-political thinking in concepts of the monarchy. A preliminary attempt of this task will be sketched at the end of this paper. One cannot understand everything at once, however, and so first, a closer examination of differences between the two modern terms prepares us to continue the investigation to deeper genealogical levels.

*Cíbei* has come down to contemporary usage clearly as a technical term from Buddhism (Sanskrit *mahakaruna*). *Tóngqíng* or "sympathy" has no such pedigree. Although Buddhism did make some contribution to the theory of "feelings" (*qíng*), this discourse already was well-developed in late classical times, in philosophical and medical contexts. The expression *tóngqíng* can thus claim connections to a general, pre-Buddhist stratum of Chinese culture. Its application is correspondingly broader and more ordinary. Notably, *tóngqíng* is both noun and intransitive verb, both "sympathy" and "to sympathize (with someone)."

The rather flowery expression *cíbei*, on the other hand is restricted to substantive usage, as "compassion." It was cobbled together for use in Buddhism,

drawing upon earlier terms with broader connotation. The component *cí*, related to a homophone referring to deixis, growth, attraction, and now used to discuss magnetism, originally (in late classical writings) had to do with feelings of affection, particularly between members of succeeding generations. The component *bei* refers to grief or tragedy. In this way, *cíbei* conveys the way the spiritually developed person identifies with others in the world: feeling affection for their pleasures, and grieving for their tragedies. This is the derivation of the single term in Chinese most directly comparable to our term for "mercy."

Again, it can be seen immediately that in order to bring this term into direct comparison with "mercy," we have to choose between two lines of inquiry. Either we are obliged to eliminate from consideration at once a whole range of implied issues which occur to us, such as the relation of mercy to "rights," the relation of the concept of mercy to the concept of gift, the relations between mercy and reward, the legal context of mercy, mercy and power, and so forth; there are very good reasons tempting us to take such a position (namely, these sorts of conceptual issues are quite alien in this milieu), but we end up with an impoverished and faulty version of human life in Chinese culture by doing so. Otherwise, choosing the other line of inquiry, we will be obliged to bring these issues back in synthetically in some sort of broader, contextual perspective. The genealogical treatment proposed here obviously aims to accomplish the latter, synthetic alternative. It would be a serious error prematurely to circumscribe our investigations linguistically without acknowledging the cultural background that, in China, has elaborated very archaic and distinctive ideas about reciprocity, personal relations as opposed to legal relations, and the philosophy of the gift. But before going on to push back the genealogical horizons on these ideas, we should first take a closer look at the Buddhist contribution to the Chinese discourse on mercy.

The so-called "Goddess of Mercy" in Buddhism is an unmistakable symbol for the Chinese concern for compassionate behavior. It has been reliably suggested that, as "the cult of half Asia," more people are devoted to respect and worship towards this goddess than towards any other deity in the world [Tay 1976]. The career of this goddess in Buddhist history is instructive, particularly since it is well known that in the transmission of the Buddhist religion from India to China, a gender change took place. In Indian Buddhism, Avalokitesvara, as the god of mercy, took his place in a contrastive system as the complement to the symbol of wisdom. The realized Buddha would combine the jewel and the lotus, right and left, wisdom and compassion, permanence and temporality, in the perfection of spiritual realization; interestingly, compassion occupies a homologous position with stillness, in opposition to wisdom, so that after "fixing" the consciousness in the stillness of meditation, one finds spiritual wisdom. Latent feminine characteristics of such oppositions were made manifest in the course of the immense cultural transformations that took place on the introduction of Buddhism into China [Wright 1959]. By the early Sòng Dynasty, Avalokitesvara had translated into the Bodhisattva Guan ShìYin, she who "observes the sounds [of cries of suffering] in the world." The name itself is somewhat peculiar, mixing as it does the sensory modalities of vision and hearing; it conveys an omniscient gaze and attention to the worlds' sufferers, and goes back to a long Indian tradition of omni-directionally oriented central deities [Stern 1990: 270ff.]. In shortened form, the goddess is known as GuanYin (Kannon).

It is not an accident that this aspect of the symbolism of mercy has received special elaboration, for the orientation it expresses corresponds well with the overall innovations achieved by Mahayana Buddhism some centuries before being transmitted into China. The concept of the Bodhisattva is the most important feature of the new practice known as "Greater Vehicle" Buddhism. The Bodhisattva concept mediates between the earlier distinction (in Hinayana or "Lesser Vehicle" Buddhism) between illusory experience, whose only reality is suffering, and liberation. Accordingly, Bodhisattvas are those who defer the accomplishment of nirvana, to which on all accounts they would be ready to accede, in order to assist in bringing all life out of its inherent suffering, in the realization of universal enlightenment. The Bodhisattvas' identification with *all things*—which, by definition, are caught up in the cycle of suffering of existence—this refusal to make discriminations between oneself and the rest of the universe, in the silencing of thought through meditation techniques, is the premise for the emphasis on their compassionate natures. In spite of the vastly different theological systems involved in the comparison, we can see in this problematic some similarity to the Christian doctrine of divine mercy, the fascinating turn of the divinity towards the human world; we should say that in both cases, the soteriological valorization of the concept of mercy is being emphasized.

As a goddess in Chinese folk religion, GuanYin has appeared in extremely diverse contrastive sets, in the rich variety of symbols that mark social and cultural units amongst the populace. For instance, as a representative of an international religion in the village temples, GuanYin can be opposed to definitely ethnic goddesses such as MaZû (also known as TianHòu 天后, "Heavenly Queen"); the latter, as a merciful goddess who saves those in distress at sea along the southeast coast of China, often has a more violent, stormy nature than the tranquil and loving Mother GuanYin. Along this axis, GuanYin is positioned more as the exemplar of a "civil" deity, whereas MaZû is more closely associated with the "martial" gods in these village religions. On the other hand, since both GuanYin and MaZû share the relatively rare feature of being female, they are deployed in strategically significant ways, as mediators within the domains of the male-dominant gods [Sangren 1983: 4-25]. The diversity of GuanYin cults reflects the semiotic productivity of such a code. GuanYin not only focuses a variety of meditational and devotional sects, but as a goddess has also figured in secret cults promoting, among other things, esoteric sexual practices. For instance, a rather widely-distributed set of GuanYin cults in southeast China claimed that the goddess's compassion towards creatures suffering from sexual desire was such that she would offer a permanent liberation from sexuality; significantly, the cessation of sexual desire would be brought about by sexual intercourse with the goddess's incarnation in the various shrines where the initiation was held [Yü 1990: 61-89]. This example shows that even heterodox practices, such as these, presented an inherently logical set of ideas and procedures, claiming their own domains, justifications and reflexivities (overcoming sex by sex). A similar reflexive set of issues can be discovered in such variant Guan Yin sects as that of MiaoShàn [Dudbridge 1978], who marks the emergence of the female, Chinese version of the deity around 1100. Having disobeyed her father and refused to marry, MiaoShàn was killed by her father. After her descent into the underworld, she resumed a human guise as a religious recluse on a mountaintop. When her parents subsequently fell ill, MiaoShàn voluntarily and *by her own hands* underwent

a painful second death by dismemberment in order to provide, from her body's own flesh, her own arms and eyes, healing sustenance for her ailing father. The spiritual reconstitution of the MiaoShàn version of Guan Yin, so that she still lives on as a deity, continues to preside over her spiritual jurisdiction and grant favors to her faithful, is the vital justification of continued worship of her. This sort of faith in the sustaining mercy of the goddess is reflected in such folk classifications as revealed for example in the name "Guan Yin soil," which was a type of supposedly comestible earth, an absolutely last resort for famine victims who not only had no further food reserves to sustain them, but also had eaten all the wild plant food sources and all the bark from the trees. Such concerns—abstinence, nurturance, purity—were the concrete face of symbolism dealing with compassion in traditional Chinese culture.

In sum, then, the overall contributions of Buddhist thinking to the development of concepts of mercy in China have to do with combining a psychological scheme for theorizing the individual's motivations, alongside of a soteriological rationale in which the attitude of compassionate mercy could figure as a pledge of a projected universal liberation. The important results of Buddhist promptings towards merciful, "good acts," are well-known in the social history of China, which benefited in many ways from charitable institutions and practices the Buddhists established.

### **The Mainstream Tradition**

It must be evident that these improvements of the moral climate in China were secondary elaborations of cultural systems already long in place. Formulating the directives of compassion in ways slightly different from before, they set up the long processes of cross-mapping and translation which have been active since the Chinese medieval period. We will call the pre-existent native system by its conventional Western name, "Confucian," a somewhat misleading label of what was traditionally called Rú. The scholarly vocation advocated by this group was founded upon detailed philosophical consideration of proper human conduct, including a careful treatment of statecraft. This school came to orthodoxy in the Hàn, in what is conventionally termed "state Confucianism." In the classical doctrines which predate the formation of the Confucian state, the major components for philosophical analysis of compassion are found: in the teachings of Confucius himself, and in the writings of his disciples and their schools.

When we examine these various texts, an astonishing fault-line runs between the texts on statecraft and justice, and the philosophical writings which form their reflective justification. On the one hand, the philosophers invested their efforts heavily in developing a quasi-substantive notion of the virtues of human behavior. On the other hand, the state theoreticians put into practice an extremely complicated penal system featuring elaborately orchestrated pardonings of prisoners, expressing a cosmological sense of oneness with universal rhythms. The connection between the quasi-substantive and the performative disjuncts of this system was not direct. The obvious place to begin examining this complex is with the philosophical construct, one of the foundation-stones of Confucian teaching.

Here, in the various contrastive pairs and oppositional networks the Confucians mobilized, there are components of what we could call a philosophy of

mercy. Specifically, one of the cardinal virtues of the so-called "Confucian" school was *rén* 仁, a word which has been translated only with great difficulty into English by terms such as "benevolence," "love," "agapè," "altruism," "kindness," "charity," "compassion," "magnanimity," "perfect virtue," "goodness," "humanity," "human-heartedness," or "authentic personality" [for this list see Hall and Ames 1987: 112]. Certainly, use of the term focuses on what is good and special to human beings and human behavior. A request to explicate *rén* is at one point the occasion for the statement of the so-called Confucian "negative golden rule": "Do not impose on others what you yourself do not desire." As is well-known, Confucius practiced a very context-specific approach to his teaching, so that his thoughts on the matter of *rén* vary from case to case in a diagnostic fashion. It is only by examining the conceptual network formed around this term that we stand any chance of gaining purchase on an early Chinese quality of mercy as it applies quasi-substantively to the individual.

Abandoning from the outset any attempt to discover what *rén* "really meant" (as a substantive or discursive concept), we turn to the form or the way in which it was expressed for our basic clues. The traditional explication of the term, meager as it may seem at first glance, nonetheless guides our subsequent investigations of its use. "What *rén* is, is *rén*" (仁者人也) is the form of the explication; the homophonic characters for "*rén*" in each case are different. The second instance, the explicans, is the character for "humans." The first instance, our target concept, is written with the signific radical for "humans" plus two horizontal strokes meaning "two." One is tempted to risk the anachronism of reading this expression as "humanity to the second degree" (人<sup>2</sup>); indeed, although the mathematical conventions were lacking to make this a tenable reading, still, there is a good deal of justification in insisting on the doubled and reflexive or intensifying senses implied in the character's written form. The doubling clearly implies human social relationships: I am more human to the extent that my reflexive doubling or multiplying is a function of you.

It is evident that *rén*, as "benevolent human-heartedness," was often used as the complement of *yì* 義, "rightness of fit between values and world." One is tempted to interpret this dual system in a reified form, such that *rén* would constitute the inner thing, the psychological pole, and *yì* comprise the realized good intentions, expressed affective charge, etc., in the field of the material world. However, later followers of the Rú tradition had to stress that *rén* was not opposed to *yì* as something inside to something outside; there were equally inner and external aspects of both these categories. As Dōng Zhòngshū noted two thousand years ago, "The difference between *yì* and *rén* is that while *rén* is outward-directed, *yì* means proceeding inward; while *rén* emphasizes what is distant, *yì* stresses what is close at hand; while love invested in others is *rén*, being appropriate to one's achieved personhood is *yì*; the focus of *rén* is mainly on others while that of *yì* is one's own person" [quoted and translated in Hall and Ames 1987: 118]. More recently, Fingarette strongly argued that *rén* could not be taken as a psychological notion, instead insisting on its performative character as a dimension of ritual action [Fingarette 1972: 37-56 and *passim*]; while he was correct to emphasize the primarily non-psychological orientation of Chinese thought overall, the above quote shows that it is not correct to imply that the classical tradition simply portrayed human action without any reference at all to an inner life. Rather, the Chinese approach is

clearly interactional: the reflexive doubling, although certainly involving the social connectedness of human behavior, is also at the same time an internal attitude towards oneself, a human characteristic which is strongly emphasized in the teachings of Confucius.

While *rén* is the foundation of Confucius's idea of appropriate human behavior, which he expressed in more than one hundred different formulations, *shù* 恕 was stated to be the "unifying thread" of his teachings. Again, translation of this term can barely succeed outside specific contexts, but "altruism" has been suggested; the term is operationally defined in Chinese as "moving by extension from oneself to others." The fact that the word is written with a component *rú* 如 meaning both "as if" and "you" is a clue to the personal and analogical quality in its use (this evidence, though, should not be applied uncritically to bolster any psychologically based analogy theory of "other minds," as there is no indication that such considerations were in effect). For *shù*, the same dictum of the "negative golden rule" applies as to *rén*: "Do not impose on others what you yourself do not desire" (thus indeed this unique duplication in the patterns of explication is a structural key to understanding the intimate relation of the two concepts). *Shù* is like the "technique" of *rén*, a technique of "establishing others when one wants to establish oneself" [*Analects* 6:28 (SSJZS, volume 8, page 55)]. The commonest meaning of *shù* in contemporary usage is "to forgive"; oddly, though, ordinarily it is most often used in contexts to the effect of, "Please, (you) forgive me." Obviously, like the *kòutòu*, the concepts associated in these semi-ritualized contexts are highly interactive in the dimensions of self and other.

Whereas in the centuries after Confucius there emerged a utilitarian school of Rù thinkers, such as XúnZi, who wanted to justify the virtues such as *rén* and *yì* in terms of their contribution to ceremony and thus to social function and stable maintenance of social order, another branch developed a transcendentalist interpretation of these virtues. This school achieved orthodoxy in the long run, while the utilitarians were made suspect by their eventual approximation to legalism, the school of thought instrumental in setting up the first empire. The harshness and rapid demise of this empire of Qín discredited legalism, and anti-legalist rhetoric has played a decisive role in Chinese society, and in other Asian countries, until the present day.

On the other hand, the orthodox scheme put forth by the idealist school of Mencius, concerning the origin of the "four virtues" of second-order humanity (*rén*), rightness (*yì*), ceremonial propriety, and wisdom, gave as the origin of benevolent, reflexive humanity the involuntary feelings of fear, pain and pity which one has, for instance, at seeing a child tumble into a well. "No human beings can tolerate seeing others suffer." This primitive datum of human behavior, along with other prime dispositions such as shame, give-and-take, and intuition of truthfulness, give rise to the full spectrum of positive character-states, on condition that adequate educational training would be provided [Mencius, 2A.6 (SSJZS, volume 8, pages 65-66)]. In this way Mencius prepared a counter-discourse to the utilitarian and legalist tendencies of Chinese thinking during the formative years before the empire was founded, one that stressed education and inter-generational transmission of correct conduct and knowledge. These two poles of discourse, the "legalist" and "humanist," have been dominant rhetorically throughout much of the subsequent political development.

As we can now realize, an important characteristic of the classical philosophical investigation of these virtues is its structural application in contrastive pairs and sets. The question was less to equilibrate the proper balance between justice and mercy, or *yì* and *rén*, but more to deploy this opposition in such a way as to mobilize other orders in the general classificatory scheme. One might say that philosophical thought at the time was not oriented towards denotation and grounded inference, but towards graphism and internal dynamics, or towards harmony and rhythm. Successful reasoning in such a system was a presentation which could integrate far-reaching levels of opposition by bringing out common structural elements. The master-category of *rén* is more a cluster of potential internal-action configurations than a representational or conceptual unit. As, at most, a representation of representation, in its "sum rotational value" or its full unpacking into sub-categories, it approximates our "quality of mercy" in many ways, but only in conjunction with regional contrasts which make the similarities emerge; otherwise, there are as well other domains where the global value evokes qualities of selflessness, love, faithfulness, gratitude towards ancestors, ritual propriety, etc. Above all, it is the need to operate systematically the discontinuous nodes of the classificatory scheme which is most clear. For this reason, our characterization of this branch of Confucian thought as "quasi-substantivist" may be misleading, since there are obviously both structural and performative factors of great importance in the philosophy (as Fingarette and subsequently Hall and Ames have correctly stressed). All that is meant to be implied by such a terminology is that the discussion of these virtues aims at them as standing nodes in the action network, as perduring action qualities, however they be realized, as opposed to a vocabulary of specific actions, such as we will now examine.

### Pardoning and the Penal Code

A clear set of directives, in exclusively performative terminology, was in effect to guide rulers in their judicial functions. The emphasis is not placed on "the quality of mercy" but only on the act of pardon. Leniency is advised for cosmological reasons, and there is evidence that rulers tended to conform to the natural course of things by pardoning prisoners in the spring, and executing the rest in the autumn. Therefore, from our perspective, a major issue involved in the concept of mercy was addressed in a way that was at the same time both extremely practical and highly metaphorical. The body of textual evidence discusses the justification of legal pardon in pragmatic or even bureaucratic vocabulary based on a classification of different verbs without very much consideration of the moral virtues at all. There is an elaborate set of distinctions between verbs like "great [general] pardoning" (*dà shè* 大赦), "pardoning" (*shè* 赦), "showing leniency" (*yòu* 宥) etc., in such profusion as is unprecedented in other cultures in the world at the time, or since.

The following maxim well illustrates the type of reasoning involved in these periodic pardons. In the context of a legendary incident where a king passed his position down to a worthy successor, the observation is made that:

Punishments do not extend down to the next generation; honors endure throughout the generations. In punishing [unintended] mistakes, nothing is [to be taken as] serious; in using

penal law to correct those who intentionally [commit crimes], nothing is [to be considered] insignificant. [When one is] unsure about the crime, one should only [err on the side of being too] light, [but when one is] unsure about the accomplishment, one should only [err on the side of giving it too much] weight. Rather than kill innocents, one would rather let the aberrant slip away.<sup>2</sup>

The concern not to injure innocent people should be evident in this account, which gives it a recognizable personalizing tone. As the exemplary figure in the cosmic order, the king, by behaving with leniency, would encourage his subjects to be generous and forgiving among themselves.<sup>3</sup> However, in our quote, the interest in devising a balanced rhetorical situation, though tacit, is even more prominent; this motive situates the issues squarely in the cosmological field of Chinese thought, and gives them their veritable character, which permeates the traditional practice of legal pardons.

The interest in formal, rhetorical symmetry is a feature of the cosmological orientation of Chinese thinking about “the quality of mercy.” The merciful actions required of a legitimate ruler were determined by the cast of the cyclical balances and harmonies of the surrounding cosmos.

Ritual makes use of government and service, work and force, action and obligation, in order to follow the four seasons. It makes use of corporal punishment, penalties, threatening authority, and imprisonment, to make the people frightened and circumspect, in order to form a paradigm with the thunderous shock, bright sunshine, killing frosts and damaging hail [of the four seasons]. It makes use of warmth, compassion, wisdom and harmony in order to imitate the reproductive fertility, growth and nourishment of heaven. [*ZhuoZhuan*, Zhao 25 (SS/ZS, volume 6, page 891)]

Although there is a certain dimension of personalizing solicitude involved in these proclamations of pardon, the attention of the elite was drawn ineluctably to the more impersonal, cosmological structures within which human government was to function.

One operative key, a lever or “trigger” of this cosmic structure, was thought to consist of the art of arranging beginnings. In a cyclical framework, there was posited a point of return which approximates infinity or a temporary stasis which is outside the temporal flow. To operate a system of harmonic resonances of this sort, one must establish the paradigmatic alignments at the point of this early, paradoxical singularity. The system shows sensitive dependency on initial conditions, and one can influence the character of myriad outcomes with little effort through a carefully chosen start. As well, this cosmological judo was embodied by a political theory in which the king served as pivotal focus for the harmonies maintained by the general social order. These were some of the important reasons, among others, that the Chinese penal system featured frequent pardonings, as a symbolic purification of the regime. In the course of time, things were seen to become removed from their original source and lose their resonant qualities. The attenuation of harmony over time resulted in assaults against the order of law, or stated otherwise, in events leading towards an increasing distance from the central, kingly power; so, when such a circumstance became manifest, it was interpreted as the personal responsibility of the emperor. Therefore, a general readjustment became necessary on many occasions, such as the new accession of an emperor to the throne, the issue of a new calendrical order, or simply a felt need to renew the royal power (for instance, if natural disasters had disrupted normal life; so the

emperor's ordering power was implicated). Thus, the act of pardoning prisoners was an important component of a complex ritual attitude of founding a renewed world, which was a symbolic basis of imperial rule in traditional China.

For the Chinese penal system, these premises resulted in a record of official pardons of prisoners which was of breathtaking magnitude. In the thousand years before the first empire was established, the cosmological concepts discussed above were being formulated, so that we have indications that pardons (*shè*) were officially given in the records of at least five feudal states in the late classical period. On the eve of winning the empire, the Qín court held a great pardon (249 B.C.). The Hàn dynasty, that era which saw the greatest systematic developments of synthetic cosmology, was also the golden age of official pardons. Emperor GaoZû authorized nine amnesties during a ten year period of his reign. Emperor Wû instituted frequent, regular pardons. Throughout the rest of the Hàn following Emperor Wû, pardons were held anywhere from once every year to once every three years. "Between A.D. 167 and 196, great acts of grace were promulgated in every single year but 170 and 185" [McKnight 1981: 25]. Although highly variable, both due to the events' strategic nature and due to gaps in documentation, the record of amnesties throughout most of the two thousand years of imperial Chinese history shows that these measures were taken regularly, with an average periodicity rarely exceeding once every three years. When Chinese government was taken over by the Mongol and Manchu invaders, these general pardons became less frequent, as central rule became more harsh and perhaps reflected tribal law. However, as McKnight summarizes at the end of his study on *The Quality of Mercy in China* [1981:112], "We must not forget that even in late imperial China acts of grace continued to be issued on a scale which in other areas of the world would have been startling, but compared to the earlier imperial era they came few and far between."

Obtaining a particular criminal sentencing in an individual case involved a complex matrix, or rather the product of discrete factors of several such matrices. As we have already seen, the factor of intentionality was taken into consideration, in such a way that we can say the operation of the sentencing matrix was premised upon the deliberate nature of the criminal act. Potential punishment was arrayed in a stepwise fashion along various networks of crime types classified in terms of highly ethically charged symbolism of family and state; all crimes which fell into certain categories were allotted equivalent amounts of punishment, but this was subject to secondary modifications from other attributes derived within the network. In addition, the punishments diminished stepwise along an axis proportional to various kinds of proximity, since responsibility for crimes always was assigned collectively, usually by kinship units but also in some cases and in some periods by residence (often these categories were coterminous, as in lineage villages). Here, factors in allotment of punishment moved outside of the sphere of intentionality. Naturally, various privileges of social rank required further modulations in determining the severity of punishment; seen in this way, the major axis for specifying the degree of criminal infraction was framed in terms of proximity to the king, particularly in early forms of Chinese law [see Lewis 1995]. In this way, pardons were effected by manipulating this complex matrix, either by moving up or down the discrete levels of the code, or by general amnesties which would remove the convicted party outside of the domain of punishment altogether.

While the overall magnitude of the amnesty system tended to diminish over the last one thousand years of Chinese history, further refinements of the system took place to avoid juridical abuse; for instance, there developed further "inspections of cases," as well as the regular reviews held during the heat of the summer (ostensibly to obtain the good will of heaven in abbreviating the heat), and also the assizes carried out at the occasion of the autumnal executions. The manner in which these assizes were conducted provides a very instructive example for our purposes. In a very solemn ritual, the emperor received the lists naming criminals deserving capital punishment, and proceeded in some way to mark off the names with his brush with the royal vermilion ink. At this point, we are not clear which of the two versions of this rite is the correct account; according to one source, the emperor made a circle in the center of the page, and only those within the circle were taken out to be executed. According to another, only those whose names intersected the line traced by the vermilion brush would be taken to be executed. In either case, the remainder of the doomed convicts were kept in prison throughout the following year, until the next autumn saw the next round of executions, and in either case there was obviously room for extra flexibility left to the officials, in the placement of names best to avoid the finality of the emperor's brush-stroke. That the very careful legal procedures, with painstaking screening of evidence and detailed cross-checking and review at multiple levels, were integrated with a seemingly random play of chance at the terminus of the project demonstrates clearly the limitations we face in approaching this cultural complex with a concept of mercy narrowly defined in terms such as we know from our own cultural background [McKnight 1981: 106-07].

The outcome of these elaborate procedures was to increase dramatically the probability that convicted criminals would be pardoned before reaching execution or the full term of their sentences. As McKnight convincingly argues: "Since on the average there was either an ordinary or a great act of grace every thirteen months during the Northern Sung, only about half those arrested for capital crimes of which they were clearly guilty would have been executed.<sup>4</sup> Under various emperors in the Northern Song, the probabilities fluctuate between thirty and fifty percent of the capital criminals who would escape execution through pardons. Officials from this era often complained that 90% of the capital convicts would go unexecuted [McKnight 1981: 79]. Such considerations further emphasize the "merciful" aspect of the lottery-like final assizes described in the previous paragraph, where some prisoners were apparently randomly spared execution to await the next autumn's punishment; in the intervening twelve months, the chances of an amnesty occurring were substantial. The possibility of pardon also had important bearings upon the experience of exile, since even in sentences of life-long exile in the most distant places, "During much of the Northern Sung an exile initially sent to the worst places would have been free with two years" [McKnight 1981: 82]. The astonishing leniency this system shows gives every indication of being representative of the situation throughout most of Chinese history.

One can postulate any number of functional issues which may have motivated the Chinese penal system to adopt such forbearance towards criminal wrongdoing. McKnight points out that prisoners may have been easier to handle when some hope remained for their eventual release; the possibility of pardon may have served as a useful lever for securing their cooperation [McKnight 1981: 114].

Particularly in an early dynasty such as the Hân, there are some grounds for accepting the traditional idea that pardons, during times of turmoil, could shore up the emperor's support; it is also clear, however, both that the scheduling of the pardons was too regular, and that the occasions were too desultory, to demonstrate anything more than a strategic possibility of resorting to such measures. More comprehensively, McKnight's concluding arguments point to the inability of the Chinese correctional system to absorb all the criminals the penal procedures handed them, so that the system of pardons kept the numbers of prisoners at manageable levels [McKnight 1981: 115-127].

In short, what seems to be the case for the Chinese justice system overall is a situation where the imperial power was realized in a peculiarly roundabout fashion. As Ann Anagnost has argued, the exercise of power in Chinese political contexts consists not only in aiming for a totalizing surveillance capability, such as "panopticon" techniques, but also to secure the attentive gaze of the subjects, both to see and to be seen.<sup>5</sup> The awesome power of the state was a matter of public knowledge and fear, even of respect, subversion and projection. However, the problem of legitimizing the use of power was solved in a typically indirect way, which involves the system of pardons we have just examined. A complex field of teaching was developed, as we have just seen, to defer the punitive use of power against the emperor's subjects, to remove it from the mechanical operation of the legal sphere and to lodge it in the domain of personal concern for the "children" of the great "Father-and-Mother" of the state. However, we must not imagine that the conditions of prisoners at any time in Chinese history were dictated by very humane considerations. Indeed, the most fearsome tortures and punishments were regularly applied to any prisoner held simply on suspicion of having committed a crime, preliminary to any judicial process whatsoever. The emperors regularly warned the local constables and yamens that under most circumstances, harsh treatment of suspects would not be permitted, or would be counterproductive to the smooth prosecution of the case; and from time to time the central government felt obliged to launch investigations of deaths of detainees under severe questioning [see Kuhn, 1990, *passim*, and especially pages 135, 160, 174-75, and 182]. Nonetheless, it is very clear that the most violent and dangerous conditions in the penal system were located even at its bottommost level, where the imperial government's concrete control of the police interrogators and jail-keepers was most tenuous. From our standpoint, viewing it from the outside, then, the overall appearance of such a system is one where the central power makes a complex pretense of threatening but deferring the exercise of centralized punitive power, which it nonetheless really carried out by forces at the periphery of its jurisdiction. In such circumstances, again from our point of view, the connection of mercy and corrective amnesty appears extremely attenuated. As we have seen amply illustrated already, the individual simply does not form the point of unity between the various aspects of the problem (e.g., justice, rights, power, law, etc.); instead, the convergence is clearly located in the cosmological and social plane.

### The Archaic Formation: Civil and Martial Influences

The traditional Chinese attitude towards the application of power thus is roughly in agreement with that of Helmuth Plessner towards the "powerlessness of

power”: the application of power opens or returns one to the plane of mechanical causes and effects, and thus shows the agent as a determined thing among things<sup>6</sup>. In other terms, martial power is held in check by the counter-balancing influence of civilization; the Chinese word for “martial” (*wū*) is composed of a weapon and a component meaning “to stop,” thereby acknowledging the repeatedly negative and reflexive implications involved in power, the use of weapons to stop the use of weapons, etc. These views appear very early in the formation of Chinese society, and were tightly bound up with the feudal and cosmological order forming the background to the penal institutions we just reviewed. The oppositional dynamics of the classical Chinese system can be seen even more clearly in the ancient schematic which predated the Confucian development, but which continued to be found in his work, and even to the present day.

It is certain that the division of “civil” (*wén* 文) and “martial” (*wū* 武) was a cardinal feature of the Zhou Dynasty, for their earliest kings were given the names *Wén* and *Wū*. Once the Zhou peoples had achieved dominance in the region, the ancestral temples were established with “civil” and “military” shrines flanking the central altar. The innovation which most firmly established the Zhou dynastic reign was in the kinship schema, a finely-tuned classificatory matrix which is presently much admired by anthropologists specializing in kinship analysis, and which lent its form to other complex matrices such as those which later comprised the penal code. The bifurcating branch lineage notation was promulgated on the paradigm of the flanking *Wén* and *Wū* temples. This division was not merely a social structure regulating the kinship plan, the inheritance of the kingship through the major line, the schedule of temple sacrificial offerings, and the distribution of feudal wealth and loyalties through gift-giving and land sharing. It also was a basic conceptual demarcation.

Accordingly, the ancient Chinese followed elaborate rules of protocol in battle, which thereby became more like a sacred ritual, a field for the revelation of lineage character. Violence and restraint were the axes of the performance of feudal virtue. The requirement of leniency towards civilians was quite marked, and battle ceremonial stressed that the elderly should be spared attack, while those soldiers already injured once should not be wounded a second time in the fight [cf. *Zhūzhūàn*, *Xì*, 22 (SSJZS, volume 6, page 248)]. In this way, the directive towards mercy is made clear. But the idiom in which these standards are formulated is quite ritualized; in these prohibitions there are few extrapolations in such contexts towards the individual’s ethical engagement with another individual. The Confucians certainly did elaborate the moral basis for ritual behavior generally, and so these discussions on battlefield etiquette are not without philosophical justification of a sort, only it is rather indirect, spanning millennia of development.

In ancient China, hunting and warfare formed part of a continuum of sacred violence, in which ethical issues were modeled alongside of logistic, military and political issues [Lewis 1990: 17-20, 30-36, 145-157, and *passim*]. Hunting and warfare, as closely related categories of activity, shared a wide range of vocabulary and strategy. This is another example which shows the difficulty faced in comparing this world with our own. A good many of the ethical guidelines in such a context are ecologically motivated, phrased in the guise of the cosmology of the period. Thus, there were strict rules about appropriate times for hunting, and prohibitions against killing pregnant animals. In the internal structure of the Zhou king’s hunting party,

as elaborated by later philosophical interpretation; in order to reveal his magnanimous character, the king would not consent to closure of an area delimited by the bush beaters, who would drive game in towards the king, to be shot.<sup>7</sup> Three sides would be closed by the beaters, but the fourth side, where the king sat, was marked by a complex device constituting both breach and magical synthesis of the opposition of successful and unsuccessful outcomes of the hunt. The king would wait behind a gateway or arch of some sort which was set up in the field; to either side of this aperture, the driven game could freely 'escape with no blame to the beaters in the line (whereas any breach of the line of beaters was severely punished as a lapse in duty). In this way, only the game which "chose" to transit the gate, and thus to appear within the range of the king's bow, would be killed. These animals were "fated" for death in the hunt. The magical power of the king's attraction resolved the opposition of favorable and unfavorable outcomes of the hunt, and in this way he demonstrated that benevolent restraint which resulted in the continuing flourishing of the fauna and renewal of the game.

The overall character of these considerations of civil behavior as opposed to, or together with, martial behavior, is to stress the cosmological resonance of the body and its gestures and actions. It is not a personalistic or even a humanistic philosophy. Accordingly, the root meaning of the ideograph for *wén*, "civilized," is a body which has been adorned. On the oracle bone inscriptions in the Shang dynasty, it is formulaic to refer to an outstanding individual (affiliated with the royalty, needless to say) as "the fine" or "the beautiful" X, using this term *wén*. Thus the body is the basis for the contrast between the military and the civilized. A finely adorned, beautiful body is the paradigm for civilization. In the same way, the beautifying marks of writing (*wén*) are a refinement of civilization. Thus *wén* goes on to gather together these connotations of civility, literacy, and refinement.

Naturally, the maintenance of the state presupposes the engagement of these contrastive pairs, the civil and the martial. In ancient Chinese society, the oppositional principle was visibly at work in constituting the social order, in the kinship workings of the feudal regime. The question never was to resolve, for example through the clarification of their rational grounds, the nature of the balance between them into a contradiction-free stasis, but rather to operate these pairs, and their entailments, to conduct the affairs of the state over time. In this way, the focus of Chinese thinking about mercy and leniency has settled primarily on the images of the body and the state as the intermediaries for the cosmological order.

## Conclusion

That power coincides with its opposite is not a new discovery in China, where from the beginnings of their recorded observations it has been known that "the army's victory is not in its numbers but in its harmony,"<sup>8</sup> and that the best ruler is the one who does nothing. As L aozi wrote:

The great sea becomes the king of all the streams because it is good at taking the lower position. That's why it is the king of all the streams.

Therefore, whoever wants to rise above the people must be humble in speech;

Those who want to lead the people must put themselves behind them;

Thus, when the Sage occupies the top, the people do not feel the weight;

When he is in front there is no harm,

And for this reason everybody is happy to push him forward and will not tire of it.  
It's just because he does not vie that nobody can compete with him.

I have Three Treasures, which I hold fast to and protect. The first is Affectionate Mercy (*ci*). The second is Frugality. The third is Not Daring to Be First in the World.

Because I am affectionate and merciful, I can be brave. Because I am frugal, I can be generous. Because I do not dare to be first, I can become the chief of instruments.

Now, abandon mercy and be courageous, abandon thrift and be generous, abandon the posterior and go out first: that's death.

This affectionate mercy wins wars, firmly protects states; Heaven will save it, protecting it with its own affectionate mercy. [*Lãozi* #66 and #67]

Power relies upon an empty center for its functional deployment; creators are also created by their creations, as is the power of the ruler by his subjects. The reflexivities of these insights are abundantly modeled and exercised in the widest variety of contexts and occasions throughout Chinese thinking. That it has not given rise to a cluster of considerations exactly resembling the Western concept of mercy is to be understood from the differences in the cultures, in particular the diverging conceptualizations of the individual within the cosmos.

In China, reflection on moral virtues such as mercy takes place through the categories provided by an extensive oppositional network. It has been the aim of this genealogical investigation to make manifest the general dimensions of this system, not through a historical reconstruction, but just through an approximate chart of its different levels of differences. In this way, we see that certain ordinary events of fellow-feeling observable ethnographically may coincide with social-political constructs, bringing about "acts of mercy" just as we know them, but without having the same dimensions of conceptualization as those we are familiar with by that name.

We know from ethnographic explorations of moral reasoning, such as conducted in India by Shweder, et.al. [1990], that the usual course of consideration of moral problems differs greatly from what one would expect based on philosophical development of ethical standpoints. The present paper is twice-removed, then, inasmuch as it not only deals with the schemata contributed by specialized thinkers to the elite base of the classical tradition, but also because it comes to us from ancient strata of a culture very different from those with which Western-language readers may be accustomed to dealing. Shweder's research seems to indicate that members of certain cultures may acquire systematic, yet to us quite idiosyncratic moral capabilities, which evince what he calls an "alternative postconventional moral code" not necessarily "founded on abstract individualism, voluntarism, and secularism."<sup>9</sup> The systematic moral evaluations forthcoming from such people may remain unpredictable for us since they are not framed with a view towards equality within broad classes of individuals, for example, or are framed with alternative configurations of nature, persons, or individualism relative to those familiar to us. If this research finding is reliable, as it would seem to be in the case of China as well, then it obviously has major implications for the present discussion of the concept of mercy in this culture.

To bring this essay to an end with phenomena observable from the field, consider the situation of traffic accidents in Taiwan. Here, in the booming, frontier-town style of a country enjoying prolonged, explosive economic growth, where the streets are crowded with all sorts of expensive motor vehicles, one can see the

import of Shweder's cautionary investigation. To put it mildly, a basic conceptual matrix at the heart of modern transportation systems fails to obtain in Taiwan: the abstract space within which one projects and permutes the rights and obligations of one individual as against another, as equal and theoretically inter-replaceable players in social interaction. Instead, in a country like Taiwan, where "we use money to solve problems," the very frequent traffic accidents often come to resolution in ways which seem odd to an outsider. For instance, if a child or a bicyclist runs into the path of an automobile and is injured, the driver will certainly pay the compensation money irrespective of any assignment of responsibility or negligence in bringing about the accident. Usually, the idioms of discussion in the negotiations involve sincerity and compassion or sympathy, since it was an automobile (larger vehicle) which struck and injured the (smaller) bicycle-operator, pedestrian, motorcyclist, etc. Obviously, although the idiom of resolution is framed in terms of sincere feelings and compassion towards suffering, the motivation of the system is closer to a feudalistic "*noblesse oblige*" than anything else. Problem resolution in China is generally described, very optimistically, in terms of, "Transforming the large into the small; transforming the small into nothing." So, as we have seen in this essay, the desideratum in such cases is not so much to achieve a just settlement with the locus of unity in the abstracted individual, as it is to find an optimum degree of multiplicity throughout the problem.

This example should serve as a warning to us, if the previous discussion has not, that a search for mercy in China will not come up empty, but that we may not entirely know what to do with the results once we find them. The ultimately groundless basis of human ethical systems will become readily apparent from our comparative point of view.

Cultural comparison is generally sufficient to strain the foundations of any simplistic moral realism. The outcome, emphasizing the "made" aspects of moral ideas and problematizing the "given" aspects, undermines any absolutist perspective that simply matches linguistic terms to moral values. Whereas a more sophisticated moral realism could go on to identify a range of ethnographically observed behaviors as the manifestation of the target moral concept, it is just as plausible to interpret it as a cluster of features instead of a discrete object. By doing so, the "given" and the "made" aspects become less distinct, while the reality of the phenomenon shifts to a spectrum of typical human attitudes and behaviors observed cross-culturally.

For this reason, I have attempted to put the levels of the phenomenon in genealogical order, to gain a clearer view of what we are dealing with here, and have argued that the best approach to grasping the actual nature of such behavior will put into play the complex, multiple networks of opposition and hierarchical transformation upon which much of the practice of mercy rests in China

#### Notes

<sup>1</sup> Hevia 1994: 193 and *passim*. For an interesting discussion on the relativity of power and powerlessness in human cultures, see Plessner 1981 (1931):221-228. Hegel's comments on the master-servant dialectic are likewise germane to this investigation [Hegel 1967: 228-240], although Plessner's point is that there is a more adequate account, one which holds in abeyance the primacy of anthropology,

philosophy, and politics in the groundless “open question” which is the human form of life: by such an account, the dialectical resolution of this relativity is not forthcoming. Instead of the logical space of *Geist* guaranteeing the freedom of permutation to overcome the contradiction, Plessner’s account rather stresses that the creative power and its inescapable, attendant powerlessness are simultaneous, but not contradictory, and that they are separated by “an empty cleft,” or the “groundlessness” of the human mode of existence [page 225].

<sup>2</sup> *ShàngShu, DàYǎMòu* (SSJZS, volume 1, page 55). This passage is taken from a late classical version, perhaps second or third century B.C., which purports to be attached to a corpus from seven or eight centuries earlier and imitates its style.

<sup>3</sup> In this respect, the ancient teachings approximate Seneca’s advice to Nero in *On Mercy*. However, overall, Seneca’s outspoken emphasis in spelling out all the practical advantages of clemency for the benefit of the ruler is far less pronounced in Chinese writings, which promptly subsumed the utilitarian considerations in cosmological ones. That is, the effects on the people were treated as more or less a matter of common understanding and more or less taken for granted. The matter of interest was in constructing the cosmological model which would account for such a phenomenon.

<sup>4</sup> McKnight 1981: 78; to make the general point, McKnight uses data from the Northern Sòng (960-1126) because of its relative comprehensiveness.

<sup>5</sup> Anagnost 1994: 149-51. This once again raises the issue of the relativity of the ruling power to the subjects, and can be usefully compared with Foucault’s pronouncements on power and resistance—power as a “bottom-up” rather than a “top-down” construct [1983: 208-226]—as carried out in *Discipline and Punish, The Birth of the Clinic*, and *History of Sexuality*. See also Dreyfus and Rabinow 1983: 184-204.

<sup>6</sup> Plessner 1981(1931): 221-228. “The powerlessness, or the thingness, of human beings can be seen transparently through their power.” (page 226)

<sup>7</sup> SiMa Qian 1978: 29; *Lǐjī, WángZhì* (SSJZS, volume 5, page 237); *Yìjīng, Bì* (SSJZS, volume 1, pages 37-38).

<sup>8</sup> From *ZhàoZhùan*, 11<sup>th</sup> year of Duke Huan of Lu = 701 B.C. (SSJZS, volume 6, page 122.)

<sup>9</sup> Shweder, Mahapatra, and Miller 1990: 198. More specifically, on the same page it is stated that, “there is more than one way to rationalize a moral code and that the cluster of ideas associated with individualism, consent, voluntarism, promise, and free contract are discretionary rather than mandatory features of a rationally based moral code.”

**BIBLIOGRAPHY**

- Anagnost, A.  
1994 The politicized body. In *Body, Subject & Power in China*, edited by Angela Zito and Tani E. Barlow. Chicago: University of Chicago Press, pages 131-56.
- Dudbridge, G.  
1978 *The Legend of Miao-Shan*. Oxford Oriental Monographs, no. 1. London: Ithaca Press.
- Dreyfus, H. and P. Rabinow  
1983 *Michel Foucault: Beyond Structuralism and Hermeneutics*. Chicago: University of Chicago Press.
- Fingarette, H.  
1972 *Confucius: The Secular as Sacred*. New York: Harper and Row.
- Foucault, M.  
1983 The subject and power, in *Michel Foucault: Beyond Structuralism and Hermeneutics*. Chicago: University of Chicago Press, pages 208-226.
- Hall, D. and R. Ames  
1987 *Thinking Through Confucius*. Albany: State University of New York Press.
- Hegel, G.W.F.  
1967 *The Phenomenology of Mind*. New York: Harper Torchbooks.
- Hevia, J.  
1994 Sovereignty and subject: Constituting relations of power in Qing guest ritual. In *Body, Subject & Power in China*, edited by Angela Zito and Tani E. Barlow. Chicago: University of Chicago Press, pages 181-200.
- Kipnis, A.  
1994 (Re)inventing Li: Koutou and subjectivation in rural Shandong. In *Body, Subject & Power in China*, edited by Angela Zito and Tani E. Barlow. Chicago: University of Chicago Press, pages 201-226.
- Kuhn, P.  
1990 *Soulstealers: The Chinese Sorcery Scare of 1768*. Cambridge, Massachusetts: Harvard University Press.
- Lewis, M.E.  
1990 *Sanctioned Violence in Early China*. Albany: State University of New York Press.
- 1995 Ritual origins of the Warring States, Paper read for the Conference on State and Ritual in East Asia, Collège de France, June 29-July 1, 1995.
- McKnight, B.  
1981 *The Quality of Mercy*. Honolulu: University Press of Hawaii.

- Plessner, H.  
1981 (1931) *Macht und menschliche Natur*. In *Gesammelte Schriften V: Macht und menschliche Natur*. Frankfurt am Main: Suhrkamp Verlag, pages 135-234.
- Sangren, S.  
1982 Female gender in Chinese religious symbols: Kuàn Yin, Ma Tsu and the eternal mother, *Signs* 9: 4-25.
- Shweder, R. M. Mahapatra, and J. Miller  
1990 Culture and moral development. In *Cultural Psychology: Essays on Comparative Human Development*, edited by J. Stigler, R. Shweder, and G. Herdt. Cambridge; University of Cambridge Press, pages 130-204.
- SSJZS  
1976 *Shisanjing Zhushu [Commentary Notes to the Thirteen Classics]*. Taipei: Yiwen Publishers.
- SiMa Qian  
1987 *Shiji [The Chronicles of the Historian]*. Taipei: Daxing Publishers.
- Stein, R.A.  
1991 *The World in Miniature*. Stanford: Stanford University Press.
- Tay, C.N.  
1976 Kuan-yin: The cult of half Asia. *History of Religions* 16: 147-76.
- Wright, A.  
1959 *Buddhism in Chinese History*. Stanford: Stanford University Press.
- Yu Peilin  
1975 *Laozi Duben*. Taipei: Sanmin Publishers.
- Yü Chün-fang  
1990 Feminine images of Kuan-Yin in Post-T'ang China, *Journal of Chinese Religions* 18: 61-89.