The rule of law has been touted frequently by Western scholars as a central aspect of modernity. According to that measure of periodization, since the rule of law was the basis of the first unification of China in the 2nd century BC, modernity occurred 23 centuries ago in China.

Researchers have pointed out that at the end of the 17th century, while the Chinese empire often appeared in English literature as a metaphor for "tyranny", such as in the works of Daniel Defoe, best known for his 1719 novel *Robinson Crusoe*, it was also at times praised for its legal code long established on ideals of order, morality, and good government, such as in the work of Lady Mary Chudleigh, to the more uniform perception of China's legal system at the turn of the century, when George Henry Mason published *The Punishments of China* (1801). Michel Foucault's analytical approach to history highlights the limitations of European efforts to comprehend China's moral, juridical and legal structures.

The promulgation of a new edition of law, known as the Tang Code of Perpetual Splendor (*Tang Yonghui Lu*), in the 10th lunar month in the fourth year of the reign of Perpetual Splendor (*Yonghui*) of the Tang Dynasty, in AD 653, was in reality just an update effort, based on the original Tang Code (*Tang Lu*), which in turn was based on the Sui Code (*Sui Lu*), which had initially been compiled 73 years earlier by the late founding Civil Emperor (*Wendi*) of the preceding Sui Dynasty and updated ever since by every succeeding sovereign. But the Tang Code of Perpetual Splendor is singled out by history, mostly because of its definitive comprehensiveness.

The original Tang Code was promulgated 29 years earlier, in 624, by the founding High Grand Emperor (*Gaozu*) of the Tang Dynasty. It would become in modern times the earliest fully preserved legal code in the history of Chinese law. It was endowed with a commentary, known as *Tanglu Shuyi*, incorporated in 653, the fourth year of the reign of Perpetual Splendor, as part of the Tang Code of Perpetual Splendor.

The Tang Code was based on the Code of Northern Zhou (*Bei Zhou Lu*, 557-581), promulgated 89 years earlier in 564, which was in turn based on the earlier, less comprehensive and less elaborate Code of Cao Wei (*Cao Wei Lu*, 220-265) and the Code of Western Jin (*Xi Jin Lu*, 265-317) promulgated almost four centuries earlier in 268.

Western perception on the alleged underdevelopment of law in Chinese civilization is based on both factual ignorance and cultural bias. Chinese dismissal of the rule of law is not a rejection of modernity, but a rejection of primitiveness. Confucian attitude places low reliance on law and punishment for maintaining social order. Evidence of this can be found in the Aspiration (*Zhi*) section of the 200-volume *Old Book on Tang (Jiu Tang Shu)*, a magnum opus of Tang historiography. The history classic was compiled under official supervision in 945 during the Late Jin Dynasty (*Hou Jin*, 936-946) of the era of Five Generations (*Wudai*, 907-960), some three centuries after the actual events. A single chapter on Punishment and Law (*Xingfa*) places last after seven chapters on Rites (*Liji*), after which come four chapters on Music (*Yinyue*), three chapters on Calendar (*Li*), two on Astronomy and Astrology (*Tianwen*), one on Physics (*Wuheng*), four on Geography (*Dili*), three on Hierarchy of Office (*Zhiguan*), one on Carriages and Costume (*Yufu*), two on Sutras and Books (*Jingji*), two on Commodities (*Chihuo*) and finally comes a single chapter Punishment and Law, in that order.

The Confucian Code of Rites (*Liji*) is expected to be the controlling document on civilized behavior, not law. In the Confucian world view, rule of law is applied only to those who have fallen beyond the
Civilized people are expected to observe proper rites. Only social outcasts are expected to have their actions controlled by law. Thus the rule of law is considered a state of barbaric primitiveness, prior to achieving the civilized state of voluntary observation of proper rites. What is legal is not necessarily moral or just.

Under the supervision of Tang Confucian minister Fang Xuanling, 500 sections of ancient laws were compiled into 12 volumes in the Tang Code, titled:

- **Vol 1: Term and Examples (Mingli)**
- **Vol 2: Security and Forbiddance (Weijin)**
- **Vol 3: Office and Hierarchy (Zhizhi)**
- **Vol 4: Domestic Matters and Marriage (Huhun)**
- **Vol 5: Stables and Storage (Jiuku)**
- **Vol 6: Impeachment and Promotion (Shanxing)**
- **Vol 7: Thievery and Robbery (Zeidao)**
- **Vol 8: Contest and Litigation (Dousong)**
- **Vol 9: Deceit and Falsehood (Zhawei)**
- **Vol 10: Miscellaneous Regulation (Zalu)**
- **Vol 11: Arrest and Escape (Buwang)**
- **Vol 12: Judgment and Imprisonment (Duanyu)**

The Tang Code lists five forms of corporal punishment:
1. Flogging (Chi)
2. Caning (Zhang)
3. Imprisonment (Tu)
4. Exile (Liu)
5. Death (Si)

Leniency is applied to Eight Considerations (Bayi):
1. Blood relation
2. Motive for the crime
3. Virtue of the culprit
4. Ability of the culprit
5. Past merits
6. Nobility status
7. Friendship
8. Diligent character

Criminals above age 90 and those under age seven received only suspended sentences. For others, sentences could be redeemed by cash payments. A death sentence was worth 120 catties of copper coins (1 catty = 1.33 pounds). Officials were entitled to discounts on sentences on private civil offenses: those of Fifth Ranks and above were entitled to a reduction of two years; those of ninth rank and above were entitled to one year; but for public crimes, an additional year was added to the sentence for all officials.


The Chinese term for "law" is fa-lu. The word fa means "method". The word lu means "standard". In other words, law is a methodical standard for behavior in society. A musical instrument with resonant tubes that form the basis of musical scales, the Chinese equivalent of the tuning fork, is also called lu. In law, the word lu implies a standard scale for measuring social behavior of civilized men.

The first comprehensive code of law in China had been compiled by the Origin Qin Emperor (Qin Shihuangdi, reigned 246-210 BC), unifier of China. Known as the Qin Code (Qin Lu), it was a political instrument as well as a legal one. It was the legislative manifestation of a Legalist political vision. It aimed at instituting uniform rules for prescribing appropriate social behavior in a newly unified social order. It sought to substitute fragmented traditional local practices, left from the ancient regime of privileged aristocratic lineages. It tried to dismantle Confucian exemptions accorded to special
relationships based on social hierarchies and clan connections.

The pervasive growth of new institutions in the unifying Qin Dynasty (221-207 BC) was the result of objective needs of a rising civilization. Among these new institutions was a unified legal system of impartial rewards and punishments according to well-promulgated and clearly defined codes of prescribed behavior. The law was enforced through the practice of lianzuo (linked seats), a form of social control by imposing criminal liability on the perpetrator's clan members, associates and friends. Qin culture heralded the later emergence of a professional shidafu (literati-bureaucrat) based on meritocracy. It also introduced a uniform system of weights, measures and monetary instruments and it established standard trade practices for the smooth operation of a unified economic system for the whole empire. The effect of Qin Legalist governance on Chinese political culture pushed Chinese civilization a great step forward toward forging an unified nation and culture, but in the process lost much of the richness of its ancient, local traditions and rendered many details of its fragmented past incomprehensible to posterity.

In the first half of the Han Dynasty (206 BC-AD 220), the Han imperial government adopted the Legalist policies of the Qin Dynasty it had replaced. It systemically expanded its power over tribal guizuz by wholesale adaptation of Legalist political structure from the brief (15 years) but consequential reign of the preceding Qin Dynasty. Gradually, with persistent advice from Confucian ministers, in obsessive quest for dependable political loyalty to the Han dynastic house, Legalist policies of equal justice for all were abandoned in favor of Confucian tendencies of formalized exemptions from law, cemented with special relationships (guanxi) based on social positions and kinship. The Tang Code, promulgated in AD 624, institutionalized this Confucian trend by codifying it. It would lay the foundation for a hierarchal social structure that would generate a political culture that would resist the proposition that all men are created equal to mean similarity. In Confucian culture, civilized man is created as closely connected individuals to form building blocks of society. It is the universality of man that celebrates individualism, not the Western notion of alienation as individualism.

Elaborately varied degrees of punishment are accorded by the Tang Code to the same crime committed by persons of different social stations, just as Confucian rites ascribe varying lengths of mourning periods to the survivors of the deceased of various social ranks. According to Confucian logic, if the treatment for death, the most universal of fates, is not socially equal, why should it be for the treatment for crime? William Blake (1757-1827), born 23 centuries after Confucius (551-479 BC), would epitomize the problem of legal fairness in search for true justice, by his famous pronouncement: "One law for the lion and the ox is oppression." Confucians are not against the concept of equal justice for all; they merely have a sophisticated notion of the true meaning of justice.

In Chinese history, the entrenched political feudal order relies on the philosophical concepts of Confucianism (Ru Jia). The rising agricultural capitalistic order draws on the ideology of Legalism (Fa Jia). These two philosophical postures, Confucianism and Legalism, in turn construct alternative and opposing moral contexts, each providing rationalization for the ultimate triumph of its respective sponsoring social order.

The struggle between these two competing social orders has been going on, with alternating periods of triumph for each side, since the Legalist Qin Dynasty first united China in 221 BC, after 26 years of unification war. The effect of this struggle was still visible in the politics of contemporary China, particularly during the Great Proletariat Cultural Revolution of 1966-78, when the Gang of Four promoted Legalist concepts to attack the existing order, accusing it of being Confucian in philosophy and counterrevolutionary in ideology. To the extent that "left" and "right" convey meaningful images in modern political nomenclature, Taoism (Dao Jia) would be to the left of Confucianism as Legalism would be to the right.

Modern Legalists in China, such as the so-called Gang of Four, were the New Left, whose totalitarian zeal to promote social justice converged, in style if not in essence, with the New Right, or neo-conservatives of the West, in its reliance on authoritarian zeal to defend individualism. Thus the notion that modernity is a Western phenomenon is highly problematic.

The flowering of Chinese philosophy in the 5th century BC was not accidental. By that time, after the political disintegration of the ancient Xi Zhou Dynasty (Western Zhou, 1027-771 BC), Chinese society was at a crossroads in its historical development. Thus an eager market emerged for various rival
philosophical underpinnings to rationalize a wide range of different, competing social systems. The
likes of Confucius were crisscrossing the fragmented political landscape of petty independent
kingdoms, seeking fame and fortune by hawking their moral precepts and political programs to
ambitious and opportunistic monarchs.

Traditionally, members of the Chinese guizu (the aristocracy) were descendants of hero warriors who
provided meritorious service to the founder of a dynasty. Relatives of huangdi (the emperor), provided
they remained in political good graces, also became aristocrats by birthright, although technically they
were members of huangzu (the imperial clan). The emperor lived in constant fear of this guizu class,
more than he feared the peasants, for guizu members had the means and political ambition for
successful coups. Peasant uprisings in Chinese history have been rare, only seven uprisings in 4,000
years of recorded history up to the modern time. Moreover, these uprisings have tended to aim at
local abuse of power rather than at central authority. Aristocratic coups, on the other hand, have been
countless and frequent.

In four millennia, Chinese history recorded 559 emperors. Approximately one-third of them suffered
violent deaths from aristocratic plots, while none had been executed by rebelling peasants.

The political function of the emperor was to keep peace and order among contentious nobles and to
protect peasants from aristocratic abuse. This was the basic rationale of government as sovereign. A
sovereign, whether an emperor or a president, without the loyal support of peasants, euphemistically
referred to as the Mandate of Heaven (Tianming), would soon find himself victim of a palace coup or
aristocratic revolt. This is the socialist root of all governments. The neo-liberal claim of the proper role
of government as ensuring a free market is a capitalist cooptation of government.

The Code of Rites (Liji), the ritual compendium as defined by Confucius, circumscribed acceptable
personal behavior for all in a hierarchical society. It established rules of appropriate socio-political
conduct required in a feudal civilization. Unfortunately, ingrained conditioning by conservative
Confucian teaching inevitably caused members of the aristocratic class to degenerate in time from
truly superior stock into mediocre and decadent seekers of unearned privileges. Such degeneration
was brought about by the nature of their privileged life and the false security derived from a Confucian
superiority complex. Although the process might sometimes take centuries to take shape, some
dynasties would crumble within decades through the unchecked excesses of their ruling classes.

Confucianism, by promoting unquestioning loyalty toward authority, encouraged the powerful to
abuse their power, despite Confucianism’s reliance on ritual morality as a mandate for power.
Confucianism is therefore inescapably the victim of its own success, as Taoists are fond of pointing
out.

Generally, those who feel they can achieve their political objectives without violence would support
the Code of Rites. While those whose political objectives are beyond the reach of non-violent, moral
persuasion would dismiss it as a tool of oppression. Often, those who attacked the Code of Rites
during their rise to power would find it expedient to promote, after achieving power, the very code
they belittled before, since they soon realized that the Code of Rites was the most effective governing
tool for a sitting ruler.

To counter hostile tendencies toward feudal values and to ensure allegiance to the feudal system,
keju (civil examinations), while providing equal opportunity to all talented, were designed to test
candidates on their knowledge of a syllabus of Confucian doctrines contained in the Five Classics
(Wujing). Confucian ethics were designed to buttress the terms of traditional social contract. They
aimed to reduce potential for violent conflict between the arrived and the arriving. They aimed to
channel the powerful energy of the arriving into a constructive force for social renewal. Confucian
ethics aimed to forge in perpetuity a continuing non-violent dialectic eclecticism, to borrow a Hegelian
term for the benefit of Western comprehension.

The violent overthrow of the government, a criminal offense in the United States, is a moral sin in
Confucian ethics. It is therefore natural that budding revolutionaries should attack Confucian ethics as
reactionary, and that those already in power should tirelessly promote Confucian ethics as the only
proper code of behavior for a self-renewing, civilized socio-political order. In Chinese politics,
Confucianism is based on a theory of rule by self-restraint. It advocates the sacredness of hierarchy
and the virtue of loyalty. It is opposed by Legalism, which subscribes to a theory of rule by universal
law and impartial enforcement. Again, the Western claim that the rule of law is a unique foundation of modernity peculiar to the West is historically unsubstantiated.

Although Buddhists have their own disagreements with Legalist concepts, particularly on the issue of mercy, which they value as a virtue while Legalists detest it as the root of corruption, such disagreements are muted by Buddhist appreciation of Legalist opposition to both Confucianism and Taoism, ideological nemeses of Buddhism (Fo Jiao). Above all, Buddhists need for their own protection Legalism's opposition to selective religious persecution. Legalism, enemy of Buddhism's enemies, is selected by Buddhists as a convenient ally.

Legalism places importance on three aspects. The first is shi (authority), which is based on the legitimacy of the ruler and the doctrinal orthodoxy of his policies. The second is shu (skill) in manipulative exercise of power, and the third is fa (law), which, once publicly proclaimed, should govern universally without exceptions. These three aspects Legalists consider as three pillars of a well-governed society. If the rule of law is a characteristic of modernity, then modernity arrived in China in 3rd century BC.

According to Confucian political theory, the essential political function of all subjects is to serve the emperor, not personally, but as sovereign, who is the sole legitimate personification of the political order and sovereign of the political realm. Legalists argue that while all powers emanate by right from the Son of Heaven, the proper execution of these powers can take place only within an impartial system of law. While people should be taught their ritual responsibilities, they should at the same time be held responsible by law not only for each person's individual acts but also for one another's conducts, as an extensive form of social control within a good community. Therefore, punishment should be meted out to not only the culprit, but also to his relatives, friends, associates and neighbors, for negligence of their ritual duties in constraining the culprit. This is natural for a society in which the individual is inseparable from community.

Efficiency of government and equal justice for all are cardinal rules of good politics. Legalists believe that administration of the state should be entrusted to officials appointed according to merit, rather than to hereditary nobles or literati with irrelevant scholarship. Even granting validity to the extravagant Taoist claim that ideas, however radical, are inherently civilized and noble, Legalists insist that when ideas are transformed into unbridled action, terror, evil, vulgarity and destruction emerge. Freedom of thought must be balanced by rule of law to restrain the corruption of ideas by action.

Whereas being well versed in Confucianism bound the shidafu class culturally as faithful captives to the imperial system, such rigid mentality ironically also rendered its subscribers indifferent to objective problem-solving. Thus Confucianism, by its very nature, would ensure eventual breakdown of the established order, at which point Legalism would gain ascendancy for a period, to put in place new policies and laws that would be more responsive to objective conditions. But Confucians took comfort in the fact that, in time, the new establishment that Legalists put in charge would discover the utilitarian advantage of Confucianism to the ruling elite. And the cycle of conservative consolidation would start once again. Generally, periods of stability and steady decay would last longer than intervals of violent renewal through Legalist reform, so that Confucianism would become more ingrained after each cycle. Western capitalism is in essence a feudal system, supported by a legal system that legitimizes property rights and class distinction based on private capital ownership. In contemporary Chinese political nomenclature, the proletariat is defined not merely as workers, but the property-less class.

This perpetual, cyclical development proves to the Taoist mind that indeed "life goes in circles". It is an astute observation made by the ancient sage Laozi, father of Taoism, who lived during the 6th century BC and who was the alleged ancestor of the Tang imperial clan of 7th century AD.

The so-called Gang of Four promoted Legalist politics in China in the 1970s. They used Marxist orthodox doctrine, reinforced by the Maoist personality cult, as shi (influence), Communist party discipline as shu (skill) for exercising power, and dictatorial rule as fa (laws) to be obeyed with no exceptions allowed for tradition, ancient customs or special relationships and with little regard for human conditions. Legalists yearn for a perfectly administered state, even if the price is the unhappiness of its citizens. They seek an inviolable system of impartial justice, without extenuating allowances, even at the expense of the innocent. When a priori truth appears threatened by fidelity in
logic, Confucians predictably always rely on faithful loyalty to tradition as a final argument.

Confucius, the quintessential conservative, the most influential philosopher in Chinese culture, admired the idealized society of the ancient Xi Zhou Dynasty, when men purportedly lived in harmony under sage rulers.

The fact that the Zhou Dynasty had been a feudal society based on slavery did not concern Confucius. To the idealist Confucius, hierarchical stations in human society were natural and symbiotic. If everyone would contentedly do his duty according to his particular station in society, and with an accepting state of mind known as anfen, then all men would benefit as social life meliorates toward an ideal state of high civilization.

To Confucius, the lot of a slave in a good society was preferable to that of a lord in a society marked by chaos and uncivilized immorality. Violent social changes would only create chaos, which would bring decay and destruction to all, lords and slaves alike. Such violent changes would kill the patient in the process of fighting the disease. Confucius apparently never sought the opinion of any slave on this matter.

Like Plato, Confucius conceived a world in which the timeless ideal of morality constitutes the perfect reality, of which the material world is but a flawed reflection.

The Zhou people, according to Confucius - in stark contrast to historical fact - aspired to be truthful, wise, good and righteous. They allegedly observed meticulously their social ritual obligation (li) and with clear understanding of the moral content of such rites. Confucius never explained why the Zhou people failed so miserably in their noble aspirations, or the cause of their eventual fall from civilized grace.

In the Confucian world view, men have degenerated since the fall of the Zhou Dynasty. As a result of barbarian invasions of Chinese society and of natural atrophy, social order has broken down. But, being fundamentally good, men can be salvaged through education, the key to which is moral examples, emanating from the top, because the wisest in an ideal society would naturally rise to the top. And they have a responsibility to teach the rest of society by the examples of their moral behavior.

Chinese audiences always enjoy hearing that greatness in Chinese culture is indigenous while decadence is solely the influence of foreign barbarians. Collective self-criticism, unlike xenophobia, has never been a favorite Chinese preoccupation. Chinese narcissism differs from Western narcissism in that superiority is based not on physical power but on social benevolence. From the Chinese historical perspective, the defeat of civilized Athens at the hand of militant Sparta set the entire Western civilization on the wrong footing. It represented the triumph of barbarism from which the West has never recovered.

The Zhou people that Confucius idolized traced their ancestry to the mythical deity Houji, god of agriculture. This genealogical claim had no factual basis in history. Rather, it had been invented by the Zhou people to mask their barbaric origin as compared with the superior culture of the preceding Shang Dynasty (1600-1028 BC), which they had conquered and whose culture they had appropriated, just as the Romans invented Aeneas, mythical Trojan hero, son of Anchises and Venus, as father of their lineage to give themselves an ancestor as cultured and ancient as those of the more sophisticated Greeks. The Tang imperial house was at least humble enough to coopt only Laozi, a real historical figure rather than a god.

The historic figure responsible for the flowering of Zhou culture was Ji Dan, Duke of Zhou, known reverently as Zhougong in Chinese. Zhougong was the third-ranking brother of the founding Martial King (Wuwang, 1027-1025 BC) of the Zhou Dynasty. The Martial King claimed to be a 17th-generation descendant of the god Houji, who allegedly gave the Chinese people the gift of agriculture. In Chinese politics, appropriation of mythical celebrities as direct ancestors of political rulers started long before the claim by the Tang imperial house on Laozi, founder of Taoism.

Zhougong introduced to Chinese politics the practice of hereditary monarchy based on the principle of primogeniture. He put an end to the ancient tribal custom of the Shang Dynasty of crowning the next younger brother of a deceased king.
In defiance of established tradition, after the death of the Martial King (Wuwang) of the Zhou Dynasty in 1025 BC, Zhongong, third-ranking brother, arranged to usurp the dragon throne for his nephew, Cheng Wang, 12-year-old son of the deceased Martial King. The move bypassed Zhongong’s older, second-ranking brother, Ji Guanxu, the legitimate traditional heir according to ancient tribal custom. Ji Guanxu rebelled in protest to defend his legitimate right to succeed his deceased older brother. But he was defeated and killed in battle by Zhongong.

Hereditary monarchy based on the principle of primogeniture as established by Zhongong has since been viewed by historians as the institution that launched modern political statehood out of primitive tribal nationhood. It has been credited with having fundamentally advanced Chinese civilization. Modernity began with the nation-state, and in China that transition occurred more than a millennium before the birth of Christ.

Having acted as regent for seven years on behalf of Cheng Wang (1024-1005 BC), his under-aged nephew king, the fratricidal Zhongong returned political power, some would say involuntarily, to the fully grown Cheng Wang. The descendants of Cheng Wang upheld hereditary monarchy in the Zhou Dynasty for three more centuries and firmly established primogeniture as an unquestioned tradition in Chinese political culture.

Zhongong gave Chinese civilization the Five Rites and the Six Categories of Music, which form the basis of civilization. Confucian idealism manifests human destiny in a civilization rooted in morality as defined by the Code of Rites, without which man would revert back to the state of wild beasts. Zhongong was credited with having established feudalism as a socio-political order during his short regency of only seven years. He institutionalized it with an elaborate system of Five Rites (Wuli) that has survived the passage of time.

The Five Rites are:
1. Rites governing social relationships
2. Rites governing behavioral codes
3. Rites governing codes of dress
4. Rites governing marriage
5. Rites governing burial practices

He also established Six Categories of Music (Liuluo) for all ritual occasions, giving formal ceremonial expression to social hierarchy. Confucius revered Zhongong as the father of formal Chinese feudal culture. The son of Zhongong, by the name of Ji Baqin, had been bestowed the First Lord of the State of Lu by Cheng Wang (1024-1005 BC), second-generation ruler of the Zhou dynasty who owed his dragon throne to Zhongong, his third-ranking uncle. Five centuries later, the State of Lu became the adopted home of Confucius, who had been born in the State of Song.

However, the pragmatic descendants of Zhongong in the State of Lu did not find appealing the revivalist advice of Confucius, even when such advice had been derived from the purported wisdom of Zhongong, their illustrious ancestor. Confucius, as an old sage, had to peddle his moralist ideas in other neighboring states for a meager living. In despair, Confucius, the frustrated rambling philosopher, was recorded to have lamented in resignation: "It has been too long since I last visited Zhongong in my dreams."

The essential idea underlying the political thinking in Confucian philosophy is that fallen men require the control of repressive institutions to restore their innate potential for goodness. According to Confucius, civilization is the inherent purpose of human life, not conquest. To advance civilization is the responsibility of the wise and the cultured, both individually and collectively. Enlightened individuals should teach ignorant individuals. Cultured nations should bring civilization to savage tribes.

A superior ruler should cultivate qualities of a virtuous man. His virtue would then influence his ministers around him. They in turn would be examples to others of lower ranks, until all men in the realm are permeated with noble, moral aptitude. The same principle of trickle-down morality would apply to relations between strong and weak nations and between advanced and developing cultures and economies.
Rudyard Kipling's notion of "the white man's burden" would be Confucian in principle, provided that one agrees with his interpretation of the "superiority" of the white man's culture. Modern Confucians would consider Kipling (1865-1936) as having confused Western material progress with moral superiority, as measured by a standard based on virtue.

Confucius would have thoroughly approved of the ideas put forth by Plato (427-347 BC) in the *Republic*, in which a philosopher king rules an ideal kingdom where all classes happily go about performing their prescribed separate socio-economic functions.

Taoists would comment that if only life were so neat and simple, there would be no need for philosophy.

Confucian ideas have aspects that are similar to Christian beliefs, only down side up. Christ taught the pleasure-seeking and power-craving Greco-Roman world to love the weak and imitate the poor, whose souls were proclaimed as pure. Confucius taught the materialistic Chinese to admire the virtuous and respect the highly placed, whose characters were presumed to be moral.

The word *ren*, a Chinese term for human virtue, means "proper human relationship". Without exact equivalent in English, the word *ren* is composed by combining the ideogram "man" with the numeral 2, a concept necessitated by the plurality of mankind and the quest for proper interpersonal relationship. It is comparable to the Greek concept of humanity and the Christian notion of divine love, the very foundation of Christianity.

Confucius' well-known admonition, "Do not unto others that which you not wish to have done to yourself," has been frequently compared with Christ's teaching, "Love thy neighbor as thyself." Both lead to the same end, but from opposite directions. Confucius was less intrusively interfering but, of course, unlike Christ, he had the benefit of having met Laozi, founder of Taoism and consummate proponent of benign non-interference. A close parallel was proclaimed by Hillel (30 BC-AD 10), celebrated Jewish scholar and president of the Sanhedrin, in his famous maxim: "Do not unto others that which is hateful unto thee."

By observing rites of Five Relationships, each individual would clearly understand his social role, and each would voluntarily behave according to proper observance of rites that meticulously define such relationships. No reasonable man would challenge the propriety of the Five Relationships (*Wulun*). It is the most immutable fixation of cultural correctness in Chinese consciousness.

The Five Relationships (*Wulun*) governed by Confucian rites are those of:
1. Sovereign to subject
2. Parent to child
3. Elder to younger brother
4. Husband to wife
5. Friend to friend

These relationships form the basic social structure of Chinese society. Each component in the relationships assumes ritual obligations and responsibility to the others at the same time he or she enjoys privileges and due consideration accorded by the other components.

Confucius would consider heretical the ideas of Jean Jacques Rousseau (1721-28), who would assert two millennia after Confucius that man is good by nature but is corrupted by civilization.

Confucius would argue that without a Code of Rites (*Liji*) for governing human behavior, as embedded in the ritual compendium defined by him based on the ideas of Zhougong, human beings would be no better than animals, which Confucius regarded with contempt. Love of animals, a Buddhist notion, is an alien concept to Confucians, who proudly display their species prejudice.

Confucius acknowledged man to be benign by nature but, in opposition to Rousseau, he saw man's goodness only as an innate potential and not as an inevitable characteristic. To Confucius, man's destiny lies in his effort to elevate himself from savagery toward civilization in order to fulfill his potential for good.

The ideal state rests on a stable society over which a virtuous and benevolent sovereign/emperor
rules by moral persuasion based on a Code of Rites rather than by law. Justice would emerge from a
timeless morality that governs social behavior. Man would be orderly out of self-respect for his own
moral character rather than from fear of punishment prescribed by law. A competent and loyal literati-
bureaucracy (shidafu) faithful to a just political order would run the government according to moral
principles rather than following rigid legalistic rules devoid of moral content. The behavior of the
sovereign is proscribed by the Code of Rites. Nostalgic of the idealized feudal system that purportedly
had existed before the Spring and Autumn Period (Chunqiu, 770-481 BC) in which he lived,
Confucius yearned for the restoration of the ancient Zhou socio-political culture that existed two-and-
a-half centuries before his time. He dismissed the objectively different contemporary social realities of
his own time as merely symptoms of chaotic degeneration. Confucius abhorred social atrophy and
political anarchy. He strove incessantly to fit the real and imperfect world into the straitjacket of his
idealized moral image. Confucianism, by placing blind faith on a causal connection between virtue
and power, would remain the main cultural obstacle to China's periodic attempts to evolve from a
society governed by men into a society governed by law. The danger of Confucianism lies not in its
aim to endow the virtuous with power, but in its tendency to label the powerful as virtuous. This is a
problem that cannot be solved by the rule of law, since law is generally used by the powerful to
control the weak.

Mencius claimed that the Mandate of Heaven was conditioned on virtuous rule. Mencius (Meng-tzu,
371-288 BC), prolific apologist for Confucius, the equivalent embodiment of St Paul and Thomas
Aquinas in Confucianism, though not venerated until the 11th century AD during the Song Dynasty
(960-1279), greatly contributed to the survival and acceptance of the ideas of Confucius. But Mencius
went further. He argued that a ruler's authority is derived from the Mandate of Heaven (Tianming),
that such mandate is not perpetual or automatic and that it depends on good governance worthy of a
virtuous sovereign.

The concept of a Mandate of Heaven as proposed by Mencius is in fact a challenge to the concept of
the divine right of absolute monarchs. The Mandate of Heaven can be lost through the immoral
behavior of the ruler, or failings in his responsibility for the welfare of the people, in which case
Heaven will grant another, more moral individual a new mandate to found a new dynasty. Loyalty will
inspire loyalty. Betrayal will beget betrayal. A sovereign unworthy of his subjects will be rejected by
them. Such is the will of Heaven (Tian).

Arthurian legend in medieval lore derived from Celtic myths a Western version of the Chinese
Mandate of Heaven. Arthur, illegitimate son of Uther Pendragon, king of Britain, having been raised
incognito, was proclaimed king after successfully withdrawing Excalibur, a magic sword embedded in
stone allegedly removable only by a true king. Arthur ruled a happy kingdom as a noble king and fair
warrior by reigning over a round table of knights in his court at Camelot. But his kingdom lapsed into
famine and calamity when he became morally wounded by his abuse of kingly powers. To cure
Arthur's festering moral wound, his knights embarked on a quest for the Holy Grail, identified by
Christians as the chalice of the Last Supper brought to England by St Joseph of Arimathea.

Mencius' political outlook of imperative heavenly mandate profoundly influences Chinese
historiography, the art of official historical recording. It tends to equate ephemeral reigns with
immorality. And it associates protracted reigns with good government. It is a hypothesis that, in
reality, is neither true nor inevitable.

It is necessary to point out that Mencius did not condone revolutions, however justified by immorality
of the ruling political authority or injustice in the contemporary social system. He merely used threat of
replacement of one ruler with another more enlightened to curb behavioral excesses of despotism. To
Mencius, political immorality was always incidental but never structural. As such, he was a reformist
rather than a revolutionary.

Nicolo Machiavelli, in 1512, 18 centuries after Mencius, wrote The Prince, which pioneered modern
Western political thought by making medieval disputes of legitimacy irrelevant. He detached politics
from all pretensions of theology and morality, firmly establishing it as a purely secular activity and
opening the door for modern Western political science. Religious thinkers and moral philosophers
would charge that Macchiavelli glorified evil and legitimized despotism. Legalists of the Qin Dynasty
(221-207 BC), who preceded publication of The Prince by 17 centuries, would have celebrated
Machiavelli as a champion of truth.
Mencius, an apologist for Confucian ethics, was Machiavellian in his political strategy in that he deduced a virtuous reign as the most effective form of power politics. He advocated a utilitarian theory of morality in politics. A similar view to that of Mencius was advocated by Thomas Hobbes almost two millennia later. Hobbes set down the logic of modern absolutism in his book *Leviathan* (1651). It was published two years after the execution of Charles I, who had been found royally guilty of the high crime of treason by Oliver Cromwell's regicidal Rump Parliament in commonwealth England. Hobbes, while denying all subjects any moral right to resist the sovereign, subscribed to the fall of a sovereign as the utilitarian result of the sovereign's own failure in his prescribed royal obligations.

Revolts are immoral and illegal, unless they are successful revolutions, in which case the legitimacy of the new regime becomes unquestionable. In application to theology, God is the successful devil; or conversely the devil is a fallen god. It is pure Confucian-Mencian logic. As Taoists have pointed out, there are many Confucians who evade the debate on the existence of God, but it is hard to find one who does not find the devil everywhere, particularly in politics.

Confucius, during his lifetime, was ambivalent about the religious needs of the populace. "Respect the spirits and gods to keep them distant," he advised. He also declined a request to elucidate on the supernatural after-life by saying: "Not even knowing yet all there is to know about life, how can one have any knowledge of death?" It was classic evasion.

Confucianism is in fact a secular, anti-religious force, at least in its philosophical constitution. It downgrades other-worldly metaphysics while it cherishes secular utility. It equates holiness with human virtue rather than with godly divinity. According to Confucius, man's salvation lies in his morality rather than his piety. Confucian precepts assert that man's incentive for moral behavior is rooted in his quest for respect from his peers rather than for love from God. This morality abstraction finds its behavioral manifestation through a Code of Rites that defines proper roles and obligations of each individual within a rigidly hierarchical social structure. Confucians are guided by a spiritual satisfaction derived from winning immortal respect from posterity rather than by the promise of everlasting paradise after God's judgment. They put their faith in meticulous observance of secular rites, as opposed to Buddhists, who worship through divine rituals of faith. Confucians tolerate God only if belief in his existence would strengthen man's morality.

Without denying the existence of the supernatural, Confucians assert its irrelevance in this secular world. Since existence of God is predicated on its belief by man, Confucianism, in advocating man's reliance of his own morality, indirectly denies the existence of God by denying its necessity. To preserve social order, Confucianism instead places emphasis on prescribed human behavior within the context of rigid social relationships through the observance of rituals.

As righteousness precludes tolerance and morality permits no mercy, therein lie the oppressive roots of Confucianism. Most religions instill in their adherents fear of a God who is nevertheless forgiving. Confucianism, more a socio-political philosophy than a religion, distinguishes itself by preaching required observation of an inviolable Code of Rites, the secular ritual compendium as defined by Confucius, in which tolerance is considered as decadence and mercy as weakness. Whereas Legalism advocates equality under the law without mercy, Confucianism, though equally merciless, allows varying standards of social behavior in accordance with varying ritual stations. However, such ritual allowances are not to be construed as tolerance for human frailty, for which Confucianism has little use.

St Augustine (354-430), who was born 905 years after Confucius, in systematizing Christian thought defended the doctrines of original sin and the fall of man. He thus reaffirmed the necessity of God's grace for man's salvation, and further formulated the Church's authority as the sole guarantor of Christian faith. The importance of Augustine's contribution to cognition by Europeans of their need for Christianity and to their acceptance of the orthodoxy of the Catholic Church can be appreciated by contrasting his affirmative theological ideas to the anti-religious precepts of Confucius.

Immanuel Kant (1724-1804), who was born 2,275 years after Confucius, developed the theme of "Transcendental Dialectic" in his *Critic of Pure Reason* (1781). Kant asserted that all theoretical attempts to know things inherently, which he called "noumena", beyond observable "phenomena", are bound to fail. Kant showed that the three great problems of metaphysics - God, free will and immortality - are insoluble by speculative thought, and their existence can neither be confirmed nor
denied on theoretical grounds, nor can it be rationally demonstrated.

In this respect, Kantian rationalism lies parallel to Confucian spiritual utilitarianism, though each proceeds from opposite premises. Confucius allowed belief in God only as a morality tool. Rationally, Kant declared that the limits of reason only render proof elusive, they do not necessarily negate belief in the existence of God.

Kant went on to claim in his moral philosophy of categorical imperative that existence of morality requires belief in existence of God, free will and immortality, in contrast to the agnostic claims of Confucius.

Buddhism, in its emphasis on a next life through rebirth after God's judgment, resurrected the necessity of God to the Chinese people. Mercy is all in Buddhist doctrine. Buddhist influence put a human face on an otherwise austere Confucian culture. At the same time, Buddhist mercy tended to invite lawlessness in secular society, while Buddhist insistence on God's judgment on a person's secular behavior encroached on the sovereign/emperor's claim of totalitarian authority.

Similar to Confucian-Mencian logic that revolts are immoral and illegal, unless they are successful revolutions in which case the legitimacy of the new regime becomes unquestionable, John Locke in 1680 wrote Two Treatises of Government, which was not published until 10 years later, after the Glorious Revolution of 1688, as a justification of a triumphant revolution. According to Locke, men contract to form political regimes to better protect individual rights of life, liberty and estate. Civil power to make laws and police power to execute such laws adequately are granted to government by the governed for the public good. Only when government betrays society's trust may the governed legitimately refuse obedience to government, namely when government invades the inviolable rights of individuals and their civil institutions and degenerates from a government of law to despotism. An unjust king provides the justification for his own overthrow.

Locke, like Mencius two millennia before him, identified passive consent of the governed as a prerequisite of legitimacy for the sovereign. Confucius would insist that consent of the governed is inherent in the Mandate of Heaven for a virtuous sovereign, a divine right conditioned by virtue. In that respect, it differs from unconditional divine right claimed by Louis XIV of France. However, the concept of a Mandate of Heaven has one similarity with the concept of divine right. According to Confucius, just rule is required as a ritual requisite for a moral ruler, rather than a calculated requirement for political survival. Similarly, the Sun King would view good kingship as a character of greatness rather than as a compromise for winning popular support.

Both Hobbes and Locke based their empiricist notions of political legitimacy not on theological or historical arguments, but on inductive theories of human nature and rational rules of social contract. Confucius based his moralist notion of political legitimacy on historical idealism derived from an idealized view of a perfect, hierarchical human society governed by rites.

For Taoists, followers of Laozi, man-made order is arbitrary by definition, and therefore it is always oppressive. Self-governing anarchy would be the preferred ideal society. The only effective way to fight the inevitably oppressive establishment would be to refuse to participate on its terms, thus depriving the establishment of its strategic advantage.

Mao Zedong (1893-1976), towering giant in modern Chinese history, with apt insights on Taoist doctrines, advocated a strategy for defeating a corrupt enemy of superior military strength through guerrilla warfare. The strategy is summed up by the following pronouncement: "You fight yours [ni-da ni-de]; I fight mine [wo-da wo-de]."

The strategy ordains that, to be effective, guerrilla forces should avoid frontal engagement with stronger and better equipped government regular army. Instead, they should employ unconventional strategies that would exploit advantages inherent in smaller, weaker irregular guerrilla forces, such as ease of movement, invisibility and flexible logistics. Such strategies would include ambushes and harassment raids that would challenge the prestige and undermine the morale of regular forces of the corrupt government. Such actions would expose to popular perception the helplessness of the immoral establishment, despite its superficial massive power, the paper tiger, as Mao would call it. Thus such strategies would weaken the materially-stronger but morally weaker enemy for an eventual coup de grace by popular forces of good.
Depriving an immoral enemy's regular army of offensive targets is the first step in a strategy of wearing down a corrupt enemy of superior force. It is classic Taoist *rousU* (flexible methods). Informed of conceptual differences of key schools of Chinese philosophy, one can understand why historiographers in China have always been Confucian. Despite repeat, periodic draconian measures undertaken by Legalist reformers, ranging from the unifying Qin Dynasty (221-207 BC), during whose reign Confucian scholars were persecuted by being buried alive and their books burned publicly, and up to the Legalist period of the so-called Gang of Four in modern times, when Confucian ideas were vilified and suppressed, Confucianism survives and flourishes, often resurrected by its former attackers from both the left and the right, for the victor's own purposes, once power has been secured.

Feudalism in China takes the form of a centralized federalism of autonomous local lords in which the authority of the sovereign is symbiotically bound to, but clearly separated from, the authority of the local lords. Unless the local lords abuse their local authority, the emperor's authority over them, while all-inclusive in theory, would not extend beyond federal matters in practice, particularly if the emperor's rule is to remain moral within its ritual bounds. In that sense, the Chinese empire was fundamentally different than the predatory empires of Western imperialism.

Confucianism, through the Code of Rites, seeks to govern the behavior and obligation of each person, each social class and each socio-political unit in society. Its purpose is to facilitate the smooth functioning and the perpetuation of the feudal system. Therefore, the power of the sovereign/emperor, though politically absolute, is not free from the constraints of behavior deemed proper by Confucian values for a moral sovereign, just as the authority of the local lords is similarly constrained. Issues of constitutionality in the US political milieu become issues of proper rites and befitting morality in Chinese dynastic or even contemporary politics.

Confucian values, because they have been designed to preserve the existing feudal system, unavoidably would run into conflict with contemporary ideas reflective of new emerging social conditions. It is in the context of its inherent hostility toward progress and its penchant for obsolete nostalgia that Confucian values, rather than feudalism itself, become culturally oppressive and socially damaging. When Chinese revolutionaries throughout history, and particularly in the late 18th and early 19th century, would rebel against the cultural oppression of reactionary Confucianism, they would simplistically and conveniently link it synonymously with political feudalism. These revolutionaries would succeed in dismantling the formal governmental structure of political feudalism because it is the more visible target. Their success is due also to the terminal decadence of the decrepit governmental machinery of dying dynasties, such as the ruling house of the three-century-old, dying Qing Dynasty (1583-1911). Unfortunately, these triumphant revolutionaries in politics remained largely ineffective in remolding Confucian dominance in feudal culture, even among the progressive intelligentsia.

Almost a century after the fall of the feudal Qing Dynasty house in 1911, after countless movements of reform and revolution, ranging from Western moderate democratic liberalism to extremist Bolshevik radicalism, China would have yet to find an workable alternative to the feudal political culture that would be intrinsically sympathetic to its social traditions. Chinese revolutions, including the modern revolution that began in 1911, through its various metamorphoses over the span of almost four millennia, in overthrowing successive political regimes of transplanted feudalism, repeatedly killed successive infected patients in the form of virulent governments. But they failed repeatedly to sterilize the infectious virus of Confucianism in its feudal political culture.

The modern destruction of political feudalism produce administrative chaos and social instability in China until the founding of the People's Republic in 1949. But Confucianism still appeared alive and well as cultural feudalism, even under Communist rule. It continued to instill its victims with an instinctive hostility toward new ideas, especially if they were of foreign origin. Confucianism adhered to an ideological rigidity that amounted to blindness to objective problem-solving. Almost a century of recurring cycles of modernization movements, either Nationalist or Marxist, did not manage even a slight dent in the all-controlling precepts of Confucianism in the Chinese mind. Worse, these movements often mistook Westernization as modernization, moving toward militant barbarism as the new civilization. In fact, in 1928, when the Chinese Communist Party attempted to introduce a soviet system of
government by elected councils in areas of northern China under its control, many of the peasants earnestly thought a new "Soviet" dynasty was being founded by a new emperor by the name of So Viet.

During the Great Proletariat Cultural Revolution of 1966, the debate between Confucianism and Legalism was resurrected as allegorical dialogue for contemporary political struggle. At the dawn of the 21st century, Confucianism remained alive and well under both governments on Chinese soil on both sides of the Taiwan Strait, regardless of political ideology. Modern China was still a society in search of an emperor figure and a country governed by feudal relationships, but devoid of a compatible political vehicle that could turn these tenacious, traditional social instincts toward constructive purposes, instead of allowing them to manifest themselves as practices of corruption. The Western notion of rule of law has little to contribute to that search.

General Douglas MacArthur presented post-World War II Japan, which has been seminally influenced by Chinese culture for 14 centuries, with the greatest gift a victor in war has ever presented the vanquished: the retention of its secularized emperor, despite the Japanese emperor's less-than-benign role in planning the war and in condoning war crimes. Thus MacArthur, in preserving a traditional cultural milieu in which democratic political processes could be adopted without the danger of a socio-cultural vacuum, laid the socio-political foundation for Japan as a postwar economic power. There is logic in observing that the aggressive expansion of Japan would not have occurred had the Meiji Restoration not adopted Western modernization as a path to power. It was Japan's aping of British imperialism that launched it toward its militarism that led to its role in World War II. Of the three great revolutions in modern history - the French, the Chinese and the Russian - each overthrew feudal monarchical systems to introduce idealized Western democratic alternatives that would have difficulty holding the country together without periods of terror. The French and Russian Revolutions both made the fundamental and tragic error of revolutionary regicide and suffered decades of social and political dislocation as a result, with little if any socio-political benefit in return. In France, it would not even prevent eventual restoration imposed externally by foreign victors. The Chinese revolution in 1911 was not plagued by regicide, but it prematurely dismantled political feudalism before it had a chance to develop a workable alternative, plunging the country into decades of warlord rule.

Worse still, it left largely undisturbed a Confucian culture while it demolished its political vehicle. The result was that eight decades after the fall the last dynastic house, the culture-bound nation would still be groping for an appropriate and workable political system, regardless of ideology. Mao Zedong understood this problem and tried to combat it by launching the Great Proletariat Cultural Revolution in 1966. But even after a decade of enormous social upheaval, tragic personal sufferings, fundamental economic dislocation and unparalleled diplomatic isolation, the Cultural Revolution would achieve little except serious damage to the nation's physical and socio-economic infrastructure, to the prestige of the Chinese Communist Party, not to mention the loss of popular support, and total bankruptcy of revolutionary zeal among even loyal party cadres.

It would be unrealistic to expect the revival of imperial monarchy in modern China. Once a political institution is overthrown, all the king's men cannot put it together again. Yet the modern political system in China, despite its revolutionary clothing and radical rhetoric, is still fundamentally feudal, both in the manner in which power is distributed and in its administrative structure. When it comes to succession politics, a process more orderly than the hereditary feudal tradition of primogeniture will have to be developed in China.

History has shown that the West can offer little to the non-Western world beyond rationalization of oppression and technologies of exploitation. If after four centuries of Western modernity the world is still beset with violence, hunger, exploitation and weapons of mass destruction on an unprecedented scale, it follows that its Mandate of Heaven is in jeopardy.

- **Next: Taoism and modernity**

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