Application of Confucian and Western Ethical Theories in Developing HIV/AIDS Policies in China-- an essay in cross-cultural bioethics

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Abstract

This study is a contribution to Chinese-Western dialogue of bioethics but perhaps the first one of its kind. From a Chinese-Western comparative ethical perspective, this work brings Chinese ethical theories, especially Confucian ethics, into a contemporary context of the epidemic of HIV/AIDS, and to see how the deeply-rooted thoughts of Confucius interact, compete, or integrate with concepts from Western ethical traditions. An underlying belief is that some ideas in Confucian ethics are important and insightful beyond their cultural and historical origins in China and other Confucianism influenced societies.

Methodologically, this thesis employs two approaches, conceptual normative analysis combined with critical interpretation. The 'interpretive' approach I employ, as an important methodology supplementing my normative analysis, not only deals with Chinese ancient texts, but also explains specific beliefs and practices in China.

With a critical eye, this thesis carefully examines a number of key topics in the ethics of AIDS in China from a cross-cultural perspective. Topics including: views on personhood and the vulnerability of People Living with HIV/AIDS; prioritising and balancing the role of 'harm reduction' and the role of 'eradication of deviant behaviour' in AIDS policy in China; rights-based opt-out approach and duty-based family-centred approach in HIV testing and Biobanking; blood donation; moral responsibility and personal responsibility for health; and the popular rhetoric of 'innocent infection' versus 'guilty infection' in AIDS.

My overall aim in this work is to present a cross-cultural bioethics study through the investigation of some ethical issues in AIDS in China from a Chinese-Western comparative perspective and also attempt to suggest a humane and effective policy for HIV/AIDS which I believe is appropriate to both traditions. I believe this work has contributed to our knowledge in three related but independent areas: the control of the epidemic of HIV/AIDS in China; medical ethics in China; and to both

the methods and the utility of cross-cultural study of bioethics between China and the West.

Declaration

No portion of the work referred to in this thesis has been submitted in support of an application for another degree or qualification of this or any other university or other institute of learning.

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Other Pages (non compulsory)

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Some scientific fact about HIV/AIDS

What is HIV?

HIV stands for 'human immunodeficiency virus', which infects cells of the human immune system and destroys their function. HIV is found in the bodily fluids of a person who has been infected-blood, semen, vaginal fluids and breast milk. Infections associated with severe immunodeficiency are known as 'opportunistic infections', because they take advantage of a weakened immune system.

What is AIDS?

AIDS stands for 'acquired immunodeficiency syndrome' and is a surveillance definition based on signs, symptoms, infections, and cancers associated with the deficiency of the immune system that stems from infection with HIV.

What is a HIV test?

A HIV test is a test that reveals whether HIV is present in the body through detecting the antibodies produced by the immune system in response to HIV. For most people, it takes three months for these antibodies to develop. During this "window period" of early infection a person is at their most infectious.

How quickly do people infected with HIV develop AIDS?

The length of time can vary widely between individuals. The majority of people infected with HIV, if not treated, develop signs of HIV-related illness within 5-10 years.

How is HIV transmitted?

Through:

- Unprotected sex (vaginal, anal and to a lesser extent oral sex) with an infected person
- Sharing contaminated syringes, needles or other sharp instruments
- From mother to child during pregnancy, childbirth or breast feeding when the mother is already HIV positive

- Blood transfusion with contaminated blood

All these ways of transmitting HIV can be prevented

Global epistemology of HIV/AIDS

People living with HIV/AIDS (PLWHA): in 2011, there were 34 million people living with HIV (Sub-Saharan Africa accounts for 69%).

New HIV infections: worldwide, 2.5 million people became newly infected with HIV in 2011.

AIDS-related deaths: in 2011, 1.7 million people died from AIDS-related causes worldwide—24% fewer deaths than in 2005.

China epistemology of HIV/AIDS (in 2011)

PLWHA: the estimate number of PLWHA in China was 780,000.

New Infections: the estimated number of new infections was 48,000.

AIDS-related deaths: the estimated number of deaths was 28,000.

Overall prevalence: 0.058%

Five major characteristics of China's HIV epidemic:

- National prevalence remains low, but the epidemic is severe in some areas
- the number of PLHIV continues to increase, but new infections have been contained at low level
- gradual progression of HIV to AIDS resulting in an increase of the AIDS-related deaths
- sexual transmission is the primary mode of transmission, and continue to increase
- China's epidemics are diverse and evolving.

Figure 1 Geographical distribution of cumulative reported HIV/AIDS cases (as of 31st December 2011)

HIV and AIDS related Acronyms

AIDS Acquired Immune Deficiency Syndrome
ARV Antiretroviral
ART Antiretroviral Therapy
CBO Community-Based Organization
CDC Centres for Disease Control and Prevention (USA)
HAART Highly Active Antiretroviral Therapy
HIV Human Immunodeficiency Virus
IDU Injecting Drug User
IEC Information, Education and Communication
KAPB Knowledge, Attitudes and Practice and Behaviour
MSM Men who have Sex with Men
MTCT Mother-To-Child Transmission
NAC National AIDS Council/Committee/Commission
NGO Non-Governmental Organization
NSP Needle-Syringe Programme
OI Opportunistic Infection

PITC Provider-Initiated HIV Couselling and Testing

PLWHA People/Persons Living with HIV/AIDS

PMTCT Prevention of Mother-To-Child Transmission

PTCT Parent-To-Child Transmission

STD Sexually Transmitted Disease

STI Sexually Transmitted Infection

TB Tuberculosis

SW Sex Worker

UNAIDS Joint United Nations Programme on HIV/AIDS

VCT Voluntary Counselling and Testing

WHO World Health Organisation

Glossary: several Chinese moral ideas and notions

Confucianism: is an ethical and philosophical system developed from the teachings of the Chinese philosopher Confucius. Confucianism has been the dominant ideology in Chinese philosophy since the Han Dynasty (206BC-220AD) and has directed social, political, educational, and moral thoughts in Chinese society. A central theme in Confucianism is *ren* and the idea Confucian person who reached the moral standard is *Junzi (Chun-tzu).*

Confucius (551-479 BCE): Chinese philosopher, thinker, educator, and founder of the Confucian School of Chinese thought. His teachings, preserved in the *Analects*, form one of the most fundamental classics of Confucianism. Confucius' influence in Chinese history is comparable to that of Socrates in the West.

Junzi: translated as exemplary man, superior man, gentleman, noble man.

*Wunlun***:** the Confucian hierarchy of Five Cardinal Human Relationships, comprising: 1) ruler to minister, 2) father to son, 3) husband to wife, 4) elder to younger brother, 5) friend to friend. These relationships form the basic social structure of Confucianism society and are firmly based on "superior to inferior" (except the 5th).

Mencius (372 – 289 BCE): Chinese philosopher, who was arguably the most famous Confucian after Confucius himself. He is best known for the view that "human nature is good", a view of human nature on the basis of which he defended the Confucian ideal and developed an account of the self-cultivation process.

Siduan: translated as "four beginnings" or "four seeds". According to Mencius who believes the goodness of human nature, they are the xin (mind/heart) of (1) compassion (ceyin zhi xin), (2) aversion to shame (xiuwu zhi xin), (3) courtesy and modesty (cirang zhi xin), and (4) right and wrong (shifei zhi xin).

Xunzi (479-221BCE): Chinese philosopher, who considered himself a follower of Confucius and whose significance has often been underestimated. He was in strong disagreement with Mencius' view on the xing (human nature) of people; he argues to the contrary that people's xing (human nature) is bad. His writings of the book of *Xunzi* made significant contribution to philosophy of language.

Zhengming: translated as "rectification of names", "proper naming", "proper use of names". It is a Confucian notion originated in the *Analects* but further developed in *Xunzi*.

Ren: the cardinal virtue, usually translated as "benevolence" or "humaneness".
Yi: righteousness, appropriateness, obligation, and justice.
Li: ceremony, rites, decorum, courtesy, etiquette, rules of propriety.
Zhi: wisdom, proper mind.
Xin: trustworthiness, faithfulness, honesty.
Cheng: truthfulness or sincerity.
Qing: feeling, affection.
Xiao: filial piety.

Mohism: Chinese philosophical school evolved at about the same time as Confucianism and was one of the four main philosophical schools in ancient times (the other three are Confucianism, Daoism, and Legalism). They formulated China's first explicit ethical and political theories and advanded the world's ealiest form of consequentialism. Mohism is best known for the concept of Jian ai (impartial caring or universal love).

Mozi (468-376 BCE): Chinese philosopher, he founded the school of Mohism, and argued strongly against Confucianism and Daoism.

Jian ai: impartial caring, or universal love, that is, a person should care equally for all other individuals, regardless of their actual relationships to him or her. The

doctrine of impartial caring is in striking contrast to the Confucian notion of graded love (or love with distinction).

Yin-yang: Originally *yin* and *yang* referred to the location of landmarks relative to the sun, e.g. the sunny side of a hill is yang while the side in shade is yin. This original idea evolved into a generalised realisation that all things in reality have two aspects or complementary components, symbilised as *yin-yang*. In general, all that is static, heavy, shady, weak, cold, down and downwards, in and inwards is *yin*; all that is active, light, bright, strong, hot, up and upwards, out and outwards is *yang*. It is a unique way of seeing and thinking about the world.

Danwei: work unit, is an institutional structure that providing the “iron rice bowl” for employees and more than just a workplace in the socialist China. A *danwei* could be a factory, a bank or a primary school. It provides the safety net and its leadership monitors public participation in the socialist mobilisations.

Guanxi: relational webs. The word ‘*guan*’ can be translated as ‘juncture’; ‘*xi*’ means to tie up. *Guanxi* is an informal, particularistic personal connection between two individuals who are bounded by an implicit psychological contract to follow the social norm of *guanxi.*

1 Chapter 1 - Introduction: the search for a cross-cultural bioethics from a Confucian perspective

To some, bioethics has increasingly been seen as a modern, fashionable academic field and it has become a public discourse on an international scale over the past few decades. Rapid development of medicine and biotechnology has attracted increasing attention and there is a vast volume of literature focused on ethical issues around 'high-tech' advancements, such as human enhancement, gene-therapy, etc.. Due to the rising interest in these areas, there are specific new branches of bioethics that have been established and new words have been coined signifying the combination of science and ethics, e.g. 'neuroethics', 'genethics' and 'science ethics'.

It might be read from the title of this thesis that it concerns something rather 'old', or perhaps 'outdated', or at least not in the 'hot topic' league: Confucian ethics, for some, is seen as something belonging in the cultural 'museum' to be visited or belonging to the feudal system blamed for causing China's weak and backward old days. Is there any substantial relevance that the 'old' Confucian ethics has to 'modern' bioethical issues? HIV/AIDS is a relatively new epidemic responsible for hundreds of thousands of people's deaths globally and is mainly centred on Africa; the estimated percentage of adults living with HIV/AIDS in China is 0.058% of the total population which accounts for 780,000 people at the end of 2011[1]. HIV/AIDS is no longer on the top agenda of bioethical discussions in the Western societies. Based on this context to talk about Confucian ethics may seem very odd to some, for one thing, by figures it seems AIDS in China is not that serious, the rate is even lower than some Western countries. So why choose this as the scenario to examine a theory? And more fundamentally, by superficial appearance one can hardly find any connections between AIDS and Confucian ethics, let alone any

[1] Although national prevalence of HIV/AIDS in China remains low, but the epidemic is severe in some areas, there are 6 provinces with the highest number of reported HIV cases (from highest number: Yunnan, Guangxi, Sichuan, Henan, Xinjiang, Guangdong) accounted for 75.5% of the total number of reported cases nationwide. See:
2012 China AIDS Response Progress Report. Ministry of Health of the People's Republic of China. accessed on (12th March. 2013):
http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report%5B1%5D.pdf

discussion about how Confucian ideas might help to develop HIV/AIDS policy. Furthermore, this might seem much less ‘urgent’ and ‘glamorous’ than the aforementioned bioethical topics.

These doubts and questions have played an important role in my drafting of this thesis. They drove me to conduct this investigation into how ideas derived from traditional Chinese philosophy, primarily Confucianism, can be used or have been misused in addressing contemporary problems, e.g. through the lens of HIV/AIDS. The conclusion I draw in this work is clear and actually refutes these doubts and stereotypes. My approach to reaching this conclusion was not driven by my intuitive belief that they are wrong, which I have simply tried to prove, but reached naturally by a comparative analytical study between Western theories and Chinese Confucian ethics.

Our time is different from previous eras, with increasing large-scale interactions between different cultures and civilisations. In the face of globalisation and cultural pluralism, the way we address and interpret cultural differences is a big challenge as this also has impact on our morality and decision making. Cultural relativism can easily be understood as moral relativism which would make the effort to seek cross-cultural dialogue in vain. It is especially so when we encounter problems posed by infectious disease, such as AIDS. Cultural differences are generally believed to be obvious, real, and deeply-rooted, but what role do these differences play in moral matters concerning specific problems? How they ought to be handled practically is far from clear. For example, does the perceived Chinese norm of family consent, in contrast to individual consent, facilitate or impede its strategy for HIV testing? Moreover, some apparent similarities in practice may actually embody different beliefs grounded in different theories. These are far more subtle and implicit.

Comparative studies on cultural differences between East and West are not new. These have generated a set of dichotomized oppositions, such as: communitarian vs. individualistic; family decision making vs. individual autonomy; the social or community good vs. individual interests and freedom; etc. I do not intend to argue to what extent these dualistic terms are true or were more true before, but I object

to the habit, or tendency that we are becoming more accustomed to conceptualise and approach bioethical issues in this dichotomising way. In that case, we are only using new examples to reinforce this age-old dominant thinking and we are not contributing creatively to cross-cultural studies. Practically, we also 'risk distorting the realities of cultural and bioethics in China and thus muddy the waters for effective cross-cultural discussion'[2].

China has a long history of deliberation on moral issues in medicine, which dates back to the Warring State Period in China (475-221 BC), the period of 'a hundred contending schools of thought ' (*bai jia zheng ming*). In this period, many major schools of thought advocated different orientations and different social-cultural-political structures were established, including: Confucianism (Confucius, Mencius, and *xunzi*); Daoism (*Laozi, Zhuang zi*); Mohism (*Mo zi*); Egoism (*Yang zhu*); Legalism (*Han fei zi*); and some theories with ideas from across some schools, such as I-Ching (or *Yi jing*) and the concept of *Yin-Yang*. Some schools gradually lost their popularity in history while some are still prevalent in contemporary societies. During this era, perhaps the most fundamental ancient doctrinal source for Chinese medicine, compiled in later centuries, the Yellow Emperor's Classic of Medicine (*Huangdi Neijing*) was also established. This book is still consulted and read by health professionals who work in traditional Chinese medicine today. In the following centuries and dynasties, with increasing cultural interactions with other civilisations and people, more traditions and religions came to China and exerted their influence on Chinese society and people. For example, Buddhism, Christianity, Islam, and Communism, etc. The teachings of these traditions are rich and diverse. They have covered some fundamental themes and topics of bioethics which are still discussed today, for example, the nature of the doctor-patient relationship; professional virtues of health practitioners; responsibility for health; the understanding of life and death; personhood; and the role of the family in decision making.

With this distinctive tradition and moral philosophy, combined with communitarianism and socialism imported in last century, how would China, the

[2] Nie, J.B. (2011) *Medical Ethics in China: A transcultural interpretation*.New York: Routledge pp.37..

government and Chinese people, respond to the common ethical dilemmas arising from contemporary medicine and healthcare and biotechnology? Are China's responses and strategies different from the West, and how? Or, are the problems China faces fundamentally different? What contribution can Chinese indigenous moral traditions make to bioethics and how? These are some of the central questions that this thesis responds to.

Chinese-Western dialogue on bioethics has been taking place on a large scale over the past decades. As reflected in the growing body of literature in English, bioethics in China has drawn increasing attention both within and outside of China. Some publications cover a variety of contemporary bioethical challenges in Asia[3]; some studies have focused on particular bioethical topics, e.g. personhood[4], the role of family[5], human genetic biobank[6]; a book specifically concerned with the approach to cross-cultural bioethical study between China and West[7] has recently come out; there are also journals[8] and book series[9] focused specifically on bioethical issues in Asia. Some are committed to a particular tradition from where they take the perspective to explore bioethical issues, such as Confucianism[10]. Among these publications, to varying degrees, cultural differences between West and East are tackled.

However, this interaction is far from complete and full. This study is another contribution in cross-cultural bioethics but perhaps the first one of its kind. Set in the context of a concrete contemporary phenomenon, a disease, namely HIV/AIDS, from a cross-cultural ethical perspective, this thesis examines how

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[3] For example, Qiu, R.Z. (ed.) (2004) *Bioethics: Asian perspectives: A quest for moral diversity*, Dordrecht: Kluwer Academic Publishers; Macer, D. (2004) *Challenges for bioethics from Asia*. Eubios Ethics Institute.

[4] Becher, G.K. (ed.) (2000) *The moral status of persons: Perspectives on bioethics*, Atlanta, GA:Rodopi.

[5] Lee, S.C. (2007) *The family, medical decision-making, and biotechnology: critical reflection on Asian moral perspective*, Dordrecht: Springer.

[6] Sleeboom-Faulkner, M. (ed.) (2008) *Human genetic Biobank in Asia*, London: Routledge.

[7] Nie, J.B. (2011) supra n.2.

[8] Asian Bioethics Review (peer-reviewed) and Eubios Journal of Asian and International bioethics (non peer-reviewed).

[9] *Medicine and Philosophy* has produced a sub-series entitled "Asian studies in Bioethics and the Philosophy of Medicine".

[10] Fan, R.P. (ed.) (1999) *Confucian bioethics*, Dordrecht: Kluwer; Fan, R.P. (2009) *Reconstructionist Confucianism: Rethinking morality after the West*, New York: Springer.

some deeply rooted ideas derived from traditional Chinese philosophy impact on and interact with various ethical issues and practice surrounding AIDS. These issues include: informed consent in HIV testing; Chinese policy on blood donation; social attitudes towards people living with HIV/AIDS; prioritising a root *(ben*) and branch (*biao*) in strategies combating AIDS; and the Confucian way of rectifying the language of 'innocent infection' vs. 'guilty infection' in AIDS. In this process, some of the embedded but forgotten ideas from traditional moralities will be revived and proposed for application in resolving contemporary issues, for example: the principle of 'impartial caring (*jian ai*)' stemming from Mohism in Chinese blood donation campaigns; and the idea of 'rectification of names (*zhengming*)' in correcting the rhetoric of 'innocent infection' vs. 'guilty infection'. Moreover, some popular yet problematic (mis)use of traditional ideas in policies will also be identified and addressed, e.g. the misapplied *ben* (root) and *biao* (branch) in prioritising resources in the strategy of combating AIDS. Furthermore, the validity of some of the well-accepted and popular presuppositions regarding cultural differences between West and East are also tested and challenged.

Methodologically, I will employ two approaches, conceptual normative analysis combined with critical interpretation. Both methods are necessary and important in this research. Conceptual analysis consists primarily in breaking down and analyzing concepts in their constituent parts in order to gain knowledge or a better understanding of a particular philosophical issue in which the concepts are involved[11]. Conceptual analysis is a traditional and crucial approach in bioethical inquiries in general and plays the role of laying the platform for cross-cultural dialogue in particular. Critical interpretation, on the other hand, introduces this platform and makes the communication possible through explaining apparent 'foreign' (or alien) ideas and practices. Understanding and interpretation must precede normative ethical judgement. In this thesis, the 'interpretive' approach I employ, as an important methodology supplementing my normative analysis, not only deals with Chinese ancient texts, but also explains specific beliefs and

[11] Beaney, M.(2012) "Analysis", *The Stanford Encyclopedia of Philosophy,* in Edward N. Z. (ed.) accessed on (2nd March 2013) http://plato.stanford.edu/entries/analysis/

practices. It works on "how certain perspectives or practices in other cultures, especially those that apparently strange and ethically problematic, are possible and what the cultural context of the perspective or practice is".[12] For example, I take a conceptual analysis approach to identify and assess a Chinese understanding of the concept of 'personal responsibility for health', while in another chapter, I adopt a critical interpretive approach to assess an apparently unethical case: in some rural AIDS stricken Chinese villages, some HIV positive Chinese women take the risk of vertical-transmission of HIV virus by insisting on breastfeeding their babies. The two approaches are sometimes both reflected within one chapter.

An interpretive method is of particular importance to cross-cultural bioethics and has been espoused by many scholars specialised in the field of trans-cultural studies. According to the American medical humanist Ronald Carson, bioethics is "fundamentally an interpretive enterprise."[13] For him, this interpretive method acknowledges difference and believes that every view is a view "from some particular (unprivileged) place". Through open, persistent, respectful dialogue, fresh understanding is possible which "neither coerces consensus nor fudges fundamental differences but rests, however provisionally, on common ground."[14]Chinese bioethicist Nie argued this approach is "not just more effective but a moral imperative."[15] The kind of unfamiliar, strange or bizarre practice, as presented above, can only be understood when they are seen "as part of a different mind-set or life-world" rather than evaluated against our modern medical knowledge. It is because practices and ideas are "essentially modes of social relation, of mutual action."[16]

My overall aim in this work is to present a cross-cultural bioethics study through the investigation of some ethical issues in AIDS in China from a Chinese-Western

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[12] Nie, J.B. (2000) 'The plurality of Chinese and American medical moralities: Toward an interpretive cross-cultural bioethics'. *Kennedy Institute of Ethics Journal*, vol. 10. no.3.pp.255.

13 Carson, R.A. (1990) 'Interpretive bioethics: the way of discernment'*, Theoretical Medicine.* Vol11. pp 51.

14 Carson, R.A. (1999) 'Interpreting strange practices', in Fan, R. (ed.) *Confucian Bioethics,* Dordrecht: Kluwer. pp.208.

[15] Nie, J.B. (2011) supra n.2. pp.7.

[16] Taylor, C. (1971) 'interpretation and sciences of man'. *The Review of Metaphysics*, vol.25, no1. pp27.

comparative perspective. These issues I covered can be overt or hidden, universal or distinctive, specific to AIDS or generalisable to other diseases and even include the new ethical issues caused by my effort and intention to address existing 'ethical issues' in China. With a critical eye, I will look at both traditions and theories in West and East, and attempt to suggest a humane and workable policy for HIV/AIDS which I believe is appropriate to both traditions.

In this introduction, I will briefly cover four themes: 1) the relevance of Confucian ethics and bioethics; 2) overcoming some common mistakes in assumptions; 3) why choose AIDS as the scenario; 4) the content of this thesis.

1.1 Confucian ethics: 'museum' bioethics or real bioethics?

Today's Chinese hold ambivalent and ambiguous attitudes towards Confucianism. Very few people would consider themselves as Confucians in the sense in which contemporary people who call themselves 'Christians' stand to Christianity; some may think Confucianism is an outdated, backward, and feudal ideology that protected the interests of the decadent feudal system as portrayed by the famous May Fourth Movement[17] in 1919; those who hold Communist ideas hold that Confucius and his Confucianism, at best, should be honourably placed into the silence of the 'museum' only for visiting, not for influencing common living[18]; but if you ask an ordinary Chinese person if he accepts basic Confucian virtues, such as *ren* (benevolence), *yi* (righteousness), *li* (propriety), *xiao* (filial piety), he would definitely say yes. He would say everyone should cultivate these virtues and fulfil their responsibility in relationships to live a good life.[19]

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[17] The May Fourth Movement was an anti-imperialist, cultural, and political movement growing out of student demonstrations in Beijing on May 4, 1919 and part of the wider New Cultural Movement during 1915-1921. In this movement, Confucianism and traditional Chinese Medicine was harshly rejected as the typical old, backward, irrational, and "feudal" obstacles to science, democracy, the Enlightenment, modernity, and modernization. The popular slogan was "down the Confucian shop". Science replaced the orthodox Confucianism and became the highest and absolute standard of value. It was professed that only what is compatible with science should live and anything else should be destroyed. This movement marked an intellectual turning point in China. Collectively, the goal was to rid Chinese culture of those elements which they believed had led to China's stagnation and weakness and to create new values for a new, modern China.

[18] Levenson, J. R. (1968) *Confucian China and its modern fate: A Trilogy*. Berkeley: University of California Press.

[19] Fan, R.P. (2010) 'A Confucian reflection on genetic enhancement.' *The American Journal of*

This thesis will demonstrate Confucianism is traditional but does not belong in the 'cultural museum'. Confucian ethics is a real living moral system which has much to contribute to bioethics in clarifying concepts, offering arguments, and giving moral guidance. This intellectual compulsion is not solely based on an emotional motivation, "just because the ideas in question came down from a Chinese past" as American historian of China, Levenson, said. In that case, according to him, Confucianism is transformed from a "primary, philosophical commitment to a secondary, romantic one."

Confucianism is a traditional ethical and philosophical system developed from the teachings of the ancient Chinese philosopher, Confucius (551-479 BC). Confucius is one of the most influential thinkers of Chinese philosophy and Confucianism is representative of Chinese culture, and also has a wider influence on other Eastern and southern Asian societies, including in Taiwan, Japan, Korea, Vietnam, and Singapore. Confucius, together with Socrates, Gautama Buddha, and Jesus Christ were regarded as four "paradigmatic"[20] individuals for their extended influence through two millennia and their remarkable importance for all philosophy and humanity. Ancient Chinese medical ethics was mainly established on the teachings of Confucian ethics.

Confucian ethics is basically a virtue-oriented, duty-based morality bearing deontological and virtue ethics characteristics. A central theme in Confucian ethics is humaneness (*ren*). Confucius envisaged an ideal society and believed peace and good governance should be based on social order, and social order should be based on individual cultivation of virtues.

In order to achieve social harmony, each person in Confucian society is required to fulfil a variety of pre-determined responsibilities and duties corresponding to his specific role in social relations. The most distinguished system is *wulun* (the five cardinal relationships), comprising, ruler to minister, father to son, husband to wife, elder to younger brother and friend to friend. Pairings based on 'superior to inferior', each role in the relationships has ritual obligations and responsibility to the

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Bioethics. Vo.10. no.4.

[20] Jaspers K. (1962) *The great philosophers*. London: Rupert Hart-Davis. pp.6.

others at the same time as enjoying due consideration accorded by the other components.

Ren, Yi, Li are the core values and the foundational virtues in Confucian ethical system. *Ren* has been translated as love, humaneness, benevolence, human heartedness, perfect virtue. It has been considered as the most "distinguishing characteristic of man" by Mencius and the core notion in Confucian ethical, political and spiritual tradition. *Yi* is normally translated as righteousness, justice, and obligation. Li means ceremony, rites, rules of propriety, etc. *Ren*, *Yi, Li* are the essential features a *Junzi* (gentleman, exemplary man) in Confucian ethics must acquire. Becoming a gentleman is a self-cultivation process involving continual pursuit and practise of the virtues of benevolence, righteousness, and rites to achieve a superior level of morality. This process of cultivating virtues has its origin in biological bonds and starts from the intimate affection and respect learnt in the family. Special considerations of welfare and interests should be accorded to one's family members, especially parents, and then extended towards other people. Namely, love in the Confucian moral view is not universal or impartial, but is differentiated or graded with an emphasis on family.

The traditional principle of "medicine as the art of humanity or humaneness" (*yi nai ren shu*) can best reflect the nature of medicine in Confucian view, which is also based on *ren*. Medicine has long been regarded as an essential part of Confucianism, at the same time, the most important ethical requirement of "medicine as the art of humaneness" is that Confucian physicians, apart from mastering a high-standard of medical knowledge and clinical skills, must practice medicine from a heart of humanity or sympathy and in accordance with Confucian moral principles and ideals (*ren xin ren shu*).

This is an extremely concise representation of Confucian ethics and medical ethics whose origin dates back to 2500 years ago. Both China and the rest of the world have witnessed tremendous changes in their economy, politics, and morality in the last century. It is almost impossible to determine the prominence and prevalence of Confucianism in contemporary Chinese society. Perplexing bioethical challenges

have provided a significant opportunity to re-examine and revisit traditional ways of life.

For many Chinese scholars working on bioethics, tackling the issue of the relationship between bioethics and Confucianism is to face the dilemma of the 'commitment to the general' and the 'commitment to the special'[21]. The first is the commitment to seek the answers that are 'true' while the second is their need of answers that are somehow 'theirs'. According to Levenson, the first commitment brings many people to intellectual alienation from Chinese tradition, while the second leaves them with an emotional tie to it. He believed intellectual alienation and emotional ties intensify each other.

I do not believe general bioethical truth is fundamentally incompatible with ideas in Confucianism as this alleged dilemma implies. It is my interest in exploring and resolving bioethical challenges, my pursuit of some bioethical 'truth', that brings me to examine Confucian perspectives, although I believe finding something for the Chinese that is 'theirs' is also important. Actually, in this thesis, I am not completely 'loyal' to Confucian ethics, namely, I do not have a commitment to special Confucian doctrines. This is not only because I commit myself more to seeking bioethical truth, but also because for some ethical problems, I believe Confucianism is not the (only) tradition we could seek truth in for China. This is demonstrated, for example, in the chapter where I propose the idea of 'impartial caring' in promoting blood donation, whose origin is from one of Confucianism's most fierce rivals, the school of Mohism.

1.2 Two cultures, one myth: Overcoming some common mistakes in assumptions

The construction of this cross-cultural bioethical inquiry is a two dimensional project, which includes the vertical dimension - critical interpretation and analysis of ancient doctrines with an eye to "extracting the insights behind the text that link up with our own contemporary concerns and interests"[22] and the horizontal dimension

[21] Levenson, J. R. (1968) supra n.15.
[22] Loi, S.K.(2009) 'Studying Confucian and comparative ethics: methodological reflections', *Journal of Chinese Philosophy,* vol.36, no.3, pp.455-478.

- comparison and contrast between Chinese moral traditions and Western theories. This enterprise is largely influenced by how we perceive Chinese and Western culture.

For centuries, China and Chinese morality has long been portrayed as the 'radical other' to the West both in and outside of China with varying attitudes and evaluation:

- Dating back to 13th century, Italian traveller Marco Polo was amazed with China's material wealth, enormous power, and complex social structure and morality;
- 18th century Hegel harshly criticised that there was no real philosophy in China and Confucius was merely a "practical statesman" and not a "speculative thinker".[23]It is notable that he said this almost one hundred years after another German philosopher, Christian Wolff, was expelled from the University of Halle for his lectures acknowledging the genius of Chinese civilisation and designating Confucian thought as a branch of "moral philosophy"[24];
- 19th century British philosopher John Stuart Mill, also warned in his essay *On Liberty* that without promoting individuality in society, Western civilisation will be "stationary" like the 'bad' example of Chinese civilisation which lacks individuality. He believed individuality encourages creativity and diversity while values China cherished, such as conformity, collectivism, paternalism, are 'dangerous'[25];
- "*the man who loved China"*[26], 20th century British scientist and historian Joseph Needham, in his *Science and civilisation in China* series, admired the 'wonderful' synthesis of Confucian philosophy which produced a harmoniously 'organic' and 'non-mechanical' evolutionary materialism while

[23] Kim, Y.K. (1978) Hegel's criticism of Chinese philosophy. *Philosophy East and West*. vol.28, no.2.
[24] Hettche, M.(2008) "Christian Wolff", *The Stanford Encyclopedia of Philosophy*, Edward N. Z. (ed.), accessed on (2nd March 2013) http://plato.stanford.edu/archives/fall2008/entries/wolff-christian/
[25] Mill, J.S.(1998) *On liberty and other essays*. Oxford: Oxford University Press..
[26] Winchester, S. (2008) *The man who loved China—the fantastic story of the eccentric scientist who unlocked the mysteries of the Middle Kingdom.* New York: HarperCollins.

criticising, and saying that "Christianity should sit down in the lowest room" and make an effort at "greater mutual understanding"[27].

The earliest and direct Western appraisals of contemporary Chinese medical ethics in particular have also demonstrated opposing attitudes. In 1979, the Kennedy Institute of Ethics (one of the leading bioethics programmes) organised a trip to China for a serious evaluation of contemporary Chinese medical ethics. Disappointingly after two weeks of interviews with Chinese scholars and doctors and observation in hospitals, the group's spokesperson, H. Tristram Engelhardt, later reported harshly that "in the real sense there is no bioethics in the PRC as a scholarly sub-discipline" and the Chinese took ethics as a "mode of moral indoctrination" (and in this case 'Maoist-Leninist-Marxism', he explained later) and they "failed to distinguish principles" from the "grounds" or "conceptual foundations" that justify these principles.[28] In contrast, only two years later, two American sociologists, Renee Fox and Judith Swazey, reported rather positively about medical ethics in China after their six weeks of field work at a Western-style hospital in Tianjin. They accused Engelhardt of an "inadvertent ethnocentricity" and were in no doubt about the existence of Chinese medical ethics, which emphasises a spirit of self-sacrifice and self-cultivation, a lofty sense of responsibility, modesty, self-control and devotion to family and nation, and other virtues.[29,30]

These aforementioned authors have varying degrees of engagement with and understanding of the Chinese perspective and some of the studies cannot properly be called comparative research. Regardless of whether one takes a position of appreciation, or criticism towards Chinese traditions, or integration of both Chinese

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[27] Cowling, M.(1993) 'Joseph Needham & the history of Chinese science'. *The New Criterion*. accessed on (3rd March 2013): http://todayinsci.com/N/Needham_Joseph/Needham1993.htm

[28] Engelhardt also speculated the reasons for the absence of bioethics in Chinese scholar is that 1) their lack of extended experience with a variety of moral viewpoints; 2) unfamiliarity with discussions focused primarily on discovering the comparative intellectual merits of varying moral viewpoints apart from any immediate concern to establish or maintain a single one; and 3) their overriding tendency, because of dialectical materialism, to hold that all ethical reflections are reducible to economic forces. Engelhardt, H. T.(1980) Bioethics in the People's Republic of China. *Hasting Centre Report*, vol.10, no.2.

[29] Nie, J.B. (2000) 'The plurality of Chinese and American medical moralities: toward an interpretive cross-cultural bioethics.' *Kennedy Institute of Ethics Journal,* vol.10, no.3.

[30] Fox, R.C., Swazey, J. P. (1984) 'Medical morality is not bioethics: medical ethics in China and the United States.' *Perspectives in Biology and Medicine*, vol.27, no.3.

and Western morality, they made the mistake of dichotomising Chinese culture and the Western culture as a static, monolithic and collective China versus a dynamic, pluralistic, individualistic West which are in radical opposition to each other. Perhaps because differences always sound more interesting than similarities, plus this assumption is convenient and easily applicable, it gains enormous popularity in all kinds of discourse and still dominates cross-cultural Chinese-Western medical ethics studies in particular.[31]

The assumption of a monolithic, static, and unified Chinese culture in general and a single medical ethics in particular is a myth. Chinese culture is much richer and more diverse and complex than the literature has indicated.[32] Its internal plurality and diversity has often been neglected and minimised in literature and official discourse, if not totally ignored. In order to appreciate the great diversity of Chinese medical ethics, this work takes into account both the influence of Confucianism and other competing theories, for example, I discuss the Mohist and Communist framework in moral issues in blood donation in China.

Even if there are certain merits in these assumptions, another important and deeper problem is whether these perceived differences between China and West are culturally grounded or are based in the sorts of theoretical commitments that transcend cultural boundaries.[33] This problem is difficult and I present two common mistakes in conceptualising trans-cultural comparative study to help elucidate this point: for one thing, a trans-cultural bioethical study should not focus on the contrast in cultures, or in this case, the anthropology of Chinese medical ethics and Western bioethics, but rather the contrast in basic philosophical attitudes or types

[31] To list a few, see: Hsu, F.L.K. (1970) *American and Chinese: reflections on two cultures and their people.* New York: Americian Museum Science Book. ; Macer, D. (2004) *Challenges for bioethics from Asia*. Eubios Ethics Institute.; Nisbett, R.E. (2003) *The geography of thought: How Asians and westerners think differently…and Why*, New York: free press. ; Ong, A. and Cheng, N.N. (eds) (2010) *Asian Biotech: Ethics and communities of fate*. Durham: Duke University Press.; Qiu, R.Z. (ed.) (2004) *Bioethics: Asian perspectives: A quest for moral diversity*, Dordrecht: Kluwer Academic Publishers.

[32] Born and raised up in the remote Xinjiang Uyghur Autonomous Region in the northwest of China, where half of the population are Muslim ethnicity, having a brother who recently converted himself into Muslim, I was lucky to feel and experience the cultural diversity, pluralism and openness perhaps in a much deeper degree in China. I am sure many people in other parts of China also share the same view which might demonstrate in other aspects apart from religion and ethnicity.

[33] Hall, D., Ames, R. (1987) *Thinking through Confucius*. Albany: State University of New York Press.

of philosophy that transcend cultures. To claim that American culture prioritises individual liberty while Chinese culture emphasises collective welfare is one thing, but it is another thing to habitually conceptualise the philosophy of East and West in dichotomising and dualistic terms. For another, the comparison between Chinese philosophy and Western philosophy should not be understood as the contrasting of "all the philosophies of one culture with all those of another".[34] Eastern and Western philosophical traditions are both pluralistic in nature and do not exhibit over-all characteristics. Besides, the fundamental philosophical ideas that comparative study should focus on occur at various times and in various cultures aside from the geographical distinction of East and West.[35] For example, the Hebrew and the Chinese cultures have many striking similarities in their thought while Indian Idealism shares a lot of common features with Daoism.[36]

This thesis is an endeavour of overcoming these two common misconceptions to clarify the scope and theme of cross-cultural bioethical study in a particular case of China and the West. A more meaningful and fruitful approach is to contrast the differences in similarities and similarities in differences between Chinese tradition and Western theory as advocated by Nie. According to this principle, I will briefly discuss the differences in similarities, for example, the comparison between utilitarianism and the thinking of *Mozi*, as well as Confucian teachings and the virtue ethics from Aristotle. Although I took Confucian doctrine as the main source of Chinese ethical tradition in this comparative study, nevertheless, this was primarily because of its relative preponderance in Chinese culture, which makes it "appear distinctive or unique, and not because of any inherent linguistic, racial, or geographic characteristics". [37] In addition, the philosophical attitudes towards ethical issues in HIV/AIDS policies offered in this work are not meant to be exhaustive but merely illustrative. There may be some disagreement about the attitudes of a particular tradition, but I believe this will not affect the validity of my approach.

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[34] Laurence J. Rosan. (1952) 'A key to comparative philosophy', *Philosophy East and West*, vol.2, no.1.
[35] Ibid.
[36] These two examples are both from Laurence J. Rosan. (1952) supra n.30
[37] Ibid

After the clarification and articulation of the role of culture in Chinese-Western comparative bioethical studies, there are also some general difficulties, or dispositions, or attitudes in the activities of comparative analysis we should be vigilant about. As a matter of fact, some of the philosophers, in my earlier overview of historical literature with respect to China, fall victim to one or two of these faults/vices. I will mainly present two of them which I paid conscious attention to throughout this study, the chauvinist or ethnocentric attitudes and the incommensurability view.

Chauvinist or ethnocentric attitudes in comparative analysis are manifested by the habitual attempt to find or expectation of finding something comparable to one's own thought system which is presumed to be mirrored in a foreign culture. There is a presumption in this attitude that the home tradition one comes from is best and that insofar as the others are different, they are inferior or erroneous. A common prejudice is the belief that unless philosophy is done in a certain kind of way, then it cannot properly be considered philosophy. [38] It is much more common for the orientation and evaluation of philosophy to be from West towards East or other non-Western traditions. In this activity, we should resist the tendency to find explanations based on one side's moral tradition, thereby prejudging the other one. For example, by failing to find the notion of individualism valued in the West, Mill regards Chinese philosophy as backward which leads to weakness in China's traditions. By contrast, chapter 8 in this work is devoted to arguing for the existence of the notion of "moral responsibility" in China against the belief that there is no account of moral responsibility in China.

Another difficulty is the incommensurability tendency of exaggerating and dichotomising cultural differences and believing they are incommensurable with each other[39]. It is undoubted that there are huge differences in views of different traditions and indeed some may be incommensurable. For example, the inability to translate some Chinese concepts into equivalent Western terms. However, we

[38] Littlejohn, R. (2005) Comparative philosophy. *Internet Encyclopaedia of Philosophy*. Accessed on (3rd March 2013) http://www.iep.utm.edu/comparat/

[39] Wong, D. (1989) 'Three Kinds of Incommensurability', In *Relativism: Interpretation and Confrontation*, in Krausz, M. (eds), Notre Dame: Notre Dame University Press.

should not suspend all judgment about the adequacy of each view from different philosophies, or, uncritically accept the other traditions simply because they are different. There is the assumption in this incommensurability approach that there is no common or objective moral criterion so it is impossible to make a judgment between two different views from two different traditions.[40] This assumption is clearly wrong as we as humanity share much common morality, e.g. benevolence, respect, etc. across cultures and various boundaries. Moreover, through "thick description and interpretation", the apparent incommensurable medical moralities can be critically understood, and "similarities or comparabilities will emerge"[41]. Furthermore, another method is also proposed to overcome this difficulty, that is, learning about the other tradition as a remedy. The idea is to come to an understanding of how the other philosophical tradition is tied to a life that humans have found satisfying and meaningful.[42]

I may have cleared some of the theoretical obstacles in conducting cross-cultural bioethics study, but I believe these exercises can best be demonstrated in the study of our present concerns and experiences. AIDS, a serious disease and also a complex phenomenon that involves many layers of issues, provides a perfect context for this study.

1.3 Why choose HIV/AIDS?

Forming a shared contemporary ground is crucial to the project of comparative study between Confucian and Western ethical theories. Disease, as well as health, has always been a fundamental component and unavoidable element of life in human history. Moral and ethical problems concerning the same disease as well as corresponding healthcare and treatment and policy, which have arisen from different cultures, or in the same culture but in different historical periods, can have very different considerations and take very different forms (of course there may

[40] Littlejohn, R. (2005) supra n.34.
[41] Nie, J.B.(2000) 'The plurality of Chinese and American medical moralities: toward an interpretive cross-cultural bioethics', *Kennedy Institute of Ethics Journal*. vol.10, no.3.
[42] Wong, D. (2011) 'Comparative Philosophy: Chinese and Western', *The Stanford Encyclopedia of Philosophy*, in Edward N. Z.(ed.), accessed on (3rd March 2013) http://plato.stanford.edu/archives/fall2011/entries/comparphil-chiwes/

also common features). But in this study, why have I chosen AIDS in particular among many other diseases which also have a global spread and a trans-cultural nature?

There are many reasons for choosing HIV/AIDS as the context of this work but perhaps one of the earliest factors that drives my interest in HIV/AIDS, and certainly not the most significant reason, appeared quite accidentally and is related to my experience as an intern in a prestigious hospital several years ago and thousands of miles away in Beijing. During the time of the internship, I was an ambitious medical student determined to try my best to help patients and be a good doctor. One day, in our emergency ward came an injured woman, who was in need of an urgent operation. As my classmates and I were busy preparing excitedly for the observation of the surgery, a moment later we were told that the surgery was cancelled because the patient was HIV positive. I recall vividly the look of helplessness and shame expressed on the couple's faces, when the woman and her husband were told they could not be treated here and they need to transfer to another hospital (far away in the suburb of Beijing) where HIV positive people can be admitted. At that time I had no idea about HIV or AIDS (the disease was not covered in the Chinese medical textbooks at that time) but I got the feeling that this disease is serious, maybe infectious, and sort of shameful or disgraceful.

Later I learned that AIDS stands for acquired immunodeficiency syndrome and HIV is short for human immunodeficiency virus. It is fatal and infectious through direct blood contact. But there's one problem implicit in this case that has affected me for a long time: I guess it is this woman who told doctors about her HIV status (voluntarily or upon request) before the surgery because a blood test for HIV takes time and is not the routine before operation in emergency situations. Therefore, it shows she had huge trust in doctors and wanted to protect doctors from contracting HIV from her in the course of their surgical operation. But why did our doctors, who are supposedly to "practice medicine from a heart of humanity or sympathy" *(ren xin ren shu)* respond so cruelly to this poor woman by refusing to treat her when she needed the treatment desperately?

My interest in the response to HIV/AIDS has been lasting apart from this initial encounter. But this emotional tie with AIDS did not become philosophically interesting until I embarked on this Chinese-Western bioethical comparative study. Soon I found HIV/AIDS can provide an especially rich and intriguing subject for an inquiry into cross-cultural bioethical comparative analysis primarily for three reasons:

Firstly, HIV/AIDS is relatively new and unexpected and accordingly we were culturally and medically unprepared for it. HIV/AIDS has the potential to evoke an original reactivity and expose the most deeply-rooted moral values and convictions which are otherwise difficult to identify, within a short time in different societies. It also gives us the opportunity to witness how the attitudes have evolved in the past decades and plan our orientations in the future.

Secondly, AIDS is fatal and contagious and related to a variety of serious complications and infections. This seriousness is perceived to have a significant impact on people. More importantly, due to the intimate and private nature of the transmission routes, HIV/AIDS has been associated to some 'deviant' lifestyles and behaviours as well as those groups practising them, e.g. homosexuals, drug users, and prostitutes. In Chinese society, these are the people who want to 'hide' and therefore it is very likely that attitudes towards them would drive HIV/AIDS into a 'hidden epidemic'. Another sense in which HIV/AIDS is 'hidden' or 'sneaky' refers to its asymptomatic period when it is still contagious. This challenge requires rather novel strategies and measures which are often stringent or draconian, for example public health approaches such as quarantine or isolation – we seem to have learned little from the past.

Thirdly, globally, perhaps we all share the same universal healthcare measures, such as antiviral therapy, public education and campaigns, in responding to HIV/AIDS under the same mission of curbing HIV/AIDS, but our moral practice and experience concerning HIV/AIDS and people living with HIV/AIDS, as well as their practice and experience, are very unlikely to be the same due to different moral traditions. It would be fascinating and fruitful to compare and contrast different

moral ideas with relevance to HIV/AIDS and draw lessons from this to develop a humane and effective strategy towards HIV/AIDS.

This work tries to be very self-conscious in choosing appropriate terms or metaphors in HIV/AIDS discussion, especially the important question of how to refer to those who are identified as being sero-positive to HIV. I will adopt the term "people living with HIV/AIDS" (PLWHA) favoured by activists within the HIV-infected community over that of "AIDS victim" or "AIDS patient" in this thesis. I agree with them that this term makes explicit the fact that they are whole persons and not just disease sites and they are still very much alive. In other words, "HIV is something that happens to people, but it does not constitute them" and we must continue "to recognise that infected individuals are more than their virus or illness".[43]

1.4 The content of the thesis

By employing critical interpretation and comparative analysis, this thesis carefully examines a number of key topics in the ethics of AIDS in China from a cross-cultural perspective. Topics including views on personhood and the vulnerability of PLWHA; prioritising and balancing the role of 'harm reduction' (misperceived as the secondary goal) and the role of 'eradication of deviant behaviour' (misperceived as the primary goal) in AIDS policy in China; an opt-out approach in HIV testing; a duty-based approach to HIV testing and biobanks; blood donation; moral responsibility and personal responsibility for health; and the popular rhetoric of 'innocent infection' versus 'guilty infection' in AIDS.

Chapter 2 provides a general overview of three competing moral theories in contemporary Chinese medical ethics, Confucian ethics, Communist ethics, and Western autonomy-oriented bioethics. It briefly examines how these three theories combine and interact in the scenario of AIDS, especially how political intervention has shaped public's understanding of AIDS in China.

[43] Sherwin, S. (2001)'Feminist ethics and the metaphor of AIDS', *Journal of medicine and philosophy*, vol.26, no.4.

In chapter 3, I explore the role of the concept of a relational personhood in light of Confucianism in the context of HIV/AIDS. I offer a critique of the fashionable view in favour of the application of relational personhood for fulfilment of public health goals, but I argue that there is also a negative impact which increases the vulnerability of PLWHAs when it is applied to HIV/AIDS context.

In chapter 4, using the same method of careful interpretation, I present an intriguing and popular Confucian idea of '*zhengming* (rectification of names)'. In contrast to the previous chapter, I argue for the use of this concept in the effort to counter some negative metaphors and stereotypes, old or new, in contemporary representations and conceptions of AIDS and PLWHAs. There are various labels and names attached to HIV and people, for example, the label of 'gay plague' in the West or 'loving capitalism disease' in China, as well as the language of 'innocent infection' versus 'guilty infection' in classifying PLWHAs, these 'names' are practically problematic and ethically misleading, and shall be removed from our discourse of AIDS with the help of this indigenous idea of *zhengming* in China.

Chapter 5 illustrates a serious fallacy in a core strategy in Chinese AIDS policy: it introduces one important and widely-accepted Chinese concept that stems from traditional Chinese medicine (TCM), involving *biao* (branch/symptom) and *ben* (root). The imported Western idea of behaviour intervention programmes, namely, "Harm Reduction" aiming at the behaviour modification for high risk groups is conceived as '*zhi biao*' (treating the symptoms). And it is seen as just a stop-gap measure and so is assigned relatively low status and priority. Whereas enforcing the law against drug users and prostitutes and ultimately eliminating them is considered as '*zhi ben*' (treating the root cause). The fallacy is this misapplication and mis-designation of *biao* (branch) and *ben* (root) in Chinese AIDS policy.

Chapter 6 is comprised of two parts: the first part explores the compatibility of a rights-based approach to HIV testing and the Chinese context. It argues that the WTO/UNAIDS approach to HIV testing—an opt-out system—it is not suitable or justifiable in the Chinese context, particularly because it does not fit with duty-based Confucian morality. To further illustrate the confrontation of right-based approach and duty-based familism, the second part shows an analogous example

to HIV testing, biobanking, where a duty-based familism approach from Confucian moral ethics is proposed as an alternative to the rights-based informed consent approach to decision making.

Chapter 7 is about blood donation, this subject is also the intersection of a socialist planning approach, the Confucian idea of 'gradational love', and the Western principle of altruism. I investigate some ethical issues in the socialist 'work unit quota' system in Chinese blood donation and also identify some Confucian beliefs which discourage people from donating blood to strangers. Finally, a Mohist framework with the central principle of 'impartial caring' for blood donation in China is proposed in order to promote general altruism.

Chapter 8 is an attempt to construct an important theory of moral responsibility in a Confucian virtue ethics perspective. In light of this Chinese account of moral responsibility, a popular notion in the West - 'personal responsibility for health' - has been conceptualised and some of its distinctive features have been identified in the Chinese context. Some features such as hierarchical responsibility and relational identity would make the activity of assigning responsibility in China highly contextual and subjective. While others, interestingly, such as the holistic view towards health would make the absolutist conflict between the autonomous individual and the socially responsible community approach to health promotion in some Western societies very likely to dissolve in an idealist Chinese version of health promotion.

Chapter 9 is the conclusion of this work. It will recapture the main themes and ideas of this thesis. Firstly, although Confucian ethics is prevalent in Chinese society, there are diverse medical moralities and ethical experiences in China. The internal complexities and pluralism need to be taken seriously. Secondly, through the lens of HIV/AIDS and the comparison with concepts from the Western ethical framework, some deeply entrenched cultural beliefs and values in Chinese tradition have been identified. A critical [re]interpretation and [re]examination of these beliefs is crucial in evaluating the role of them in HIV/AIDS prevention. Respect for diverse cultural beliefs does not mean that they can be privileged over morality. Thirdly, the future of bioethics in China and its capability to address ethical

challenges in contemporary problems depends on how well it can reconcile and integrate the insights and achievements in China, the West, and elsewhere. And likewise Western ethical traditions may also benefit from engaging in in-depth dialogue and discussion with its Chinese partner.

2 Chapter 2 - Ethical reflections on Confucianism, Communism and human rights through the lens of HIV/AIDS in China

2.1 Introduction

In contemporary Chinese ethics, there have been continuous tensions among three major competing moral theories. First, the long-standing cultural heritage of Confucian ethics, although it has experienced various social upheavals, remains deeply embedded in current social, legal and daily affairs. Second, as a socialist state since 1949, the arrival of Marxism and Communist ethics and their significance in China had and still has a predominant role in governmental documents and some academic references. Third, the western bioethics and human rights concept derived from liberal theories which have also started to be influential in the way Chinese people think and practise, especially after the 'open-door' economic policy in 1978. Frankly, aggressive western criticism of China's human rights record has strengthened the impact of western theories in recent years, but it has also been challenged by many Chinese scholars and politicians whether this denunciation is genuinely concerned about rights issues in China. In this chapter, I shall start with an introduction of traditional Confucian ethics and briefly introduce the Chinese understanding of Communist ethics, and then explore how these two systems combine, interact and impact on contemporary Chinese ethics and society. A representative case of HIV/AIDS will be employed to demonstrate this impact. Finally, the distinct self-perception of human rights as well as bioethics will be explored in the light of China's own philosophy and tradition.

2.2 Confucian moral philosophy

Unlike western countries with a heritage that is chiefly Judeo-Christian, China holds a distinctive philosophical perspective, primarily Confucian morality. Confucianism has evolved and developed over two millennia (206BC-1911CE) and had been practised as a state ideology in many dynasties. Compared with western rights-based liberal belief, Confucian morality has a virtue-based and duty-based feature giving a central place to *ren* ('benevolence'/'humanness'). The envisaged

ideal state or society, as well as the ultimate goal Confucius sought, is the desire for social harmony (*hexie*). Confucius believed that peace and good governance should be based on social order, and that social order should be based on virtues. He strongly rejected appealing to military force by the feudal ruler to administer the state. This is evident in his words,

> *"If the people be led by laws, and uniformity sought to be given them by punishments, they will try to avoid the punishment, but have no sense of shame. If they be led by virtue, and uniformity sought to be given them by the rules of propriety, they will have the sense of shame, and moreover will become good".*[1]

To today's ears, this sounds defective for ignoring the legal and jurisdictional effect on governance. However, through the words we can understand the magnitude of the emphasis which Confucianism accorded to virtue and societal harmony. This concept of harmony remained the focus of successive rulers for the next two thousand years and was embodied in general life. It is notable that in recent decades, this notion has been developed and promoted massively by the Chinese government, and this will be examined later.

2.2.1 Duty-based Confucian hierarchy

In order to achieve social harmony, each person in Confucian society is put in relations with others, accorded an explicit defined position and required to fulfil a variety of duties. This role-fulfilment tradition has played an important role in ancient China as well as contemporary China. The relationships, duties and roles were encompassed in the Confucian distinctive hierarchy system, which also functions as the basis of Confucian society. The most practised hierarchy system is the Five Cardinal Human Relationships (*wulun*).[2] These comprise,

1. Ruler to minister
2. Father to son
3. Husband to wife

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[1] Legge, J..(1971) Confucious: *Confucian Analects, The great Learning and The Doctrine of the Mean*, New York: Dover Publications.
[2] Chan, W.T. (1969) *A source book in Chinese philosophy*, New Jersey: Princeton University Press.

4. Elder to younger brother
5. Friend to friend

These relationships form the basic social structure of Confucian society and are firmly based on 'superior to inferior' (with the exception of the fifth). Each role in the relationships has ritual obligations and responsibilities to the others and at the same time each member enjoys due consideration accorded by the other components. A son, for example, has a duty to show filial piety (*xiao*) and be obedient to his parents, likewise, the populace are required to be loyal (*zhong*) and obedient to their rulers and government. In turn, the father has a duty to act as a moral example to his son while the ruler should feel obliged to show solicitude to the populace and govern the state in a benevolent (*renzheng*) way. Nevertheless, the duty owed by the superior to the inferior is not as absolute and equivalent as that in reverse. In China, a father beating and caning his son, for example, for his bad grades in school, could be interpreted by the public more leniently as an inappropriate way of showing love and ensuring education,[3] however, almost nobody would tolerate the same treatment being given to the father by the son regardless of any reason, and such behaviour was regarded as a severe crime in ancient Confucian society. This culture reflected the entrenched Confucian conviction that the inferior are always morally inferior to people possessing a superior position and hence deserve the stricter requirement of performing and fulfilling their duties to the superior.

However, it should be noted that moral development is a dynamic, progressive, open-ended process. The current moral hierarchy should not be understood as a repressive, rigid classification of morality between people in different relationships. As I shall argue in Chapter 8, the assumed higher morality of rulers, fathers, husbands and elder brothers comes from the higher responsibility ascribed to them according to their role in the relationships. This does not mean in reality that a ruler's morality is always higher than that of his subjects; the message is that it is imperative that people with increased responsibilities should be moral, or more moral than the people below them. In Confucian societies, everyone is expected to

[3] As an old Chinese saying "*gun bang chu xiao zi*", which means "Spare the rod spoil the child".

cultivate their own moral character and progressively to achieve a higher stage of morality, regardless of their position in relationships.

2.2.2 Virtue-based ethical system

Ren, Yi and *Li* are the core values and the foundation of virtue in the Confucian ethical system. *Ren* means 'benevolence', 'love' and 'humanity'. It is the most important virtue, as was stated by Mencius: "*Ren* is the distinguishing characteristic of man".[4] The cultivation of virtue is understood as a commitment to benevolence (*ren*) from state government to interpersonal interactions. A famous notion of benevolent government (*renzheng*) manifested the significance of pursuing and practising *ren* at the level of government. The ruler was duty bound to care for and safeguard the welfare of the people, through which he will acquire people's loyalty in return and that will lead to the desired harmonious society.

Yi is normally translated as 'righteousness', 'justice' and 'obligation'. The virtue of righteousness "forms the necessary component of a virtuous life and restrains the inclinations towards material goods and desires of pleasure and comfort".[5] It is usually performed as the chief criterion of people's behaviour. *Li* refers to rituals, ceremony, etiquette and rules of propriety. *Li* (rites) in the narrow sense represents the ceremonial order, but in the broad sense connotes the socio-political order.[6]

Ren, Yi and *Li* are the essential features that a *junzi* ('exemplary man', 'gentleman') in Confucianism must acquire. Becoming a gentleman is a self-cultivation process with the continual pursuit and practice of the virtues of benevolence, righteousness and rites to achieve a superior level of morality. Confucius believed that this self-cultivation process distinguishes the *junzi* from the *xiaoren* ('common man', 'average man') despite the fact that they are naturally alike in the first place. He wrote that "by nature, men are nearly alike; by practice, they get to be wide apart".[7] However, in Confucian morality, self-cultivation is not only about 'self'; a gentleman

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[4] Legge, J. (1970) *The Works of Mencius*, New York: Dover Publications.
[5] Cheng, C.Y. (1991) *New dimensions of Confucian and neo-Confucian philosophy*. Albany: State U of New York Press.
[6] Schwartz, B.I. (1985) *The world of thought in ancient China*, Cambridge, MA: Harvard University Press. pp. 67-68.
[7] Legge, J. (1970) supra n.4.

has an obligation to improve the virtue of others to attain the ultimate goal — promoting the political order and social harmony. This thought was espoused by another perspective insisted on by Confucius that a *Junzi* is qualified and should be endowed for a position as a governmental official (*xue er you ze shi*), just to enhance his power and social responsibility (to influence others), as such men are believed to have higher morality and to be more virtuous than others.

2.2.3 The importance of family in China

Family is an essential social institution and an important moral value in Chinese society. The family plays an essential, active and important role in many bioethical issues. Traditional Confucian ethics accorded a central importance to the interest of the family. This has been used as the supporting argument for a number of medical practices involving decision-making; for example, the practice of non-disclosure of medical diagnosis in China has been attributed to the value placed by Confucianism on the primacy of the family. It is assumed that the practice of non-disclosure is more beneficial to family members and, more importantly, it is the agreed decision of all family members.[8]

Family is a vital element of Chinese culture but the interpretation of it is also crucial in bioethical challenges. In the same case of the role of family in medical truth-telling, others interpret that "truth-telling can empower family members to better support dying patients, attend to the needs and wellbeing of their loved ones, and diminish the feelings of abandonment and loneliness experienced by their suffering relatives".[9] By interpreting family in this way, values of the bond of love and interdependence in family can be better strengthened by truth-telling than by non-disclosure.

Family values need to be respected but other important moral ideals, such as *cheng* ('truthfulness' or 'sincerity') should not be neglected. With regard to the role of the family in informed consent, more empirical studies are needed to investigate the real preference and will of patients, in order to resist to the assumed 'best

[8] Fan, R.P., and Li, B.F. (2004) 'Truth telling in medicine: the Confucian view', *Journal of Medicine and Philosophy*, vol.29, no.2, pp.180.
[9] Nie, J.B. (2011) *Medical Ethics in China: A transcultural Interpretation.* New York: Routledge.

interest' argument claimed by those who hold the primacy of family value, also to address the issue of unbalanced power within family, such as domestic violence.

Confucian ethics predominantly influenced Chinese society during the time that Confucianism was China's state ideology. However, the fate of Confucianism in modern times has had ups and downs and the predominant ethical principles accordingly have changed in Chinese society. In the last century, the experience of Confucianism was divided roughly into three events/periods: after the May Fourth Movement from 1919, Marxism became the state ideology from 1949 and Mao's era (including the Cultural Revolution), and the period of the last two decades up to the present has been under the post-Maoist Communist Party. I shall briefly examine the effect produced by the May Fourth Movement on Confucian morality, and then focus on a comparison between Communist ethics and Confucian ethics.

2.2.4 The revolutionary movements and Confucianism

Confucianism experienced hard times in the New Cultural Movement in the late nineteenth and early twentieth century and was fatally stoked by the May Fourth Movement in 1919. Facing modern western strong guns and fire power, as well as social and political theories, compared with China's poverty and weakness, many young western-educated or influenced intellectuals insisted that Confucianism was the cultural and ideological factor contributing to such immense disparity. The movement had slogans such as 'Mr Democracy', 'Mr Science' and 'Saving China' and was motivated by a belief that these new modern western theories could save China from unenlightened and decayed feudal ideology. In contrast, 'down with Confucius and sons' was sloganized through the magazine *New Youth* in this movement as intellectuals held that the objective of Confucianism was primarily protecting the interest of totalitarian rulers of past feudal dynasties, which is fundamentally hostile to advanced western rational thinking.

The May Fourth Movement had a long-term and profound effect on Chinese history. In terms of mentality, it significantly further popularized many modern, western ideas such as democracy, liberalism, utilitarianism and especially the democratic spirit. For example, young people began to claim individual freedom

and reject arranged marriage, and the old family system and its superiority status was challenged. This movement produced an atmosphere of radical nationalism and led to the rise of new, politically-conscious social forces, together with intellectuals who were thus more prepared to organize into a political group, the Chinese Communist Party (CCP). Complete rejection of Confucianism as a whole abandoned many good items that should have been be retained, however, it definitely cleared the way and facilitated the spread of Marxism in China, which is recognised in much of the Chinese scholarly literature.

2.3 Confucian ethics and Communist principle

On the surface, after the anti-Confucian campaigns and then as a new socialist state ideology since 1949, the Marxist principle is opposed to Confucianism. However, in terms of moral values, there was a significant degree of continuity between Confucianism and Chinese Marxism since both of them incorporated a concept of 'Sinified Marxism', which constituted the central part of Maoism. The Chinese revolutionaries Mao Zedong and Liu Shaoqi analysed at length the 'Sinified Marxism' advocating combining orthodox Marxism with Chinese practice in order to suit the Chinese context. It encompassed many important elements of Confucian heritage and most of those were hidden in Communist doctrines, principles, ethics and public opinion. The umbilical cord between the Confucian ethics and Chinese Marxist ethics relied on consistent moral and spiritual values. This view is supported by further research as discussed below.

2.3.1 Individual rights and collective interest

First, Communism advocates an holistic collective vision when facing the fundamental question confronting human society: the relationship between individual and collective. Communist ethics accorded high priority to collective interest rather than individual rights, which is agreeable with Confucian ethics. Mao Zedong talked in detail about the relationship between collective interest and individual interest, insisting that individual rights must be unconditionally obedient to collective rights, because only collective interest could represent the foremost

interest of the whole people (*renmin*).[10] Actually, the collective really referred to is the CCP and the interest of people is equivalent to that of society and the country. The emphasis on the collective and subordinate position of the individual manifested itself through many folk literatures during that time using figurative expressions such as that the individual is to the collective as a drop is to the ocean or a screw to the machine.

This preference towards collectivism did not sound unfamiliar to common Chinese people because traditional Confucian society was group-based, and family interest took priority in almost every sphere of an individual's life from childhood through to old age.[11] The extended concept of collective from family to CCP, society and state is understandable as long before Confucianism had held the similar perspective that the realization of an individual's interest is contingent upon the fulfilment of corresponding responsibilities owed to other people and society. Therefore, the superiority of role performance in Confucian legacy precisely accommodated and provided an ethical foundation for Communist collectivism. In this sense, Communist ethics consequently just embodied this belief with concrete formulas, such as the CCP, socialist society, nation. As can be seen in such doctrines, subordinating individual to collective and behaving with self-sacrifice and unselfishness are considered as practising ethics.

2.3.2 Marxist Class struggle and Confucian virtue-based Grand Unity Society (*da tong shehui)*

The element of class struggle (or anti-capitalist struggle) in Marxism is anathema to Confucian morality. Unfortunately, Mao Zedong firmly upheld this principle and believed that the class struggle is the nature of most of human contradictions and forms the centre of understanding of the world.[12] Under the slogan 'class struggle as the key link' (*yi jieji douzheng wei gang*), the objective of class struggle is to exterminate 'class enemies' — as defined by the CCP — mainly constituted by

[10] Mao, Z.D.(1995) '*Lun lianhe zhengfu 1945(On Coalition Government1945*)', the Reports and Speeches of Mao Zedong at the Seventh Party Congress, Beijing: Zhongyang wenxian chubanshe (The CCP Central Research Press) (in Chinese) pp. 21-22.
[11] Baker, H.D.R.(1979) *Chinese family and kinship*, New York: Columbia University Press. pp 32-33.
[12] Mao, Z.D. (1967) *Mao Zedong Xuanji* (*Selected works of Mao Zedong)*, vol 1-4.Beijing: Renmin chubanshe (People's publication press).(in Chinese)

members of the bourgeoisie who have been deprived of any rights and interests. In contrast, the proletarians, an alliance of workers and peasants, are entitled to rights and freedom. During the Cultural Revolution (1966-1976), “Mao’s application of the Marxist theory of class struggle reached a traumatic climax, bringing widespread economic devastation and cultural destruction to the country”.[13] The Confucian social and moral system also suffered devastating destruction under the slogan 'Destroy the Four Olds' (old ideology, old culture, old habits and old customs) of traditional Chinese culture. It was a chaotic era full of struggle, hatred, torture, ordeal, execution and so on, and at the same time it was a decade of ethical and moral vacuum. For example, even for the most intimate relationships within the family, it was fairly common during the Cultural Revolution for sons and daughters make up evidence to incriminate their parents in order to show ideological purity and commitment to Marxism. Such behaviour was considered highly criminal in Confucian morality due to the core value of filial piety. In the ten years of the Cultural Revolution, “human rights were wantonly violated, human dignity was gravely undermined, and crimes against humanity went unpunished”.[14]
It should be noted that due to the excessive intensification of the principle of class struggle, the Cultural Revolution in its later stage deviated from the original intention of clearing the way for a Communist society. Nevertheless, this principle is intrinsically incompatible with Confucian philosophy in two ways. First, the Confucian value of harmony and stability is in opposition to struggle and conflict. To achieve the goal of a Grand Unity Society (*datong shehui*) in Confucianism, people are encouraged to practise virtues such as *ren* (benevolence), *yi* (righteousness) and *li* (rituals). The best resolution of conflict in Confucian morality is compromise or giving way. Conversely, according to Chinese Marxism in Mao’s era, the best way to resolve most of the contradictions and as an indispensable mean of attaining a pure Communist society was class struggle. Second, indeed, Confucius divided people into *junzi* (gentleman) and *xiaoren* (ordinary man), but the only criterion for that distinction was from a perspective of humanity — whether

[13] Lu, X. (2004) *The Rhetoric of the Chinese Cultural Revolution: The Impact on Chinese thought, culture, and communication.* Columbia, SC: University of SCP.
[14] Ibid.

he possesses morality and virtue irrespective of wealth and poverty. According to Confucius, the "poor man who does not flatter, and the rich man who is not proud"[15] are both virtuous, and their practice of the rules of propriety is the ethical way to adjust material inequality. It is clear that there is no hatred of the rich or opposition to private property in Confucianism. By contrast, in Chinese Marxism, people are divided into different classes such as proletarian and bourgeoisie according to the standard of whether or not they possess capital goods. Privilege and honour was given to class allies while capitalist members were considered contemptible.

These two contrary beliefs have both had a profound impact on the contemporary Chinese psyche, ethics and politics. However, the implementation of a market-oriented economy and the advancement of technology makes people's concerns nowadays varied and complex. Many ethical problems regarding wealth, poverty, disease, ideals and inequality emerged claiming the need to rebuild the ethical system in modern China. Contemporary Chinese society is an admixture influenced by complicated and multi-ethical systems. To examine how these ethics integrate and interact in China today, it is important to find a representative case with significance and ethical implications and complexity. After careful thought and reflection, the HIV/AIDS epidemic, which is probably the most challenging health problem in China of our time, is the one that I am going to examine.

2.4 Case study: HIV/AIDS and its ethical implications in China

At the end of 2011, the estimated number of PLWHAs in China is 780,000, of these, 28.6% were women. There were 154,000 cases of AIDS.[16] In 2008, the HIV virus replaced tuberculosis and became the leading cause of death by infectious disease for the first time.[17] The HIV/AIDS epidemic has been accompanied by an

[15] Legge, J..(1971) supra n.1.

[16] 2012 China AIDS Response Progress Report. Ministry of Health of the People's Republic of China. accessed on (12th March. 2013): http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report%5B1%5D.pdf

[17] The bulletin of infectious disease case report update. (2008) Chinese Ministry of Health accessed on (1st Sep.2012) http://www.moh.gov.cn/publicfiles/business/htmlfiles/mohbgt/s3582/200809/37758.htm

epidemic of stigmatization against people living with HIV/AIDS.[18] On the one hand, this phenomenon is particularly severe according to a number of studies which have revealed that stigma and discrimination are very common in China and have been the chief barriers holding high-risk groups back from seeking HIV testing and general medication.[19] [20] [21] On the other hand, for China's HIV/AIDS control and prevention programme, the most important and critical issue is how to get the people affected by this 'hidden epidemic' tested, treated, supported and cared for. Without identifying the factors associated with stigmatization and the discriminatory attitude towards PLWHA, it is hard to achieve the goal of high uptake in HIV testing. However, most of the studies with this aim have been population-based and were conducted following a KABP (Knowledge, Attitude, Behaviour and Practice) methodology and rationale in China. Hence, they have drawn the almost unanimous conclusion that stigma and discrimination are common in China and are significantly associated with misconceptions and the low level of HIV-related knowledge. Unfortunately, due to the lack of in-depth investigations of factors which derive from the historical and cultural contexts independent of HIV-related knowledge, but which can inhibit or promote particular attitudes or behaviours, these studies have failed to interpret some prevalent phenomena. For instance, it contributes little to explain the fact that a substantive percentage of well-trained health-care providers present prejudicial attitudes towards PLWHA.[22] Here, I am going to explore whether and how Confucianism and Communist ethics, the two major ethical systems in China, have had any influence on the development of the stigmatization and discrimination of HIV/AIDS. To do this, I shall also follow the

[18] Varas-Diaz, N., Serrano-Garcia, I. Et al.(2005) 'AIDS-related stigma and social interaction: Pueto Ricans living with HIV/AIDS', *Qualitative Health Research*. vol.15, no.2, pp.169-87.
[19] Lee, M.B., Rotheram-Borus, M.J. et al,(2006) 'HIV-related stigma among market workers in China', *Health Psychology*, vol.24, pp.435-438.
[20] Lieber, E., Li, L. et al. (2006) 'The National Institute of Mental Health (NIMH) Collaborative HIV Prevention Trial Group. HIV/STD stigmatization fears as health-seeking barriers in China', *AIDS and Behaviour*, vol.10, pp.463-471.
[21] Liu, H., Hu, Z. et al. (2006) 'Understanding interrelationships among HIV-related stigma, concern about HIV infection, and intent to disclose HIV serostatus: A pretest-posttest study in a rural area of Eastern China', *AIDS Patient Care and STDs*. vol.20, pp.133-142.
[22] Li, L., Wu, Z. et al. (2006) 'Using case vignettes to measure HIV-related stigma among health professionals in China', *International Journal of Epidemiology*, vol.36, no.1, pp.1-7.

evolution of China's response to HIV/AIDS instead of the popular line of the different periods in the spread of HIV/AIDS.

AIDS is a disease which is unprecedented in that too much weight of moral judgement and political value has been attached to it. There was a long period full of neglect, ignorance, fear, anxiety, awakening awareness, mis-steps and trial-and-error until the officially turnaround of reaction to AIDS around the millennium and consequently the first legislation specifically aimed at controlling HIV/AIDS released in 2006, two decades after the first case was diagnosed. This long period of silence fostered an atmosphere for the prevalence of stigmatization and discrimination. Moreover, inappropriate early control strategies added significant negative effects on HIV/AIDS and further strengthened the stigma towards PLWHA in contemporary society. In general, the development of discriminatory attitudes towards HIV/AIDS was keeping up with China's evolved response to the spread of the epidemic, as is discussed in the following paragraphs. It is felt that there were all the while continuing attempts to divide people into different categories in terms of HIV/AIDS.

2.4.1 The evolution of response to AIDS

2.4.1.1 A 'Western disease'

The first AIDS case in China was the death of a foreign tourist in 1985. In the five years which followed, a small number of cases, either infected overseas or by imported blood products, were identified. The issue did not draw too much attention and was considered to be a consequence of a decadent western problem linked to homosexuality and 'abnormal' sexuality. For China, it was just "the flies blown in as the side effect of reform and the open-door policy".[23] The strategy at that time was to stop this westernized disease from entering China and to enforce restrictions on people and blood products from overseas. In that era, HIV/AIDS was perceived as a 'symbol' of capitalism as reflected by its early Chinese name

[23] Pan, S.M. (2003) *Zenyang to lijie aizibing ganranzhe? (How to understand HIV infected people?)* Beijing: Zhonggong zhongyang dangxiao chubanshe (Party School of the Central Committee of CPC Press).(in Chinese)

aizibing, which literally means 'loving capitalism disease'. [24] Hence, it was optimistically held by officials that the common people in a socialist society had nothing to do with this epidemic, because China's superior ideology, cultural identity and cultural superiority could prevent people from contracting AIDS.[25] As a result, this strong sense of complacency made China's early-stage HIV policy isolated. However, discrimination was not apparent in that era as most people were not aware of this disease.

2.4.1.2 A 'drug users', blood donors', sex workers', homosexuals' disease'

The second period starts from the outbreak of China's indigenous HIV cases among 147 drug users in Yunnan province in 1989, near the southwest border, until the mid 1990s. During that time, HIV spread steadily from Yunnan into neighbouring provinces and from drug users to their sexual partners and children. During this period, the most prominent event was the notorious commercial blood donor case in the central region, which contributed to a sharp increase in HIV cases. In addition, transmission through heterosexual sex in the east-coast cities increased rapidly. Since HIV cases were primarily concentrated in drug users, commercial blood donors, sex workers and homosexuals, this gave the government and the populace a strong impression that HIV/AIDS could be curtailed and controlled within these groups. Based on this assumption, a series of containment and isolation policies were enforced and a notion of 'high-risk groups' was widely prevalent among the general public. For instance, laws against drug use and prostitution were strengthened and the authorities were allowed to isolate HIV-positive individuals. Here it is important to note that unfortunately these attempts took place prior to the massive HIV/AIDS-related knowledge education programme. It was prevalently held that HIV/AIDS was absolutely related to designated high-risk people rather than high-risk behaviour. This wrong popular belief had a fairly long-term impact on people's perception of HIV-related risk in China, and I shall return to examine this later. All the above events, especially the negative history of the officially-sanctioned isolation policy, strengthened and even

[24] Chinese Bureau of Hygiene & Tropical Diseases AIDS Newsletter (1990), News item 213.
[25] AIDS: Will it spread in China. Beijing Review. 1987.

doubled the existing discrimination and hostility towards those people who indulged in behaviours disapproved of by society.

The emphasis on targeting HIV-related high-risk people and the already existing stigmatizing attitude towards deviant behaviour mutually reinforced each other to such an extent that it aroused the renaissance of the principle of class struggle between the non-infected and the infected. But this time, the theme was no longer anti-bourgeoisie, but about moral inequality. It is easy to find traces of Confucian moral hierarchy in the group classification of human morality, as 'non-infected' represents the members of the upper and middle classes socially and morally while the 'infected' and associated groups represent low-class and the morally inferior. The latter were labelled with a variety of negative features, such as stigma, discrimination, filth, desperation and intemperance, and, most importantly, the belief that they were the carriers of a fatal contagion. In this sense, these people were felt to be enemies of the public, because their social position and interests were fundamentally in contradiction with the interests of the rest of the population. Hence, the idea of sacrificing the interest of these PLWHAs to protect the welfare of others was increasingly becoming the underpinning principle in dealing with HIV/AIDS-related issues. This evolved conception of class struggle, combined with a traditional conservatism towards sex, is able to explain some prevalent relentless assertions, such as the belief ‘those with abnormal sexuality deserved being infected by the HIV virus as a punishment against promiscuity’. HIV/AIDS was seen to be the ‘last approach to purge and purify sexual morality’ and a call for faithful sex partners, and even sexual abstinence, was prioritised at that time.

2.4.1.3 Official turnaround of reaction to HIV/AIDS

There were many shifting emphases in HIV/AIDS policy and mentality during the third period from late 1990s to the present. After the traditional methods proved ineffective, and the increasing trend of HIV spread beyond the high-risk population into the general public, together with the observation of the dramatic devastation caused by HIV/AIDS in other countries, the government’s attitude eventually changed substantially. In the late 1990s, a notion of harm-reduction targeting behaviour interventions and massive raising of awareness of HIV programmes

were introduced. Behaviour intervention involves the provision of condoms, needle exchange programmes, and methadone maintenance treatment programmes. However, although these proved effective in societies similar to China's, these innovative strategies triggered heated debates due to their bold challenge of traditional moralistic attitudes. To public thinking, these policies give the appearance of condoning and consenting to stigmatised behaviours, those highly dismissed by traditional moral belief. To eliminate worries and fears about the policy as well as the already prejudiced attitude towards high-risk groups, a series of official events and campaigns were implemented, such as hand-shaking between a top political leader and an AIDS patient in 2003, the 'Four Free and One Care'[26] policy in 2004 and the specific HIV-related regulation in 2006.[27] The first voice about the elimination of discrimination was in the AIDS Regulation which indicated that it is illegal to discriminate against people living with HIV/AIDS and their families. Although to some extent these actions had an active effect on the public, PLWHAs have still been stigmatized commonly as has been revealed by many recent studies.

2.4.2 Innocent infection VS Guilty infection

Increased HIV-related knowledge among the general public was far from sufficient to achieve the goal of eliminating discrimination. In recent years, with the rising awareness of HIV transmission routes, the targets of discrimination did not disappear, but changed. There is a growing tendency to treat HIV-positive people who contracted the condition through different modes with distinguishing attitudes. Those who have a so-called 'innocent' infection, for example, from a blood transfusion, are conceived of as deserving compassion, sympathy and support and of being the victims of HIV/AIDS disseminators. Therefore, they are more likely to

[26] The content of 'Four Free and One Care' policy is: Free antiretroviral drugs to AIDS patients who are rural residents or people without insurance living in urban areas; Free voluntary counselling and testing; Free drugs to HIV-infected pregnant women to prevent mother-to-child transmission, and HIV testing of newborn babies; Free schooling for AIDS orphans; Care and economic assistance to the households of people living with HIV/AIDS.

[27] State Council of the People's Republic of China. (2006) *Regulations on AIDS prevention and treatment*. Decree of the State Council of the People's Republic of China number 457. Beijing, (in Chinese).

disclose their sero-status publicly. In contrast, people with a 'guilty' infection as contracted by sex workers or homosexuals are still facing the same grave discrimination as in previous years. According to a large-scale survey conducted in 2008, 31.7% of the interviewees thought that people with HIV/AIDS deserved their disease because of their sexual behaviour or drug abuse.[28] Apparently, a continuity of adherence to human classification in traditional 'class struggle' thinking remains, albeit not as evident as before. It is identifiable that these discriminatory beliefs about HIV infection are not simply the results of a deficit of HIV-related knowledge, but are the expression of stigma. This dogged stigma has been interpreted by some scholars as a synergy between the stigma attached to AIDS as an illness and the stigma attached to the groups linked to AIDS in popular perceptions, the "symbolic stigma".[29] To some extent, AIDS stigma has served as a vehicle for expressing hostility towards sexual minorities and injecting drug users.[30]

The important point to be drawn from above rigid classification is the significance of this 'symbolic stigma'. These facts provide the case of how deeply-ingrained stigma derived from traditional moral judgments, but regardless of knowledge, can have such an impact on popular perceptions of this disease. As mentioned above, due to multiple factors, 'abnormal' sexual behaviour has been hardest hit by this negative attitude as it was sometimes believed to equal AIDS by social psychology, so combating AIDS actually refers to combating homosexuality and promiscuity. This sexual prejudice has a foundation in contemporary Chinese morality rather than Confucian ethics. Early Confucian masters had a positive attitude towards sex. The *Book of Rituals* says that appetite and sex are the major desires of human beings. However, there was no explicit discussion on homosexual preferences, and there was no affirmation or condemnation of homosexuality.[31] Some scholars have inferred that the attitude of Confucius towards homosexuality

[28] China AIDS Media Partnership (CHAMP) (2008) *AIDS-related Knowledge, Attitudes, Behaviour, and Practices: A Survey of 6 Chinese Cities*. accessed on (2nd Sep.2012): http://www.unaids.org.cn/uploadfiles/20081118143056.pdf

[29] Herek, E.M., Widaman, K.F. (2005) 'When Sex equals AIDS: symbolic stigma and heterosexual Adults' inaccurate beliefs about sexual transmission of AIDS', *Social Problems*, vol.52, no.1, pp.15-37.

[30] Ibid.

[31] Chan, J. (2007) 'Confucian attitudes towards ethical pluralism', in Bell, D.A. (eds) *Confucian Political Ethics.* New Jersey: Princeton University Press. pp.113-135.

was rather pragmatic as long as it did not interfere with social stability and good interpersonal relationships. At least it may not have been immoral as it is in today's perception. According to some historical records, during the Qing dynasty, the practising of homosexuality was widespread, as some scholar stated that "The Manchus indulge in homosexuality".[32] The sexual attitude of the public was rather free and acceptable, as can be manifested by the fact that brothels flourished widely and that homosexuality was openly practised, and was even fashionable among the upper class at least in the past several centuries. Unfortunately, homosexuality experienced a change from a golden age to a dark age[33] in modern China in the twentieth century, which is believed to be the result of the introduction of western homophobic belief. The connection between negative moralistic values and these abnormal sexual behaviours was formed in people's judgement at that time. The harsh suppression of homosexuality and prostitution after the establishment of the People's Republic of China and Communist ideology in 1949 made this view especially strong. Those prohibitions were stipulated in laws (although the law did not ban homosexuality, it was only removed from the list of psychiatric disorders in China in 2001[34]) and by official repression, and homosexuals and prostitutes are frequently punished and therefore, further stigmatized and marginalized in society.

2.4.3 The Politicization of HIV/AIDS in China today

In addition to sexual prejudice, the politicization of HIV/AIDS also contributes to the attitudes of discrimination towards PLWHAs and the classification tendency of the Chinese public. The pursuit of economic growth has been prioritised as the primary concern since the implementation of the open reform policy in 1978, while collectivism is the chief principle in mentality. Those two main concerns are also embodied in the official AIDS documents. The language regarding AIDS has

[32] Ruan, F.F.(1991) *Sex in China, studies in sexology in Chinese culture.* New York: Plenum Publishing.
[33] Ibid.
[34] Liu, H., Yang, H. et al. (2006) 'Men who have sex with men and human immunodeficiency virus/sexually transmitted disease control in China', *Sexually Tansmitted Diseases, vol.*.33. pp. 68-76.

expressed unsubstantiated predictions which were so exaggerated and horrific that it has caused significant social panic. For example, the assertion from the State Council's documents in 2004 saying that "the control of AIDS is pivotal to the nation's survival",[35] and warnings such as "if we fail to control AIDS, the economic progress we have achieved during the last two decades by the open-door policy will be completely destroyed."[36] The government's active response in AIDS policy is laudable, but such language displays too much utilitarian concern and political emphasis. It might be oversimplified to say that the ultimate concern inferred from that language is economic growth rather than the health rights of individuals. But anyway one may easily infer from the rhetoric the view that people are treated as a means for economic ends in HIV control projects.

The practical effect of this unprecedented stress on a specific disease from the top leadership is that it has clearly sent a message to the masses that combating AIDS is not only a public health goal, but also a political and national mission. Such information has effectively aroused public patriotism and mobilization to strive for success in AIDS control at any cost in a socialist country. In the public mentality, these sentences also provide a legitimate account for the entrenched principle of collectivism in the name of national mission. Collectivism was fully performed in people's attitude and practice in many areas of AIDS-related issues. Moreover, the principles of 'minority surrender to majority', and 'collective interest takes precedence over individual rights' dominate the judgement of high-risk groups in China generally. Since they are the sources of the AIDS epidemic, their interest is deemed to militate against the welfare of the whole collective and ultimately the nation. The most effective form of constraint is to revoke all their rights and subject them unconditionally to the larger collective. This belief in turn enforced the inclination to classify people in order to impose the restrictions effectively, for which it is essential to separate the minorities from the rest of the population. However, although the application of collectivism is problematic, compared with the 1990s,

[35] State Council of the People' Republic of China (2004) *A notice about strengthening the prevention and treatment of HIV/AIDS from State Council of the People's Republic of China*, Decree of the State Council of the People's Republic of China number 7. Beijing. (in Chinese)
[36] Liu, K.M. and Yuan, J.H.(2003) 'Impacts of AIDS on Chinese society and economy', *Academia Bimestris,* vol.5.(in Chinese)

there has been some progress in the public's thinking on the affiliation of high-risk groups. Nowadays they are increasingly perceived as patients rather than enemies. This means that they are gradually being accepted as members of the society despite their identity still being deemed detrimental to the collective, while in the 1990s these people were severely excluded from the general citizen community.

2.4.4 The perception of risk in HIV/AIDS

So far, we have examined how Confucian ethics and Communist ethics have had an impact on people's attitudes towards AIDS and sexual morality. Yet, as I have already mentioned, it also appears that these theories and their application have shaped society members' perception of risk in AIDS and ultimately affect the public health programme, and this belief is less dependent on the awareness of HIV-related knowledge. In the transmission of HIV, the conviction has been firmly established among people outside the risk groups that contracting HIV primarily occurs through contact with high-risk groups instead of high-risk behaviour. A study conducted in a county with the highest HIV prevalence among China's CARES[37] counties revealed that the single top reason why participants did not ask questions relating to HIV was that it was "not necessary, because I am not at risk" (78.9%).[38] This view implicitly expresses the meaning that 'I am not gay, a prostitute or an IDU'. Another survey indicated the striking finding that 52.3% of respondents considered China's HIV/AIDS situation to be 'serious' or 'very serious', yet most (88.1%) felt that they were not at risk.[39]

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[37] In 2003, the Ministry of Health implemented the China CARES Program by establishing 51 community-based HIV/AIDS comprehensive care pilot centres in regions with the greatest number of HIV/AIDS cases. This programme includes provision of treatment with domestically produced antiretroviral drugs, healthcare and education, intervention programmes including stigma reduction and interventions to reduce mother to child transmission, and VCT. Further information see: China Ministry of Health and UN Theme Group on HIV/AIDS in China(2003) *A joint assessment of HIV/AIDS prevention, treatment and care in China*. Beijing: Ministry of Health of China.

[38] Ma, W., Detels, R. et al. (2007) 'Acceptance of and barriers to voluntary HIV counseling and testing among adults in Guizhou province, China', *AIDS.vol.*21 (Suppl 8):S129-35.

[39] China AIDS Media Partnership (CHAMP) (2008) *AIDS-related Knowledge, Attitudes, Behaviour, and Practices: A Survey of 6 Chinese Cities*. accessed on (2nd Sep.2012): http://www.unaids.org.cn/uploadfiles/20081118143056.pdf

Actually, these misconceptions are also popular among inside-risk groups and constitute major barriers to voluntary HIV counselling and testing (VCT). One study which has provided direct information about the perception of risk involved interviewing people who admitted having had male-male sex experience, and concluded that the respondents were inclined to use a moral standard in evaluating their exposure to male-male sex-related risk. This study reports that respondents choose "self-discipline" and "faithful in love" as their criterion for choosing sex partners.[40] In addition, due to the high moral imposition on so-called high-risk people, the very title of 'homosexual' is especially rejected by in-group people. This is reflected in the interview from another study that unprotected male-male sex performers tend to marry heterosexuals as they perceive this could be the evidence that they are not gay and not exposed to risk.[41] Obviously, when existing stigmatized groups have been conceptually associated with AIDS, it is easy to understand why the perception of risk is guided by moral judgement.

The hidden belief is that 'HIV is about people, not behaviour'. Following this erroneous thinking, it could partly explain why the important approach of condom use in the harm-reduction strategy in AIDS has been facing frustration in China. Many studies have suggested that condom usage among the general population and the target groups remains low despite free condom campaigns.[42] This is precisely because the use of condoms is conceived as incongruous with the sexual moral standard adopted to assess partner and risk. In a previous study, when asked about the perception of the condom, one MSM replied, "I know how to use it, but I have never used one. I really do not need it because I am very cautious about finding partners". Love and trust have been prioritised as the primary concerns when communicating with potential partners. In contrast, condom usage implies lack of trust and loyalty and thus is something that should be avoided. In addition, the official acceptance of condoms is rather late and initially misleading. China's first condom advertisement, promoting their use to prevent the spread of HIV, was

[40] Pan, S.M. (Ed.) (2004) aizibing shidai de xingshenghuo (*Sexual life in the era of HIV/AIDS)*. Guangzhou: Nanfang Daily Press. (in Chinese)
[41] Chan, J. (2007) supra n.32.
[42] Ibid.

banned just one day after it was unveiled in 1999. The reason given for this was its illegal promotion of sex commodities,[43] as sex is a long-standing taboo rarely openly discussed. In addition, the frustration of promoting condom use is also associated with its Chinese somewhat 'obscene' notion. This persisted until 2001 when the Ministry of Health redefined the condom as 'a medical device' rather than a sexual commodity. After this, the promotion of condoms has a legitimate account. But it is still a belief that the primary function of a condom is just as its Chinese name *Bi yun tao* states, since it means, 'sheath to avoid pregnancy'. The efficacy of contraception as a means of prevention is apparent, but the effect of preventing HIV and other communicable diseases has been overshadowed for a long time. The name was converted to *An quan tao*, which literally means 'safety sheath', by the State Family Planning Commission in 2002.[44] Nevertheless, it was not until 2007 that the first influential television campaign for condom use as an anti-HIV measure was screened. This shows that even such a small progress takes a long time to shift from moral concern to pragmatic concern in terms of attitudes to sexual matters in official thinking.

2.5 Human rights and bioethics in contemporary China

We have already seen how Confucianism and Communist ethics have had an impact on HIV-related issues in a transitional Chinese society. Another distinctive theory on human rights has started to become influential in today's China despite it being understood to bear some ‘alleged’ unique Chinese characteristics. Below are words from the preface to the 1991 White Paper on Human Rights officially issued by the State Council of the People’s Republic of China,

> *The issue of human rights had become one of great significance and common concern in the world community. The series of declarations and conventions adopted by the UN have won the support and respect of many countries. The Chinese government has also highly appraised the*

[43] News: Condom advertisement is banned. *Beijing Morning Post*.1999. Accessed on (7th Nov. 2011): http://web.peopledaily.com.cn/zdxw/14/19991201/19991201142.html (in Chinese)
[44] Wen, C.H. (2002) ‘No condoms, please, we are Chinese men’, Asian Time online, accessed on (7th May 2011) http://www.atimes.com/china/DD11Ad01.html

Universal Declaration of Human Rights, considering it the first international human rights in the world arena.

Having experienced decades of silence on this sensitive topic, the post-Mao era has witnessed a continuing commitment to the improvement of human rights as claimed by the Chinese government. This formal official stance on human rights might be criticised as merely lip-service and hypocrisy. But at least the 'Communist' government does not say that human rights are alien to the Chinese culture, as many advocates of 'Asian values' believe. It is still a formal acknowledgement of the value and significance of human rights.

2.5.1 Human rights and Chinese culture

Perhaps the most frequently asked question is whether human rights are compatible with Chinese culture and applicable in Chinese society. Some resolutions and guidance have been provided by The Universal Declaration on Bioethics and Human rights (UDBHR) adopted by the United Nations' Educational, Scientific and Cultural Organisation (UNESCO) in 2005, and words from Article 12 (titled 'Respect for cultural diversity and pluralism') clearly read,

"The importance of cultural diversity and pluralism should be given due regard. However, such considerations are not to be invoked to infringe upon human dignity, human rights and fundamental freedoms nor upon principles set out in this Declaration, nor to limit their scope."[45]

Clearly, this article shows its universal moral and political stance of upholding values including human dignity, human rights and freedom, which is good, but it wrongly presupposes the opposition of some cultures, especially non-western cultures, to these universal values. As one scholar pointed out, "the assumption holds[ing] that such norms as human rights, human freedom and human dignity are basically Western ideas, have no grounds in other cultural traditions, and are therefore in contradiction with non-Western cultures … . UDBHR … has taken for

[45] UNESCO.(2005) *Universal Declaration on Bioethics and Human Rights*, accessed on (4th Nov. 2011) http:// portal.unesco.org/en/ev.php - URL_ID = 31058&URL_DO = DO_ TOPIC&URL_SECTION = 201 html

granted a widespread and stereotypical view of the relationship between human rights and non-Western cultures…"[46]

I leave open the question of what society or community does the concept of human rights originate from, but it is a fact that people from many non-western societies have been persistently pursuing human rights and have paid a huge price for their efforts. Furthermore, I would also argue that there are positive elements in non-western cultures that promote and embody universal human values (including human dignity and human rights) which have not been neglected. Actually, our understanding and perception of human rights have been greatly enriched by these elements.

In recent years, there have been increasing volumes of literature providing compelling evidence that human rights are not at all incompatible with Chinese moral-political systems, such as Confucianism.[47] [48] Either by identifying human rights-friendly notions or their equivalents in Confucian classics, especially in the works of Mencius, or through focusing on some Chinese intellectuals at the beginning of last century who were advocating western ideas, including human rights, these scholars have found and stressed these elements of 'sameness' between Confucianism and human rights. These people might only focus on the liberal and human humanitarian aspects of Confucianism, and in contrast, others would focus on the more conservative and authoritarian aspects of Confucianism.[49] The latter would either argue that Chinese culture is hostile to human rights or, at best, present a quite different interpretation with respect to the more orthodox western version of human rights.

For example, by invoking the idea of duty in Confucianism and the notion of collectivism in Marxism, the Chinese government and the Chinese Communist Party (CCP) argue for human rights with distinctive Chinese characteristics: 1) China's discussion of human rights is strongly associated with duties and

[46] Nie. J.B. (2011) *Medical ethics in China: A Transcultural Interpretation*. New York: Routledge.
[47] De Bary, W.T. (1998) *Asian values and human rights: A Confucian Communitarian perspective*, Cambridge, MA: Harvard University Press.
[48] De Bary, W.T. and Tu, W.M. (eds) (1998) *Confucianism and human rights*, New York: Columbia University Press.
[49] Svensson, M.(1999) 'Book review: Confucianism and human rights', in De Bary.W.T. and Tu, W.M. (ed.) *The Journal of Asian Studies*, vol.58, no.2.

collectives. According to Confucian virtue-based morality, each member of society is in relation to others and has obligations and responsibilities to perform. Self-cultivation and promotion is the process of 'duty performance' rather than a 'rights claim' in the social context; 2) the realization of individual rights is inseparable from those of the collective and can only be safeguarded within this wider framework. Here, unlike the western style of the most talked-about individual right, the interpretation of human rights thinking by the CCP insists that human rights are not restricted to individuals, but are also applicable to collectives. Furthermore, more priority and higher position is accorded to the interests and rights of collectives (its scope depends on the specific context but generally refers to the CCP, society and country) compared with the rights of the individual; 3) due to the current national condition, social-economic rights, or welfare rights should take precedence over civil-political rights. It is argued by them that this is because the provision of the material rights is an essential precondition for the genuine realisation and enjoyment of the political rights, just as scholars have argued that human rights need living human beings as a prerequisite.[50]

Since in Confucianism there do not exist any 'identical' or 'equivalent' ideas to human rights, a narrow focus on different aspects of Confucianism may generate different conclusions: indeed liberal notions in Confucianism fit the human rights idea whereas other themes, such as the hierarchical system in Confucianism, do not. More interestingly, some concepts in Confucian theory entail both conservative and liberal components: the previous CCP emphasis on welfare rights, rather than liberal rights, can be traced to Mencius's theory of *ren zheng* ('benevolent government'), as rulers were charged with the fundamental moral obligation to guarantee their people's material welfare. However, this concept also embedded the idea held by Mencius that people can and should rebel and overthrow the government if the rulers and the state are not serving the people.

Human rights are surely important for China. To say that Confucianism and traditional Chinese cultures have not generated a strong discourse for human

[50] Weatherley, R. (2000) Human rights in China: Between Marx and Confucius. *Critical Review of International Social and Political Philosophy.* vol.3, no.4. pp.101-125.

rights is one thing, it is completely another to claim that human rights are culturally incompatible with Confucianism and other Chinese political and moral traditions.[51] A rigid discussion of the [in]compatibility between human rights and Confucianism may not be very useful in reality. It is important to assess the specific context, and in some circumstances, an excessive 'rights focus' may cause some serious problems such as crime and disorder, while a 'duties focus' may better protect the interests of the people. In others, a rights-based approach should be applied even though the human rights idea is alien to the context. Therefore, a challenging task is to strike a balance between 'rights talk' and 'duties talk' in order to uphold morality, not to follow specific cultural traditions.

2.5.2 The features of bioethics in China

The relational understanding of rights, combined with Confucianism, provides a distinct foundation of bioethics in China. Many bioethics experts are trying to develop a Confucian approach to bioethical principles or to integrate approaches other than western liberalism. The moral values upheld in modern bioethics' four principles (respect for autonomy, beneficence, non-maleficence, justice) are expressly identifiable in Confucian philosophy.[52] Traditional Chinese values and virtues are less interpreted with a language of rights, but more discussed within a relational and contextual paradigm, particularly in health-care matters. More specifically, this concept is better able to allow us to talk about doctor-family-patient relationships and to bring patients' family relations into the orbit of care and concern.[53]

Another feature of bioethical discussion in China is the stress on the principle of 'beneficence' while downplaying the respect for autonomy and individual rights. This preference is substantially in keeping with the perception of human welfare rights and has penetrated health-care policy and biomedical decisions. Yet, without

[51] Nie. J.B. (2011) supra n.46.
[52] Tsai, F.C. (2005) 'The bioethical principles and Confucius' moral philosophy', *Journal of Medical Ethics,* vol.31, pp.159-163.
[53] Qiu, R.Z. (ed.) (2004) *Bioethics: Asian Perspectives, A Quest for Moral Diversity Series*, in Philosophy and Medicine Subseries: Asian Studies in Bioethics and the Philosophy of Medicine, Dordrecht, Boston: Kluwer Academic Publishers.

due consideration of the rights of the agents involved in health-care decision-making, some ethical principles, such as informed consent, privacy and autonomy, can hardly be warranted. For instance, on the subject of HIV/AIDS, more effort has been devoted to the implementation of welfare policies and the provision of accessible testing and treatment services, but less concern has been given to the autonomy of the individual, especially those in high-risk groups. In 2004, in order to extensively identify the numbers of PLWHAs, the Chinese government launched a national programme of 'active testing' for certain risk groups.[54] Although the figure found of HIV-positive people in Henan and Yunnan province was equivalent to the total number identified through voluntary testing more than ten years previously, the individual's autonomy and right to informed consent were severely violated. Unfortunately, this tendency of preferring compulsory testing is still prevalent among health-care providers and some provincial governments.

Clearly, more effort needs to be devoted to the promotion of the principle of respect for autonomy and individual rights, not simply to balance a dominant perception of emphasising the principle of beneficence, but also to resist the authoritarian and paternalistic approach (sometimes in the name of people's interest) to health-care issues, in order to genuinely protect the interest of the people and to show respect for their autonomy, especially those in the most vulnerable groups.

2.6 The rise of a Harmonious Society

With the rapid modernization and industrialization of China over the last two decades, the revitalization of Confucianism is becoming a key subject. This is a result of the decline of Marxist ideology which has created a relative moral vacuum. The concept of a 'harmonious society'[55] (*hexie shehui*) has now become a primary guiding principle in China over the past few years. Also, there has been an

[54] Wu, Z., Sun, X. et al. (2006) 'Public health. HIV Testing in China', *Science,* vol. 312, pp.1475-1476.

[55] The concept of 'building socialist harmonious society' (goujian shehui zhuyi hexie shehui) was first mentioned by Hu Jintao in Jakarta in April 2005 and elaborated upon at a UN speech in September of the same year. Then it was elevated to the theme in the *Resolution about Some Major Issues of Building Socialist Harmonious Society* at the 6th Plenary of the CCP National Congress in October 2006.

increasing tendency towards embracing humanism and democracy. This is not an era in which collectivism was excessively emphasised, but it was replaced by the interest of people. Compared with the past mottoes insisted on by official of 'Class Struggle as the Key Link' (*yi jieji douzheng weigang*) or 'The Only Truth is Development' (*fazhan caishi yingdaoli*), the new philosophy is best embodied in the slogans 'give priority to people' or 'people as the end' (*yi ren wei ben*),[56] which have been enthusiastically uphold by the top official leadership since 2003. This is a succession from Confucianism's abundant teachings of humanism; it is also a demonstration of genuine commitment to strengthening human rights. The shift of primary concern from economic development to the livelihood and rights of people will have a significant impact on the development of liberal human rights and the democratization of China. What is urgent is a "fresh vision of how the values of Chinese and Western civilizations can be fused into a long term, coherent vision of human rights norms and political morality that does justice to China's historical background and cultural traditions".[57] When it comes to society, giving people priority could virtually provide the foundation upon which the theory of 'building a harmonious society' and its effective operation is based. This is because this development enables the genuine, constructive discussion of equality and justice, respect for autonomy, diversity and legality, and promotion of trust and tolerance. All the above ultimately allow the attainment of the highest Confucian ideal; harmonious but dissimilar, unity without uniformity. Interestingly, one may accidentally find this relation by breaking down the Chinese characters of harmony, *hexie*, into smaller characters and then using the inherent meaning of those smaller characters to understand some aspect of *hexie*. The character *he* is composed of the meanings 'mouth' and 'millet', which demonstrate that everyone

[56] A full statement was formulated in a major resolution of the Central Committee of the CCP: 'uphold people as the end, establish a development concept aimed at all-round, coordinated and sustainable development, and bring about an all-round development of economy, society and people'. The CCP Central Committee Resolution on Several Issues about Perfecting the Economic System of Socialist Market Economy, passed at the 3rd Plenary of the 16th CCP Central Committee on 14 October 2003, available at : http://news.xinhuanet.com/newscenter/2003-10/21/content_1135402.htm.

[57] Chan. J. (1999) 'A Confucian perspective on human rights for contemporary China', in Bauer, J.R., Bell, D.A. (eds). *The East Asian Challenge for Human Rights*. Cambridge: Cambridge University Press. pp.212-237.

can have food to eat; and the character *xie* is comprised of ‘all’ and ‘word’, indicating that everyone can have words to express.

In the future chapters, I shall examine how these theories, especially doctrines from Confucian ethics, impact on and interact with various ethical issues and practices surrounding HIV/AIDS from a cross-cultural comparative perspective. The complexities and subtleness of medical ethics will be shown by examining specific ethical dilemmas concerning HIV/AIDS. In the next chapter, I shall explain the Confucian relational conception of personhood and further demonstrate how it impacts on the vulnerability of PLWHAs in China from two dimensions, within the family and outside the family, with the latter also understood as *guanxi*.

3 Chapter 3 - Vulnerability, relationality and personhood in HIV/AIDS in China

In the last chapter, we have seen a brief overview of three competing moral theories in contemporary Chinese medical morality, Confucian ethics, Communist ethics, and Western autonomy-oriented bioethics. In this chapter, I will discuss the Confucian relational concept of personhood and examine how the current understanding of it impacts on PLWHAs. I will also ask whether the Confucian concept of relational personhood could be interpreted differently in China in the face of the AIDS pandemic.

3.1 Introduction

Modern Chinese society is much influenced by Confucianism. Relational personhood, a concept deeply rooted in Confucianism, affects how Chinese people relate to each other. Broadly speaking, how a person relates to others can fall into two groups: within family and outside of family, with the latter also understood as *guanxi*.

People living with HIV/AIDS (PLWHAs) are commonly understood as a vulnerable group. This chapter seeks to explore, in the particular context of China, the question: “Does relational personhood reduce or increase the level of vulnerability of PLWHAs”?

This chapter is structured as follows. First, a definition of vulnerability and relational personhood will be given. There follows a brief overview of the ways relational personhood affects high-risk groups. The chapter will carry on discussing how relational personhood affects vulnerability in two areas: family and *guanxi*. This chapter argues that the philosophy of connectedness and relational nature has a negative impact in increasing the level of vulnerability of PLWHAs in China.

3.2 The concept of “vulnerability”

The concept of vulnerability varies across different disciplines and various settings. The word, “vulnerable” has its origins in the Latin verb *vulnerare*, to wound.

Contemporary conceptualization of vulnerability extends beyond its original context of physical harm. Some scholars define "vulnerability" as the ability of a person or group to anticipate, cope with, resist, and recover from the impact of a natural hazard.[1] Others conceive of vulnerability as "denoting a holistic set of fundamental interests, which, if not met through neglect or abuse, give rise to harm, deprivation or suffering."[2] These interests include at the most fundamental level, life, physical health and mental health, necessary to all, but in another sense, they can also encompass needs such as food, shelter, education, healthcare and bodily integrity.[3] Generally, vulnerability encompasses factors that lead to a variation in the impact of disease between different communities and individuals.[4] In the setting of HIV/AIDS, factors related to vulnerability analysis include individual factors (gender, age, pregnancy, literacy, lack of negotiating power, separation from families or partners, loneliness, alienation and despair), socioeconomic and political factors, (poverty, lack of legal protection, exploitation, harassment, discrimination against homosexuality, homophobia, xenophobia and lack of power)and programme-related factors (lack of access to prevention, treatment, care and support). It should be noted that these factors may overlap. Individuals possessing overlapping factors (e.g. a poor illiterate pregnant woman) are considered more vulnerable and have less access to treatment and support.

These factors have been significantly reinforced by AIDS-related discrimination and stigma. A recent report[5] based on a survey of the experience of more than 2000 PLWHAs in China, indicates stigma and discrimination experienced by people living with HIV is severe and most PLWHAs try to protect themselves by not disclosing their status to people outside their immediate social circle. Unfortunately a large proportion (almost 40%) of PLWHA experience problems caused by others

[1] Barnett, T., Whiteside, A., and Decosas, J. (2000) 'The Jaipur paradigm: a conceptual framework for understanding social susceptibility and vulnerability to HIV', *South African Medical Journal*, vol.90, no.11, pp.1098–1101.
[2] Bielby, P. (2008) *Competence and Vulnerability in Biomedical Research*, New York: Springer.
[3] Ibid.
[4] Oppong, J. (1998) 'A vulnerability interpretation of the geography of HIV/AIDS in Ghana, 1986–1995',*The Professioanl Geographe*, vol.50, issue 4, pp.437–448.
[5] The China Stigma Index Report (2009) http://data.unaids.org/pub/Report/2009/20091127_stigmaindexsummaryreport_en.pdf. (accessed on 13 May 2011)

revealing their status. Once a person's status is revealed, the attitudes of key people around them often change. Implicit in this disappointing phenomenon, is an emerging question, of what role the conception of personhood plays in the context of AIDS, within which privacy and confidentiality is crucial? In other words, does how people conceive of themselves and the way they are related to each other make a difference to their attitudes and experience of HIV/AIDS? It is of particular importance to raise this question in China, as with a different moral tradition it may shed some light on the current debates on personhood.

3.3 The Confucian conception of personhood

Culture shapes the way humans construe themselves as "the bed of a stream shapes the direction and tempo of the flow of water".[6] 'The central theme of Confucian ethics, '*ren'* (humaneness), which in the Chinese character means two persons and is pronounced the same as the Chinese word of "human", reflects the idea of relational personhood because the *Chinese conception of man is based on "the individual's transactions with his fellow human beings*"'.[7] To construct the Confucian idea of personhood, three concepts are worthy of exploring: human nature, cultivation, and human flourishing[8]. Human beings in Confucian society belong to and derive their existence from being related and connected since the moment of birth. As Liang clearly points out "…in Chinese thinking, individuals are never recognized as separate entities; they are always regarded as part of a network, each with a specific role in relation to others".[9] He proposed that the traditional Chinese person is neither individual-based nor society-based, but relational-based. Tu indicated that 'self' in the classical Confucian sense is both "a

[6] Lewin, K. and Lewin, G. (1948) *In Resolving Social Conflicts: Selected papers on group dynamics*,Harper, New York.
[7] Tsai, D. (2001) 'How should doctors approach patients? A Confucian reflection on personhood'. *Journal of Medical Ethics*. vol.27, no.1, pp.44-50.
[8] Yu, E. and Fan, R. (2007) 'A Confucian view of personhood and bioethics', *Bioethical Inquiry*, vol.4, pp.171-179.
[9] Liang, S. (1974) *Chung-kuo wen hua yao yi.* (The essential feature of Chinese culture). Hongkong: Chi cheng tu shu kung hsu. cited in: Tsai, D. (2001), supra n.7.

centre of relationships" and "a dynamic process of spiritual development".[10] He added that "one becomes fully human through continuous interaction with other human beings and one's dignity as a person depends as much on communal participation as on one's own sense of self-respect".[11] In Confucianism, an 'exemplary person' (*Junzi*) is socially defined as the ideal man of high moral achievement who always engages himself in interaction with others within the context of his social roles and relationships. In this process, he not only constantly tries to cultivate his virtues, but also to help others to achieve higher moral status. Therefore, the notion of the 'good life' in Confucian society also takes a relational feature. It is not only about one's material wealth, or even high moral accomplishments, but also about a harmonious relationship with other people. However, this self-improvement and harmony cannot be realized without one's effective recognition of the proper relational or social context.

The idea of relatedness and connectedness is also entailed in three virtues, namely *Ren*, *Yi* and *Li*. *Ren*, the cardinal virtue, has debatable definitions but the most widely used one is 'to love your fellow men'. *Yi*, though widely translated as 'righteousness', also has the element to 'be just to others' and 'be loyal to masters'. *Li*, defined as a social institution, regulates how individuals should interact with others. It defines duties and obligations to be owed by individuals given their pre-ordained social roles.

The Confucian conception of personhood is understood as relational, developmental and virtue-based. It contrasts with the concept of the person in the West. There are diverse and complex attitudes towards the concept of persons in modern bioethics in the West. Those who take a liberal perspective make the distinction between 'persons' and 'human beings'. As Engelhardt stated: "persons, not humans, are special". He then proposed that those who have the four characteristics of self consciousness, rationality, freedom to choose, and being in possession of a sense of moral concern, are "persons in the strict sense"[12]. Singer

[10] Tu, W. (1985) 'Selfhood and othernes'. in *Confucian thought: Selfhood as Creative Transformation*, New York: State University of New York Press. pp.113.
[11] Ibid, p.55.
[12] Engelhardt, H.T. (1986) *The Foundation of Bioethics.* New York: Oxford University Press. pp.120.

made a similar distinction, he argued there are two meanings of human beings: one is the member of the species *homo sapiens*, the other, a being who possess two crucial characteristics, rationality and self-consciousness.[13] Harris defined "person" as "a creature capable of valuing its own existence".[14] The human rights approach to the concept of person postulates that the core element of person is that he/she is a right holder.[15] An important part of the distinctiveness of the western idea of person is the belief that all human beings have, or hold, human rights. A right can be defined as a justified claim or entitlement, which can prevent others, no matter whether they are individuals or institutions, from interfering with one's decision-making choices or interests on various issues.[16] This emphasis on rights makes the Western construction of personhood more concerned with individuals rather than relational conditions of persons (or relationships between people). The way individuals interact with others would be that 'the rights-holder, in claiming a right, is asserting that he is entitled to be treated in certain ways by other people, and by social institutions'[17].

Implicit in these diverse Western understandings of the standards that could characterise personhood is the common ground, that is, persons, or moral agents, are rational, self-conscious, independent and autonomous 'rights-holders'.

However, the ultimate power that sustains Confucian society is virtue, not rights. Properly engaging in different roles and interacting with others by practicing virtues and fulfilling duties are essential elements of personhood. This relatedness has an

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[13] Singer, P. (1979) *Practical Ethics,* Cambridge: Cambridge University Press. pp.86

[14] Harris, J. (1999) 'The concept of person and the value of life', *Kennedy Institute of Ethics Journal*, vol.9, no.4, pp.293-308.

[15] Orend, B. (2002) *Human Rights: Concept and Context,* Peterborough: Broadview Press. pp.15.

[16] Admittedly, there are also other conceptions with rights and human dignity quite different from what I conceived here. In Human Dignity in Bioethics and Biolaw, Deryck Beyleveld and Roger Brownsword distinguish 'dignity as constraint' and 'dignity as empowerment' in their (moral and legal) analysis of human rights – in brief, they suggest that dignity as constraint is found in cases where a person's rights *limit* his choices, and those of others, in regard to what may be done by him or to him. In this instance, one's human rights are in opposition with freedom to decide. And then 'dignity as empowerment' refers to the type of cases I refer to here, where decision-making is what is protected. See: Beyleveld, D. and Brownsword, R. (2002) *Human Dignity in Bioethics and Biolaw,* Oxford: Oxford University Press. I am very grateful to John Coggon who brings this point under my attention.

[17] Ibid.

impact on creating a more collectivistic cultural norm[18], "influencing members to exhibit a more interdependent feature of existence"[19]. By contrast, although some rights-based accounts can be relational in Western societies, a more independent rights-based notion of human beings is relatively more prevalent in the West.

3.3.1 Relational personhood and HIV/AIDS in China

There are scholars who propose a relational approach (rather than an individualistic one) in dealing with public health problems, specifically in pandemic planning[20]. It is claimed, based on the concepts of relational personhood, with relational solidarity and social justice as its products, that the goals of public health and the common good, human survival, safety and security can be better achieved by this. It seems this approach is well suited to resolving public health problems in China where there is a relationship oriented society. However, this chapter argues that, placed in an HIV/AIDS context, a relational approach does not benefit but harms PLWHAs. To support this argument, the discussion will focus on two relational realms: family and *guanxi*.

3.4 The perspective of family

There is a story[21] about an HIV positive mother whose health status is unknown to her husband and parents-in-law. She gave birth to a baby and was informed fully that if she breast fed her baby, there was 5-20% chance that the virus would be transmitted to her baby. Although she was advised to use bottle feeding, she insisted on using breastfeeding. This mother was not constrained by individual or socioeconomic factors. She was educated and had access to high-quality formula milk. In this sense she was not considered to be 'vulnerable', using the definition of vulnerability above. What factors made her make such a decision? How did she

[18] Li, H. (2002) 'Culture, gender and self-close-other(s) connectedness in Canadian and Chinese samples', *European Journal of Social Psychology*, vol.32. pp.93-104.
[19] Ibid.
[20] Baylis, F. Kenny, N. and Sherwin, S. (2008) 'A relational account of public health ethics', *Public Health Ethics*, vol.1, issue 3, pp.196–209.
[21] This is a fictional story with the origin comes from an AIDS counsellor's blog, but it illustrates a predicament that will be familiar to people who are aware of the situation of AIDS epidemic in China.

calculate the risk? In whose best interest is the decision? The mother? The child? Or the family as a whole?

3.4.1 What does family mean to PLWHAs in China?

To begin discussing these questions, it is necessary to understand what family means to a Chinese woman. Family has a rich and thick meaning in Confucianism influenced societies. It is the fundamental structure underpinning Confucian society. It is the place where members are born with familial relations and affections for other members, and the context through which persons are nurtured towards 'adulthood'.

"Families are constitutive of persons…The family is internal to all parties that enter into its composition. To be "extricated" from one's family is not an emancipation towards personal completion. It is a partial amputation of one's very person".[22]

The sense of being closely interrelated can be represented with respect to names. In traditional Chinese families of more than one child, it is common to give them names with a common character. For a three-character Chinese name, the first character goes to family name; all siblings have the same middle character; while only the last characters are different.[23] This serves to promote and maintain connectedness among family members. Another example is also representative. In many rural areas, children (even adult children), are referred to by neighbours by their father's family name instead of their own, such as '*lao Wang*[24] (old Wang)'s son'.

Close family relationships may provide support to each individual. Yet why does this HIV-positive woman not reveal her status to her family, and why does she keep breastfeeding her baby even though it may be harmful to her child? Three underlying vulnerabilities identified in Chinese families embedded within relational culture can explain this.

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[22] Erickson, S. (2007). 'Family life, bioethics, and Confucianism,' in Lee, S. (ed.) (2007) *The Family, Medical Decision - Making, and Bio technology*, Springer.

[23] For example, if the family name is Zhang, it is common that siblings of that family might be named : Zhang Guo-qiang, Zhang Guo-fu, Zhang Guo-an, etc. And actually, the meaning of these names are also similar, means in the hope of the prosperity of the home country.

[24] "Wang" is a common Chinese family name.

Firstly, the belief of family centrality may intrinsically hamper the woman's ability to make rational and autonomous decisions. Apart from considering the health of the baby and her own well-being, this woman, embedded within familial culture needs also to calculate risks that might impact the family, and also the risks that such impact might have on her. Will the husband abandon her? Will her parents-in-law discriminate against her? As discussed above, that extrication from family is a partial amputation of a person. This woman has decided to maintain her inclusion in the family, while running the risk that her baby may be 'extricated' someday in the future through transmission of the virus. To sum up this dilemma into two single words: in choosing between shame and health, the woman has chosen to avoid shame and to risk health.

Secondly, given the strong sense of belonging and connectedness with family, deprivation of this by external forces would significantly increase the severity of traumatic impact caused to the individual. Revealing HIV/AIDS status is not simply a matter between couples, but also that of parents, parents-in-law and a wider web of family members.

Thirdly, any behaviour or actions which are incompatible with or counter to upholding family values would receive harsh blame and punishment. The HIV epidemic in China centres largely on unprotected paid sex, followed by sharing of contaminated needles and syringes, and unprotected sex between men. For women, in particular Asian women, they acquire the virus mostly through their husbands or their long term boyfriends. Studies show that 90% of Asian women become HIV positive by this route[25]. Revealing their status would bring women shame in two ways: either their husbands have had extra-marital affairs, or the women themselves have had extra-marital affairs. Neither way is acceptable according to Chinese family values.

One may ask why Chinese families are ashamed of providing care and support to family members with HIV/AIDS. In the context of China, there are extremely discriminatory moral judgements towards publicly-perceived disapproved

[25] Silverman, J. et al. (2008) 'Intimate partner violence and HIV infection among married Indian women', *The Journal of the American Medical Association*, vol.300, no.6, pp.703–710.

behaviour such as practising homosexuality, drug use, and prostitution and these behaviours have been firmly associated with the epidemic of HIV/AIDS. Having a family member categorized in these groups is simply a cause of shame to families. This explains why a family's support may differ for a member with cancer, from a member with HIV/AIDS. The association between HIV/AIDS and relational personhood is that HIV/AIDS contradicts two important virtues of Confucianism: familial relations and affection, and familial reputation and uniformity. So HIV/AIDS actually puts families in a painful dilemma: there are obligations to support intimate related family members, and also responsibilities to punish the one who brings disgrace and pressure to the family and possibly discrimination from people around, which in Confucianism was considered as very much against filial piety and even to be a crime in ancient days.

3.4.2 An alternative interpretation of the family values in the context of HIV/AIDS

Given the ubiquitous HIV-related discrimination, unfortunately, at the moment, it is not rare to see Chinese HIV infected women behave in particularly unhelpful ways. Because she fears to be discriminated against, the woman has given more importance to not disclosing her status than to protecting her child. This can be explained by understanding that people like her are operating with a particular interpretation of the idea of the commitment to promoting family values. But why does the burden of preserving family connectedness fall on the woman, and not on the other family members? Why is all of the sacrifice going to be done by this woman and not by the family? Is this interpretation of family values suitable and appropriate in the face of HIV/AIDS? Or, even, is it truly the way to uphold of the spirit of family values?

Confucius might denounce it as improper and far removed from the true spirit of family connectedness. This is because promoting and maintaining connectedness among family members is a two way street, which means that connectedness may be promoted in two ways, it might be promoted by this woman not admitting her HIV status as this case illustrated (and we can foresee how terrible the result is) and it may also be promoted by the family tolerating the status and protecting this

woman. The latter will be argued as more proper and a better interpretation of family values in the context of HIV/AIDS.[26]

Confucian family values are not a static, unyielding philosophy. In contemporary China, although many family values are still being widely held and practised by Chinese people, the ways to promote them have changed in the light of the modern era. The values may take on a different meaning as societal circumstances change. Take another family value, filial piety as an example. Nowadays, children are quite reluctant to seek the opinions of their parents, even in important matters such as choosing a job[27]. In contrast, traditionally, children have to consult their parents and unreservedly submit to their advice. There may be obvious reasons for children not to follow the traditional way as they are generally more educated and knowledgeable than their parents[28]. And a more important reason might be that children believe that not causing a burden and pressure to their parents in relation to important matters such as this, would be genuinely in accordance with filial piety. In addition, children may understand that their parents have already lost touch with the job market, and as a consequence, worry that their parents may feel upset and depressed at not being able to offer useful advice. This interpretation held by children may contradict with the one their parents hold. Their parents would still expect their children to seek their opinions in important matters as a sign of showing respect even though often they are not able to offer advice. Therefore, negotiation might be needed in families who have this problem of competing interpretations.

It is analogous with the elaboration of the value of family connectedness in context of HIV/AIDS. It is arguable that the value of family connectedness might be better preserved if we appeal to a more rational or possibly a more kind and generous interpretation, that is, for example, that the families tolerate the woman's HIV positive status and the actions which lead to the status, and nurture and protect the

[26] It is a very important point that we should not confuse what a doctrine does say, can say, and must say. So it's interesting to assess the issue not in the light of contemporary Chinese values as influenced by Confucianism, but as they could be understood in light of Confucian thinking.
[27] Chow, N. (2001) 'The practice of filial piety among the Chinese in Hong Kong', In Chi, I. Chappel, N. and Lubben, J. (eds.) *Elderly Chinese in Pacific Rim countries: Social support and integration*. Hong Kong: Hong Kong University Press. pp.126–136.
[28] Ibid.

woman in a non-discriminatory way. There are three reasons to support this assertion.

First, in the face of HIV/AIDS, this interpretation can better reflect and demonstrate the spirit of the intimate family connectedness value by emphasizing the role of families in promoting the family values rather than vulnerable individuals. Moreover, in this way, the uniqueness and the prioritisation of family values could be more effectively reflected and thus be able to differentiate itself from other contexts. Supposing this woman is in a family where this proposed interpretation is dominant, she might be more likely to admit her HIV status and therefore choose not to risk her or her baby's health, because she feels more confident that her parents-in-law would excuse and protect her. In contrast, this woman is less likely to disclose her HIV status to her employer and colleagues because she fears to be discriminated against and rejected, because they are not part of her family. Under this new interpretation, the uniqueness of family relations is manifested by this woman's distinctive action, namely, to disclose her status to her family while concealing it from her employer.

However, we can hardly see this effective promotion of family connectedness under the earlier illustration, because in that example the woman would act in the same way in both cases, i.e. not admitting her HIV status both in and outside of the family.

Second, family members would only be able to make rational and sensible decisions when the commitment to promoting family connectedness is being interpreted as family nurturing and as protecting the socially marginalised members and not discriminating against them. In Confucianism, family values are supposed to help family members to make wise decisions (although once in a while not very autonomous decisions) rather than hampering or coercing them into making decisions against their will. Furthermore, this decision should be made in the best interests of the family, benefiting the family members, not harming them. In practice, in the light of the new vision of commitment to family values, individuals would be better able to make rational, balanced, and proper decisions from a holistic perspective and their decision is more likely to benefit all. In contrast, due to the

unitary nature of the existing interpretation placing an overwhelming burden of keeping connected on the woman, which effectively means that she will be driven to make decisions which are damaging both to herself and to the family. Bringing a HIV infected grandchild to the family is clearly opposed to the interests of the family and the expectation of the husband and parents-in-law, and paradoxically, they are the ones this woman has been trying her best to please and to connect with.

Third, the appreciated harmonious relations within families in Confucian societies would more likely be achieved by adopting the second suggested interpretation. In this case, due to the families' exemplary behaviour, harmonious social human relations might also be achieved.

This idea is of particular importance for the effort to eliminate HIV/AIDS related discrimination and stigma in contemporary Chinese society. Since the family is "the most fundamental social structure and the one upon which all other social institutions are based or modelled"[29], families' tolerance and supportive attitude towards their HIV positive family members may have a tremendous impact on other social relations. Its exemplary effect would extend to many spheres and ultimately foster a supportive and harmonious social environment to enable vulnerable groups to get treatment, care and support without discrimination. Furthermore, if people are deeply conscious that the promoting of family values depend more on families' support rather than individuals' desperate struggle, it can be inferred that the general public may consider that harmonious social relations would also depend on the majority's toleration of the minority's socially deviant behaviour. To illustrate this, in societies embedded with this understanding of family value, the employer may be less likely to discriminate against infected employees, instead, he may consider it appropriate to give more help and support to them, especially in the circumstances that one of his intimate relatives or family member is also infected.

This reinterpretation of family values in the light of AIDS may be appropriate because AIDS in particular is widely held as a catastrophic event, given the prevalent misconceptions about AIDS.

[29] Yu, E. and Fan, R. (2007) supra n.8.

Achieving this reinterpretation may be a long process in China. Perhaps the time is not ripe for this different interpretation to be received well, but it is worth thinking about. It is hoped that by having raised this possibility, the process of accelerating changing attitudes towards AIDS and related people can begin.

3.5 The perspective of *Guanxi*

The relational culture of Chinese societies fits within the collectivist framework, in which members find their personhood and self-identity as members of the social system by properly engaging in various roles, as opposed to being seen as individuals. Chinese culture ranks low on individualism and places a high value on collective goals.[30] This reflects itself in the existence of relational webs, also well-known as *guanxi*. Familial relationships constitute one's very being; more than flesh and blood[31]. Relationships outside of the family (*guanxi*), that is to say, with friends and others, are viewed more as external clothing[32]. The word '*guan*' in Chinese can be translated as 'juncture': a "conjunctive point which connects otherwise separate entities". '*Xi*' means "to tie up"[33]. Chen takes the view that *guanxi* is as an "informal, particularistic personal connection between two individuals who are bounded by an implicit psychological contract to follow the social norm of *guanxi"*[34]. It is developed between the two parties through the following interaction norms: "self-disclosure", "dynamic reciprocity", and the "long-term equity principle".[35] *Guanxi* is a modern expression, but its origin can be identified in Confucianism. There, rather than using the term '*guanxi*', the word '*lun*' (cardinal relationship) is used'.[36] The Five Cardinal Relationships (*wulun*) are the

[30] Chen, X. and Chen, C. (2004) 'On the intricacies of the Chinese guanxi: A process model of guanxi development', *Asia Journal of Management*, vol.21, pp.305-324.
[31] Erickson, S. (2007), supra n.21.
[32] Fan, R. (2007) 'Confucian Familism and its Bioethical Implications', in Lee, S. (ed.) *The Family, Medical Decision-Making, and Biotechnology: Critical Reflections on Asian Moral Perspectives*, Springer, Dordrecht.
[33] Chen, X., Chen, C. (2004), supra n.29.
[34] Ibid.
[35] Ibid.
[36] King, A. (1991) 'Kuan-his and network building: A sociological interpretation', Daedalus, vol.120, pp.63-84.

primitive structure and influence on the nature of the relationships in Confucian society.

It is widely believed that an important base for *guanxi* is the assumption of reciprocity, which is the fundamental operating principle in the long-term practice of *guanxi*. '*Xin*', literally referring to trustworthiness, is a pivotal part in the assumption of reciprocity.[37] It is based on two components: sincerity and ability.[38] Building and developing trust in the *guanxi* is achieved in two ways. The first relates to how parties show sincere intention to initiate and continue the relationship as well as honour a *guanxi* obligation. The second component concerns parties gaining trust, and *guanxi* by demonstrating the competence and ability to get things done. It should be noted that "trust under *guanxi* is a mixture of instrumentalism and particularism, in which both trust and ability to perform reciprocal favours plays a part'"[39] [40]

Some commentators claim that there are three foundations which form *guanxi*: family ties/kinship, familiar persons, and strangers.[41] Some scholars, on the other hand, classify *guanxi* according to the nature and purpose of interactions: whether *guanxi* is socio-affective, mixed or purely instrumental[42]. And, those classifications have been combined together [43] : "socio-affective *guanxi*" refers to family relationships, whose social interactions primarily involve exchanges of feelings for the satisfaction of needs for love and belonging. "Instrumental *guanx"* refers to the market type of resource exchanges for the satisfaction of material needs between strangers. "Mixed *guanxi*" means the exchanges of both feelings and material benefits which occur among familiar persons. For the purposes of this chapter,

[37] Gold, T. (1985) 'After comradeship: Personal relations in China since the Cultural Revolution', The China Quarterly, vol.104, pp.657-675.
[38] Chen, X., Chen, C. (2004), supra n.29.
[39] Ibid.
[40] Banfe, P. (2008) 'Connections and Connectivity and in China: Guanxi and the Explosion of Instant Messaging-The Marriage of Relational Diads, Group Membership, and Web based Communications', *International Business & Economics Research Journal*, vol.7, no.12.
[41] Jacobs J. (1980) 'The concept of guanxi and local politics in a rural Chinese cultural setting', in Greenblatt. S. Wilson, R. and Wilson, A. (eds.) (1980) *Social Interaction in Chinese Society*, New York: Praeger Publisher. pp. 209-236.
[42] Hwang K. (1987) 'Face and favor: The Chinese power game', *American Journal of Sociology*, vol. 92. pp.944–974.
[43] Ibid.

discussion of *guanxi* shall be limited to the last two kinds of relationships, as family relationships have been examined earlier.

3.5.1 Reciprocity, *Guanxi*, and social exclusion

How does the notion of *guanxi* relate to the level of vulnerability of PLWHAs? Do HIV/AIDS and related stigmatization and discrimination enhance or weaken *guanxi* in human relations?

These issues will be explored through the discussion based on a process of *guanxi* development from a dyadic focus, i.e. the sequential stages of *guanxi* networks, namely, initiating, building, and using *guanxi*. This section will illustrate what problems PLWHAs will encounter and how they fail in this process of *guanxi* development, and ultimately are socially excluded.

Initial interaction and building *guanxi* with non-infected strangers is very difficult for PLWHAs. As HIV/AIDS stigma and associated blame, shame and fear of casual transmission of the virus would always deter a great majority of non-infected persons from considering any relationship with PLWHAs, even prior to rationally thinking about what this particular given PLWHA is capable of doing. In China, those deeply embedded negative moral judgments attached to PLWHAs would be present in people's minds and form their first reaction when it comes to PLWHAs no matter whether they are capable of performing reciprocity. It is common for agricultural products from HIV/AIDS affected villages to be stigmatized and consequently they are hardly sold[44]. Moreover, for non-infected individuals, any common social bases (e.g. fellow villagers, co-workers, same birthplace or educational institution) shared with PLWHAs, which supposedly serves as tickets by which the potential parties enter into each other's *guanxi* world, would now be nullified by shame and disgrace.

However, at a broader level of society, the principle of reciprocity underlies the interactions and activities between PLWHAs as a group and the larger non-infected community. It also determines its results, namely, whether *guanxi* can be

[44] Wu, Z. (2008) *An Investigation into the life of Chinese Women Living in Rural Area* (Zhongguo Xiangcun Funv Shenghuo Diaocha). Yangtze Literature Publisher (Changjiang Wenyi Chubanshe) (in Chinese)

established. PLWHAs are (at present) firmly believed incapable or to not have the wherewithal (even though some temporarily have) to fulfill their reciprocal obligation, and therefore, they are 'unworthy' of social investment.[45] For the initiator of a potential *guanxi*, the perceived failure of the other party to reciprocate (although arbitrarily) can be costly. To avoid being taken advantage of, the easiest way might be to entirely exclude this sub population from the exchange process, from the very beginning of the *guanxi* development. This contention can be illustrated by a case which took place several years ago in China. An infected individual sued an insurance company as he was excluded from making a claim from his accidental injury insurance because of his HIV status.[46] According to the rules of the insurance, the following items are considered as exceptions: war, military action, riots, armed rebellion, nuclear radiation and ridiculously, AIDS (as the only disease) was also clearly indicated and allied with the above.

The analysis of building and maintaining existing *guanxi* between two parties would be much more complicated when facing the challenge of one party's disclosure of his HIV positive status. In most circumstances in China, the quality and the continuing existence of *guanxi* is usually at stake once one party in the relationship is found to be HIV positive. The extent of this impact may depend on the state of the relationship, whether it is close/deep enough to withstand the challenge of HIV/AIDS. Although the assessment of the quality of *guanxi* is a subjective judgment made by the *guanxi* parties, they are usually based on two Chinese concepts. One is *qing* (feeling), composed of obligation (*jiao-qing*) and affection (*gan-qing*), which reflects how well a given *guanxi* satisfies the mutual affective and instrumental needs of the parties.[47] The other one is *xin* (trust), based on sincerity and ability. These two concepts determine the quality of *guanxi* between two parties: the higher the level of *xin* and *qing*, the better the *guanxi* quality will be.

[45] Reidpath, D. and Chan, K. (2005) 'He hath the French pox': Stigma, socialvalue, and social exclusion. *Sociology of Health and Illness*.vol.27, no.4, pp.468-489.
[46] Access via: http://news.xinhuanet.com/legal/2009-07/10/content_11685603.htm (in Chinese)
[47] Chen, X., Chen, C. (2004), supra n.29.

3.5.2 How *guanxi* impact on PLWHAs

This chapter argues that the norm of *guanxi* adds additional vulnerability to both related parties in response to HIV/AIDS. Moreover, since the *guanxi* between familiar persons/friends are both social-affective and instrumental, this mixed nature makes the analysis of the interaction between *guanxi* and HIV/AIDS among friends more complex. In the face of the reality of one party's HIV status, the common process is that the other in the *guanxi* dyad has to re-evaluate the closeness and quality of their *guanxi* in the light of the principle of reciprocity. The assessment, which either party might make, is essentially around the cost and benefit of maintaining or changing the existing *guanxi*.

Specifically, on the one hand, according to the reciprocity principle, there is an expectation to help a friend who is in trouble physically or financially based on social-affective element in *guanxi*, and this expectation may become an obligation if this friend has helped you in the past. Obviously, being a patient infected with HIV makes this friend in a position needing of help. Further, the decision to maintain *guanxi* with this infected friend will induce his greater feelings of gratitude and indebtedness, and will significantly enhance the *xin* (trust) and *qing* (feeling) between both parties, given the fact that this friend is probably stigmatized by most others. On the other hand, behaving in this way is costly and runs many risks. The reality is that PLWHAs are widely judged as lacking the capacity to engage in reciprocal exchanges. It is very difficult to sustain *xin* (trust) between *guanxi* parties as one of its components, in other words ability, is absent. Acts of kindness and favours probably may not be reciprocated in the future, resulting in a net loss for the other party in the *guanxi* of the exchange. More importantly, even though there are ones who do not care about the other party's reciprocate ability, his maintaining *guanxi* with PLWHAs may have a serious negative impact on his *guanxi* building efforts with other partners. He may put himself in an extremely disadvantageous position. As parties among one's *guanxi* circles may not be interconnected, parties other than PLWHAs are less likely to appreciate one's particularistic *guanxi* ties with PLWHAs who are heavily stigmatized. Further, the risk may increase to the extent that his other *guanxi* partners may not want to engage in future exchanges

with him, and accordingly he may even lose other *guanxi* if he insists on continuing the *guanxi* interactions with PLWHAs while ignoring other's opposition. In this sense, for other *guanxi* parties, one's failure to show sincerity is a violation of the principle of mutual respect and the social norm of '*xin'* (trust), which implies he does not intend to enhance the relationships with them.

It is therefore apparent for most non-infected *guanxi* parties, that the cost of continuing *guanxi* with PLWHAs is expensive. Unlike individual strangers or the larger community with a cruel exclusionary attitude against PLWHAs, those 'close' friends take different approach to readjust the existing *guanxi*. For them, the most thoughtful way may be to gradually push this infected friend outwards from the original position of inner circle, and maintain distance from this friend by reducing the frequency of interactions.

3.5.3 Lack of capacity and lack of *guanxi*

If it were the case that PLWHAs are excluded by friends and community from developing *guanxi* on the basis of perceived incapability and failure to perform reciprocity, then this necessarily raises questions about what exactly incapability means and why there are such beliefs.

It has been argued that the core characteristic of the capability approach is its focus on what people are effectively able to do and to be, that is, on their capabilities.[48] Economist and philosopher Amartya Sen argued that in social evaluations and policy design, the focus should be on what people are able to do and be, on the quality of their life, and on removing obstacles in their lives so that they have more freedom to live the kind of life which they find valuable.

"The capability approach to a person's advantage is concerned with evaluating it in terms of his or her actual ability to achieve various valuable functions as a part of living. The corresponding approach to social advantage—for aggregative appraisal as well as for the choice of institutions and policy—takes the set of individual

[48] Robeyns, I. (2003) *The capability approach: An interdisciplinary Introduction*, University of Amsterdam.

capabilities as constituting an indispensable and central part of the relevant informational base of such evaluation".[49]

There is no attempt to cover the characteristics of capability or incapability comprehensively in this chapter. However, in the light of this conception of the capability approach, it is reasonable to note that in China, the conception of incapability of PLWHAs takes on some distinctive Chinese characteristics.

First, the incapability of Chinese PLWHAs can best be understood by looking into social and relational roles rather than personal state. Chinese society is a relationship-oriented society[50]. An unarticulated and deeply embedded standard used to assess a person's ability involves the quantity and quality of the *guanxi* networks he possesses. One would be perceived incapable if no *guanxi* is possessed. Moreover, it is the fact that being socially incapable is much more disastrous than being biological incapable.

Second, the process of losing capacity is actually the process of losing *guanxi*, and is also the process of stigmatization. They are interconnected as mutually causal consequences. Social exclusion and discrimination are endpoints of all these three processes. To illustrate, those who are stigmatized in their ability to reciprocate are deprived of the opportunity of entering into and maintaining *guanxi*. Being unable to enter into and maintain *guanxi*, in the eyes of the remaining *guanxi* partners, PLWHAs are viewed as less capable. This in turn endangers the remaining fragile *guanxi*. As an accumulated effect, most PLWHAs have already been excluded from community relationships before they are given the chance to reciprocate.

To sum up, the principle of reciprocity underpins the initiation, maintenance and practice of *guanxi*. Whether *xin* (trustworthiness) given is determined by one's perceived ability to perform reciprocal favours. PLWHAs are often labeled with a variety of negative features and are perceived incapable, vulnerable and marginalized. The general public tends to draw away from PLWHAs. Perceived as unable to give reciprocity, their pre-existing *guanxi* is in danger of being diminished

[49] Sen, A. (1993) 'Capability and well-being', in Nussbaum, M. and Sen, A. (ed.) (1993) *The quality of life*. Oxford: Clarendon Press.

[50] Redding, G. and Wong, G. (1986) 'The psychology of Chinese organizational behavior', in Bond, M. (ed.) (1986) *The Psychology of the Chinese People*, New York: Oxford University Press. pp. 213–266.

and new *guanxi* can hardly be established so PLWHAs are further isolated and excluded from building *guanxi* with others.

3.6 Rights-based approach and HIV/AIDS in China

Since the Chinese are more interdependent and vulnerable to the breaking of relatedness in the light of their relational understanding of personhood, and because HIV/AIDS acts as a strong force to break any relationships, the relational approach is not suitable for China to deal with HIV/AIDS while the Western rights-based approach might be worthy of consideration. The rights-based approach may already have contextual advantages in China.

The HIV epidemic in China remains centred mainly around high risk groups and experts argue the epidemic is highly unlikely to sustain itself in the 'general public' independently of these groups. Most critically, this means that prevention efforts that drastically reduce HIV transmission among and between these most-at-risk populations will bring the epidemic under control[51]. They are the people most in need of healthcare and treatment, and have least access to this. By empowering them with rights, public health efforts might be better able to reduce their vulnerability, prevent institutionalised discrimination, and safeguard their welfare. Further research is needed in this field.

3.7 Conclusion

This chapter has discussed the definitions of vulnerability and the Confucian concept of relational personhood. It also discussed whether the Confucian concept of relational personhood could be interpreted differently in China in the face of the AIDS pandemic. This is not abandoning Confucianism in favour of Western individualism, but interpreting it differently in the light of the current problem. Although some Western scholars propose using a relational approach to support patients, this chapter argues that in the unique context of China which is strongly influenced by Confucianism and its familial and relational values, a relational approach may not be considered suitable. By discussing the association of

[51] Ibid.

HIV/AIDS with family and *guanxi*, this chapter argues that HIV/AIDS challenges central familial values of uniformity and reputation, bringing shame to the family; while also weakening the ability to pay reciprocity, hampering *guanxi* establishment or maintenance and traditional relational networks are unable to support PLWHAs in the health system. This chapter suggests that rather than relying on building support networks among family and friends, it is worth of considering putting more effort into providing services and support that meets the needs of PLWHAs. Efforts must also be made to help ensure that oppressed and vulnerable people are able to make use of that available information. They must be helped to assert control over the sexual activities that involve them. There is a good argument for the government and NGOs to consider a rights-based approach.

In this chapter, through a critique of the widely accepted interpretation of Confucian relational personhood, I have illustrated some serious ethical problems and practical implications of the mis-interpretation of Confucian ideas. In the next chapter, following the same approach of critical interpretation, I will examine one of the most deeply-rooted and thorny ethical problems, the negative labels and metaphors around HIV/AIDS and PLWHAs. I will also propose an important but forgotten Chinese idea of *zhengming* (Rectification of names) to address and rectify the misrepresentation of HIV/AIDS and the phenomenon of discrimination and stigmatization against PLWHAs.

4 Chapter 4 - AIDS and 'name': revisit the concept of *zhengming* (Rectification of Names) in AIDS

Discrimination and stigmatisation against PLWHAs is a universal problem encountered by many societies. They are also a significant contribution to the vulnerability of PLWHAs as we have shown in the last chapter.

Public educational programmes aimed to combat discrimination against PLWHAs cannot penetrate very far into the sensibilities of Chinese culture and tradition without addressing some of the deeply rooted prejudices and bias. In the previous chapter we have shown the relationship between relational personhood and the particular vulnerability of PLWHAs in China. This chapter tries to explain another related problem, the persistent negative labels and metaphors about AIDS, and particularly the language of innocent infection versus guilty HIV infection, by exposing the fallacy and the dangers of some underlying theories. It will propose an alternative remedy, the Confucian idea of *zhengming* to 'rectify' and 'correct' this discourse from a Confucian perspective.

4.1 Introduction

Most people who have watched the Chinese star-studded movie, "Love for Life" (also known as "Love Is a Miracle"), released just during the World AIDS day, 1st December in 2011, would be touched by the story: it is about a love-struck couple, both are AIDS patients, Shang Qinqin and Zhao Deyi, who are struggling to come to terms with the disease in the face of discrimination from other villagers. Throughout the movie, there is a persistent struggle from them to obtain a legal marriage, which they see as important '*ming'* (literally translated as 'name', here it means legitimacy) for their existence, lives, and love. What is perhaps most significant about Love for Life is this fact: it is the first time the blood-selling scandal in central China during the mid 1990s has been featured in mainstream Chinese culture and most remarkably it is backed by the government.

In the mid 1990s, hundreds of small blood collection sites had been established across the rural villages of Henan, Shanxi and Anhui provinces. The owners of

these stations, known as 'blood heads', collected plasma and returned the contaminated blood to the donor peasants. Hundreds of thousands of peasants contracted AIDS and died "like leaves falling from the trees" as the narrator says at the beginning of the film.

Recent years have witnessed a U-turn response from the government on this subject that has long been denied and neglected in China. Affordable, universal and equal Antiretroviral (ARV) programmes and treatment called Four Free and One Care [1], combined with the recent approach of "Five Expands, Six Strengthens",[2] are being rolled out to infected people in rural areas and this help is expanding. There are also anti-discrimination legislations for people with AIDS to ensure their employment and healthcare as I have mentioned previously. This film is one of these efforts to change the social attitudes toward people with AIDS, as the director Gu said when asked about the rationale behind this film, "in contemporary China, people still turn pale at the mere mention of AIDS…there is an old saying in China that people 'turn pale at the mention of a tiger' [people grow fearful if something bad is merely mentioned]. This film is attempting to get people over that fear."[3]

All this is encouraging. However, although many people might believe that the problem of bias and prejudice against PLWHAs will soon be eliminated through this massive education, health campaigning, legislation, etc., such a belief would be naive, especially in a Chinese context. This is because, as mentioned before, these strategies cannot penetrate very far into the sensibility of Chinese culture

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[1] The Chinese government's "Four Free and One Care" policy for AIDS control entails:
Free antiretroviral drugs to PLWHAs who are rural residents or people without insurance living in urban areas.
Free voluntary counselling and testing.
Free drugs to HIV-infected pregnant women to prevent mother-to-child transmission, and HIV testing of newborn babies.
Free schooling for AIDS orphans.
Care and economic assistance to the households of people living with HIV/AIDS.

[2] "Five Expands" means to expand IEC (IEC stands for information, education and communication) activities, surveillance and testing, PMTCT (Prevention of mother-to-child transmission), comprehensive interventions, and coverage of ART (Anti-retro viral therapy). "Six Strengthens" means to strengthen blood safety management, health insurance, care and support, rights protections, organisational leadership and strengthening of response teams.

[3] Davison, N. (2011) The men who gave AIDS to rural China. access on (12th Jan. 2013): http://www.independent.co.uk/news/world/asia/the-men-who-gave-aids-to-rural-china-2287825.html

and tradition. Note, this is not to say that these sorts of generic or political resolutions are not important or effective as their result have been evidenced in many societies. Rather, it means that some deeply rooted cultural beliefs and attitudes inaccessible to such universal methods need to be addressed. In this case, It is of paramount importance to first of all rectify the 'name' (conception) of AIDS and PLWHAs for without doing this, "speeches will not follow (*yan bu shun*)" and "affairs will not be accomplished (*shi bu cheng*)"[4].

In the present era, AIDS has become a complex concept and phenomenon that involves many layers of issues, especially when the discussion of AIDS is associated with various kinds of life and lifestyles. There are obviously various conceptions of AIDS and PLWHAs scientifically, medically, socially and ethically.

This chapter is an effort to examine and revive the ancient idea of '*zhengming* (rectification of names)' in Confucian ethics in order to address some of the 'moralistic' (mis)conceptions, for example, old ones like paralleling AIDS with 'gay plague', while new ones like the popular rhetoric of dividing PLWHAs into innocent/guilty HIV infection. Therefore, *rectification of 'names' for HIV/AIDS is actually the rectification of conceptions of AIDS in this context.* While this understanding might make more sense to Westerners than to the Chinese,[5] to avoid confusion and preserve the integrity of this Chinese ancient text, I will stick to its most widely used translation of 'rectification of names' for the Chinese expression of *zhengming*. The chapter argues that by rectifying 'names' for AIDS and PLWHAs, deeply embedded bias against AIDS which is impervious to reason and moral analysis would be eliminated and PLWHAs would be genuinely recognised as members of humanity in Chinese society. Practically, this process may take decades but it might be the key to encouraging those hidden/underground PLWHAs to come forward.

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[4] "Speeches will not follow (*yan bu shun*)" and "affairs will not be accomplished (*shi bu cheng*)" are two popular idioms extracted from *The Analects*.

[5] One of the reasons is that the word "name" has relatively singular meaning in West, a "name" is a word of term used for identification. Whereas in Chinese culture, the meaning of "name", especially in the idea of "*zhengming* (Rectification of names)", is much more rich and diverse. Apart from it use in identification of things, It can also be referred to the proper name of places or things, a general name or term of reference, or the legitimacy of these above.

4.2 What is *zhengming* (Rectification of Names)?

The idea of *zhengming*, often translated as rectification of names, is a critical component of Confucian ethics. Even though its meaning and translation are still in debate, its importance for Confucian thought has been widely recognised. Hansen claims that "the rectification of names can be regarded as a genuine Confucian teaching in the sense that without it, the ethical system of Confucius would be considerably less coherent"[6]; Hall and Ames characterise it as "the starting point of socio-political order"[7]; Hagen states that "*zhengming*, like most of classic Chinese doctrines, is fundamentally ethical in nature."[8]

This phrase consists of two components: *ming*, noun, usually translated as 'name' or 'naming', refers not only to one's personal name or one's title or reputation, "but the proper name of places or things, a general name or term of reference, and also verbally to name to or call by name"[9]; *zheng*, verb, has a more contested translation such as 'rectifying', 'correcting', 'ordering' or 'attuning'.[10] The most common translation of *zhengming* is 'rectification of names', although many other interpretations are also used, such as 'proper naming', 'proper use of names', or 'attuning names'.[11] Generally, *zhengming* means "things in actual fact should be made to accord with the implication attached to them by names"[12].

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[6] Hansen, C. (1983) *Language and logic in Ancient China*. Ann Arbor: University of Michigan Press. pp:181. Also see: Hangen, K. (2002) 'Xunzi's use of Zhengming: naming as a constructive project.' *Asian Philosophy*. vol.12, no. 1, pp.35-51.

[7] Hall, D.and Ames, R. (1987) *Thinking through Confucius*, Albany: Satte University of New York Press. pp270.

[8] Hangen, K. (2002) supra n.6.

[9] Cikoski, J. (1994-2008). *Notes for a lexicon of Classical Chinese.* St. Mary's. GA: The Coprolite Press.

[10] The character zheng has a range of classical uses and meanings: proper, upright, correct, authorized, first, to straighten, to adjust, to order, or to regulate. See Cikoski, J. (1994-2008) supra n.9.

[11] I am not suggesting 'rectification of names' is the best translation for *zhengming* but the most useful in the context of this chapter. Since these sorts of English words all have relevant overlap with zheng, but none of them could perfectly capture the whole meaning *zheng* carries in Chinese. Some may be more accurate than others in varying contexts. For simplicity, this paper adopts 'rectification of names' or 'rectifying names' for *zhengming*.

[12] Fung, Y.L. (1952) A short history of Chinese philosophy, trans. D. Bodde, Princeton: Princeton University Press. pp.41.

The quotation below shows the scope of and the extent of what will be at stake with *zhengming*. When asked about the first priority if he were entrusted to govern the state by the Lord of Wei, Confucius replied: "certainly it would be *zhengming*!" Later he elaborated, in part,

> *"A superior man, in regard to what he does not know, shows a cautious reserve. If names be not correct, language is not in accordance with the truth of things. If language be not in accordance with the truth of things, affairs cannot be carried on to success. When affairs cannot be carried on to success, proprieties and music do not flourish. When proprieties and music do not flourish, punishments will not be properly awarded. When punishments are not properly awarded, the people do not know how to move hand or foot. Therefore a superior man considers it necessary that the names he uses may be spoken appropriately, and also that what he speaks may be carried out appropriately. What the superior man requires is just that in his words there may be nothing incorrect."*[13]

We also find that "proper naming is one of the necessary conditions for social harmony. Again, speech and action, names and responsibilities, are inextricably linked in this way of thinking."[14] As implied in the quote that *zhengming* is not a goal of Confucian teachings but it is the tool to achieve the goal of persuading people to adhere to *li* to seek social harmony.

In Confucian ethics, *zhengming* is not predominantly a linguistic matter, but "a key component of moral cultivation"[15] concerning the roles and relationships of human affairs. One's names, such as father, son, ruler, carries obligations and expectations and corresponds to one's role in human relations. The process of *zhengming* is a matter of constantly revising one's character and behaviours to

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[13] Legge, J. (1971) *Confucian analects: The great learning, and The doctrine of the mean*. Dover Publications. pp263–264.
Please note it is the only time *zhengming* appears in the Analects. This idea has been further developed by another ancient Confucian scholar, *xunzi*. However, many scholars believed that there is a strong continuity regarding *zhengming* across many key Confucian texts, although the term of *zhengming* is sometimes absent.

[14] Mattice, S. (2010) 'On 'rectifying' rectification: Reconsidering *Zhengming* in light of Confucian role ethics', *Asian Philosophy: An international journal of the philosophical traditions of the East*, vol.20, no.3, pp.247-260.

[15] Ibid.

conform as far as possible to the ideal meanings of their corresponding 'names'. Confucius stated that in an well-ordered harmonious society, "*junjun , chenchen, fufu, zizi* " (using repetitions of the words 'ruler', 'official', 'father' and 'son'). The understanding for Westerner might be difficult: each of the pairs has the first term as name or noun and the second term as verb although they are identical characters. Each noun-verb pair signifies that the people filling various positions should behave in a way befitting the standards set by their 'name': ministers should acts as ministers, the father as a father. When challenged that people sometimes act out of or beyond the role expected according to their positions, Confucius angrily responded "even if there is grain, would I get to eat any of it?"[16]

Thus, names should not be understood as mere labels or symbols, they are normative and moral in themselves. Therefore, terms used to designate human relationships should be understood as not only descriptive but also evaluative. For example, Confucius said in Analects that *junzi* (the Confucian gentle man) without virtue cannot fulfil the requirements of that name. Similarly, being a 'bad' father, strictly speaking for Confucians, equals to not being a father at all. It is because implicit in the role of *junzi* and father involves certain responsibilities which make the role and the name normative. In Lai's remarks that "moral virtue is already 'built into' the concept of *junzi* that the term has a moral 'loading'"[17].

Both China and West have the tradition of striving for an ideal language and both emphasise the importance of language in human lives. Nevertheless, they exhibit different emphasis in their effort. Early Greek philosophers believed it is important to split rhetoric and logic, and in most times the philosophical inquiry which leads to certainty should be based on logic. However, some Confucian scholar pointed that the logic/rhetoric split and the relevant reality/appearance distinction has no

[16] The full remarks of Confucius is this: "Truly, if the ruler is not a ruler, the subject is not a subject, the father is not a father, and the son is not a son, then even if there is grain, would I get to eat it?" From *The Analects*, trans. Lau, D.C. (1979) NY: Penguin books.
My understanding of this statement is: Confucius lived in an old agricultural society in the era when short of food is common. He simply wants to express his deep worrying feeling about the 'out of order' of names in a society that he would not eat grain (which is otherwise very valuable) from that society.

[17] Karyn, L.(1995) 'Confucian moral thinking', *Philosophy East and West*. Vol.45, No2..

counterpart in early Chinese thinking.[18] In Sivin's words, "Greek element theories build on the idea that reality is hidden, and direct experience is in some ultimate sense not real". He then added, "equally interesting…are important Chinese ideas that were not found in Europe, for instance *chengming*[19]…" An emphasis on logic lead Western concern for language to 'get it right' for science while an emphasis on rhetoric lead Confucian concern for language to 'apply name properly' for morality. Hansen remarks that,

> *"Western positivism wanted a language in which the structure of scientific knowledge is most conveniently "read off" from the structure of the language. Confucian "positivism" wants a language in which moral judgement is most conveniently "read off" from the careful application of names. Moral truth should be immediately apparent from the language, which means there should be no exceptions or complications."*[20]

Despite the different stress on logic and rhetoric, some scholars have also pointed out some similarities between Confucian and West in terms of the understanding of names. For example, as A.S. Cua said,

> '*When a son does not live up to his obligation, the "name" (ming) of being a son requires ethical correction…rectifying names (zhengming) is a procedure for rectifying misconduct. This Confucian view (rectification of names) finds a partial affinity with that of Arthur Murphy: "The term 'brother', in the statement of a ground of obligation, is not a practically noncommittal term. To be a brother is not just to be a male sibling—it is a privilege, a burden and, whether we like it or not, a commitment.'"*[21]

Likewise, correct use of language and words is also important in the West. In his comparison of Socrates and Confucius, Guthrie writes: "to Socrates, as to Confucius, correct language, the rectification of names, was the prerequisite for

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[18] Sivin, N. (1995) comparing Greek and Chinese philosophy and science. Accessed on (13th Jan 2013) http://ccat.sas.upenn.edu/~nsivin/comp.html

[19] Note '*Chengming'* is in Wade-Gile system while '*Zhengming'* is in Pinyin system. They are only different in spelling but same in meaning.

[20] Hansen, C. (1983) supra n.6.

[21] Cua, A.S. (2004) 'Reason and principle in Chinese philosophy: an interpretation of li', in Deutsch, E. and Bontekoe, R. (eds) *Acompanion to World Philosophies*. Malden, MA Blackwell. pp.204.

correct living and even efficient government."[22] This statement perfectly chimes with the essence of the idea of *zhengming*.

4.2.1 What is *Li*?

Li is an idea inseparable with the doctrine of *zhengming,* as essentially *li* represents the proper style of Chinese social life and it is on *li* that the reflecting and rectifying activities of names and roles are based on. *Li* prescribes the kind of language, attitude, and behaviour that are proper in different social encounters. *Li* is generally translated as propriety, ritual, ceremony and etiquette, good manners and so on[23]. The exercise of *li* is the process of self-cultivation and the only way to accomplish *zhengming*. *Li* prescribes a mutual obligation for pursuing personal cultivation and becoming *junzi* (the exemplary person*)*, which is to constantly to tune and harmonize one's acts and behaviours in consideration of others in the public arena. The following quotation is an example of *li* prescribing moral obligations in *wulun* (the Five Cardinal Relationships)[24],

> *"Between father and son, there should be affection; between ruler and minister, there should be righteousness; between husband and wife, there should be attention to their separate functions; between old and young, there should be a proper order; and between friends, there should be faithfulness."(from Book of Mencius)* [25]

Confucius believes that when everyone practices *li* by carrying out his given obligations in his social political positions, names are rectified and consequently socio-political order is rectified and the society is well-balanced and could operates on its own.

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[22] Guthrie, W.K.C. (1971) *Socrates*. Cambridge: Cambridge University Press.
[23] A full translation of li please see: Boodberg, P.A. (1953) 'The semasiology of some primary Confucian concepts', *Philosophy East and West*. vol.2, no.4, pp.317-332.
[24] As I have introduced in other chapters, the five cardinal social relations are: the relation between ruler and subject; father and son; husband and wife; elder and younger brothers; and between friends. The five relations have provided the basic pattern of Chinese social transactions—even between strangers, a relation in terms of seniority is recognised.
[25] Chan, W.T. (1963) A source book in Chinese philosophy, Princeton: Princeton University Press.

4.2.2 Practical implications of name (*ming*) and *zhengming* (rectification of names)

However, in reality, sometimes we need to correct names first, especially in circumstances in which if proper names are not in place the pursuit of *li* would be very difficult if not impossible. Before we engage in this discussion of the implication of *zhengming*, I would like to share a story I think best represents one of these circumstances which shows the difficulty and importance of *zhengming*.

Over the past several years, I have attended many conferences and lectures on AIDS in China and other places. Most dealt with various misinformation and discrimination, legislation and the scientific side of the disease. I remember clearly on one seminar themed on homosexuality in China, during heated discussion on how to reduce discrimination against homosexuals, an invited homosexual speaker furiously addressed: "we, homosexuals, need a 'name' in China! Without this, we can not achieve anything!"

He is right, at least partially, because as aforementioned, name signify status, position and place in society. It should be noted that this place does not need to be high but it should be recognised, or more accurately legitimate. Sometimes, acquiring or rectifying names is the first thing and the precondition to carry out activities. Chinese history is replete with accounts of striving for 'names' by both rebels and rulers in their fight for ruling the country. This sort of name should be something perceived as related to legitimacy, divine, and well-accepted. For example, *Tianming* (or *tianyi*), translated as the mandate of heaven, is a perfect 'name' to be used in justifying winners and losers of power[26] [27]. It is popular among Chinese people and perceived legitimate and divine because it is the command from heaven. Almost every dynastic change began with the claim of the name of

[26] The mandate of heaven has been termed as a 'convenient doctrine' and an 'elastic political theory' of the rulers. See: Cho, H. (2000). 'Public opinion as personal cultivation: A normative notion and a source of social control in traditional China'. *International Journal of Public Opinion Research*, vol.12, no.3, pp.299-323.

[27] The Mandate of Heaven is similar to the European notion of the Divine Right of Kings in that both sought to legitimize rule using divine approval. However, the Divine Right of Kings granted unconditional legitimacy, whereas the Mandate of Heaven was conditional on the just behaviour of the ruler who was guided divinely by his dreams. Revolution is never legitimate under the Divine Right of Kings, but the philosophy of the Mandate of Heaven approved of the overthrow of unjust rulers. See Wikipedia: http://en.wikipedia.org/wiki/Mandate_of_Heaven (accessed on 15th Jan 2013)

Mandate of Heaven for this 'name' "served such legitimating roles throughout China's imperial history from the Han (206BC-AD 220) to the Qing dynasty (1644-1912)"[28]. Liubang, born as a peasant, declared the Mandate of Heaven when he led the rebellion to overthrow the Qin dynasty and established the Han dynasty (206 BC). In 1926, Jiang Jieshi (Chiang Kai-shek) claimed the Mandate of Heaven to legitimise his rise to power when he became the leader of the National Party of China. Even Community Party leader Mao Zedong is no exception: he declared the mandate of heaven when the Chinese Communist Party he led took power. Yet, in Chinese traditions, failure in grabbing the power does not mean loss of the Mandate of Heaven but it would be interpreted by the winners as showing the Mandate of Heaven was never with the rebels.

These examples showed the power of name in legitimising one's position and action. In Confucian thought, language and action are not seen as separate. As Defoort argues, in early China "a categorical distinction between descriptive and evaluative statements does not exist…therefore, the implicit power of words cannot be avoided."[29]

After recognising the practical consequences of *zhengming*, we can better understand the anger, anxiety and the desire for a name of that homosexual guest in the conference. Indeed, he might seem to hold several names applying to different role in his life, a father or son, successful entrepreneur or poor worker. What is it that is missing for him, or which needs to be rectified? I would argue that maybe the 'missing name' is actually the missing 'recognition' or 'acceptance' of his homosexual status, which has resulted from the 'bad name' attached to his homosexual identity. This bad name, if not rectified, could negatively affect people's judgement on his other societal roles and other 'names' as well. He has probably already experienced the difficulties associated with his speech and action which are all caused by not having his name rectified.

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[28] Chan, A. (1996) Confucianism and development in East Asia. *Journal of Contemporary Asia*, vol.26, no.1, pp.30.

[29] Defoort, C. (1996) *The pheasant cap master: a rhetorical reading*. Albany: State University of New York Press.

There may be an interesting parallel between Western demands for equal rights and the demand for an equal 'name'—both being an indication of holding equal moral status to others in society. Perhaps in the connotation of the 'name' is the idea of 'being human and treated as human', otherwise people may feel that they are less human and treated as being less human.

Indeed, there are numerous examples which could demonstrate how pervasive *zhengming* is in contemporary Chinese society. When we address this doctrine in contemporary issues, we should avoid the attempt to completely retrieve old names and their associated responsibilities and obligations in the past and apply them in the present context. For example, what it meant to be a mother in the past is not what it means to be a mother now. Nor should we try, given the different social norms in the present context. There are many excellent figures and models in Chinese history, but I am sure many of us do not want to try to turn themselves into these examples. It is noted "to look back is to be inspired, to realize for oneself, in one's own life, the sort of moral vision found in the other."[30]

As Hagen indicated, *zhengming* is "not a process of explaining what is already there in language, nor of what exists independent of our mental activities. It is a creative and evolving process"[31]. It requires us to reflect on how naming and responsibilities and expectations of roles function in exemplary situations and what aspect of them can be productive today. In the meanwhile, we need to be able to evaluate the current contexts and then, we would be able to consider how to change and where to start. This process is exactly what Confucius taught us on learning. In The Analects, he said: "A man who reviews the old so as to find out the new is qualified to teach others."[32]

4.3 Why rectifying names is important for PLWHAs?

What is the impetus for applying the idea of *zhengming* in AIDS, in particular, rectifying whose name and how? The vivid example in the film of Love for Life can elucidate this task. The couple are striving hard for a recognised 'name', in

[30] Mattice, S. (2011) supra n.14.
[31] Hangen, K. (2002) supra n.6.
[32] Chan, W.T. (1963) supra n.23.

particular, the marriage certificate, the meaning of which to them is significant as it is beyond an acknowledgement of their love, but also the legitimacy of their existence as humans. It of course can be interpreted as socially marginalised people's 'claim for equal right' in the West, due to lack of a tradition of right, this act is typically an effort to pursue 'name' in China. Our task in this chapter is to theoretically rationalise and justify this effort and hopefully facilitate it in practice.

Zhengming is perhaps the best way to counter the grave discrimination and stigma faced by Chinese PLWHAs. There is no exaggeration in the film, when Zhao Deyi, buys some fruit, he is given his change with pincers. Qinqin's husband says she is too "filthy" to be buried next to him. Behind the film, one of the biggest challenges for director Gu was finding real PLWHAs to be filmed. After setting up online forums for several months and more than 60 interviews conducted, only six people were willing to join the production. In the end, only three agreed to have their faces shown in the movie.[33]

This upsetting fact, which resonates with the worries of that homosexual man, is only a snapshot of the appalling reality that more than 70% of the estimated 780,000 people living with HIV/AIDS hide their infected status or are ignorant of it.[34] According to a large scale official survey, among more than 6,000 people in six cities were interviewed in 2008[35], "31.7% of interviewees thought people with HIV/AIDS deserved their disease because of their sexual behaviour or drug abuse", Meanwhile, it is suggested in the survey that "more than 48% of respondents thought they could contract HIV from a mosquito bite, and over 18% by having an HIV positive person sneeze or cough on them." Another survey by the Chinese Health and Education Journal found that 51% of respondents would not shake hands with someone with HIV, and 80% would not buy a product from them[36]. This

[33] Davison, N. (2011) supra n.3.

[34] *2012 China AIDS Response Progress Report*. Ministry of Health of the People's Republic of China. accessed on (20th Jan 2013): http://www.unaids.org/en/dataanalysis/knowyourresponse/countryprogressreports/2012countries/ce_CN_Narrative_Report%5B1%5D.pdf

[35] *Summary report of CHAMP (China HIV/AIDS Media Partnership) 2008 KAB/P AIDS-related knowledge, Attitudes, Behavior, and Practices: A survey of 6 Chinese cities*. Accessed on (22th Jan 2013)http://www.un.org.cn/public/resource/ea0b7baa18b18c711db095673895aeba.pdf

[36] Khan, T. (2011) 'Discrimination against people with HIV persists in China'. *The Lancet*, vol.377, no.9762, pp.286-287.

perhaps sounds unsurprising if one learns that people with HIV, along with other infectious sexual diseases, are specifically precluded, in their words, 'disqualified' from civil servant recruitment as part of national policy[37].

There are serious problems related to stigma, discrimination and misconception in China's AIDS situation. China has a long way to go on the issue of addressing stigma surrounding AIDS. Some of the 'bad' labels attached to people with AIDS might be gradually removed by anti-stigma legal polices and education campaigns, but the project of construction of their 'good names' in the society where name weighs so high, calls for something else, some more peculiar, indigenous and culture-sensitive measures and one important among them is the idea of *zhengming*.

Fundamentally, our response to PLWHAs is a question of who does and who does not belong to the human community[38]. To humanity, AIDS is new and incurable and what make it even fearful is its association with 'deviant' social practices, such as homosexuality, prostitution and drug use. This complex phenomenon involves many layers of issues. Some are obvious and global so developing corresponding strategies can be straightforward; some strikes "at a level of our sensibilities which is deeper than our critical, cognitive consciousness and is somewhat impervious to deliberation and information."[39] Universal measures designed to combat it, in the eyes of Chinese PLWHAs, are somehow passive, and these people are treated as 'others' not 'us'. Given Chinese 'shame culture', the accessibility and benefit of these measures is very much limited to a small number of PLWHAs who are willing to come forward.

The application of the idea of *zhengming* in the AIDS strategy would be a perfect complement to these universal measures. For Chinese PLWHAs, *zhengming* is subtle, positive, familiar, empowering, and inclusive and more importantly, it is

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[37] Ibid.
Policies related to AIDS are inconsistent between government departments in China. Also, note that there are significant discrepancies between the results come from national and provincial surveys, and between the Ministry of Health and other government departments. This issue has been further discussed in my chapter concerning Biao and Ben in Chinese AIDS policy.

[38] Churchill, L.R. (1990) 'AIDS and dirt: reflections on the ethics of ritual cleanliness'. *Theoretical Medicine,* Vol.11, pp.191.

[39] Ibid.

capable of accessing that huge 'hidden epidemic' population. The primary task of *zhengming* in an AIDS context is not confined just to eliminate stigma, though this will be an inevitable by-product, rather, the task is, through attuning actuality and names to, 1) "thwart the efforts of those who would use language to confuse others and disrupt social cohesion"[40] and solidarity, 2)increase the harmonious activities to contribute to a supportive society to all.

4.4 The language of innocent infection and guilty infection in AIDS

There are numerous examples demonstrating the prevalence of this language and the insistence of the necessity to draw this distinction. One among these is when a medicine professor asserts, "it is not correct to say that nobody is to blame…. Ninety percent of all AIDS cases are contracted by either specific sexual acts or specific drug abuse. The remaining ten percent—recipients of blood transfusions, children of female PLWHAs, haemophiliacs—may well be regarded as mere 'victims'". In media and literature, we can frequently encounter the idea that "innocent (morally pure) children are again juxtaposed with guilty (morally deviant) adults"[41].

4.4.1 What is expressed in this distinction

To begin with, let's examine what the terms 'innocent infection' and 'guilty infection' refer to and what connotations it carries in an AIDS context. What is the criterion for separating these two groups? It is argued that the distinctions made through language of innocent and guilty infection is based on the mode of transmission, namely, how they contracted it: those contracting HIV through blood transfusion, vertical transmission from mother to infant, or surgical operations, are considered 'clean' cases. On the contrary, those infected via commercial sexual acts or needle-sharing, are regarded as 'guilty' cases.

[40] Hangen, K. (2002) supra n.8.
[41] Meintjes, H., Bray, R. (2005) 'But where are our moral heroes? An analysis of South African press reporting on children affected by HIV/ADIS'. *African Journal of AIDS Research*, vol.4, no.3,pp.147-159.

This explanation is only superficially attractive but far less able to capture the intentions and the implications of this distinction. I would argue the identification of ways in which one contracts AIDS may not be the concern of those who propose this distinction. What they actually care about is which category one belongs to, even before infected by AIDS. This distinction is nothing new, but operates to reinforce a preoccupying moral distinction between people (not behaviour). The moral judgement of innocent and guilty are already determined prior to transmission mode being alleged as an 'standard', what really matters is that before being infected, were you the disease's putative carriers who are perceived as immoral or abnormal transgressors, such as gay men, injecting drug users, sex workers, 'promiscuous' people and so on. Or, were you in the groups of innocent infants, young children, recipients of blood transfusions, haemophiliacs, or wives of gay men. "Pre-existing ideologies and narratives are drawn upon by the media in order to make sense of a (no longer so) new phenomenon"[42].

Furthermore, after all, it is reasonable to presume prostitutes, or gay men, would not be perceived as blameless victims even though they contract HIV through blood transfusion (the perceived innocent transmission mode) in clinical settings. In terms of treatment, those who are so called 'innocently' infected e.g. via blood transfusions are seen as deserving compassion, sympathy and support and the victims of HIV/AIDS dissemination. Therefore, they are more likely to disclose their sero-status publicly. In contrast, people called 'guilty' infection as contracted by sex workers or homosexuals still face the same grave discrimination as they have always done.

The history of our understanding of AIDS is accompanied by pervasive discourses on morality and separation around the world. As early as 1983, in the US, people were talking colloquially of a "4H club" at risk of AIDS: homosexuals, haemophiliacs, heroin addicts and Haitians. In the UK, newspapers talked AIDS as 'gay plague'. In China, in late 1980s and early 1990s, AIDS was perceived a 'product/patent' of capitalism as reflected by its early version of Chinese name,

[42] Ibid.

aizibing, which literally means 'loving capitalism disease'[43]. This ignorance of AIDS then followed by the extreme at the other end of the spectrum, the over-exaggeration of the AIDS situation in China, when it was named as 'China's Titanic Peril'[44] in a 2001 official report.

These labels, names, as well as metaphors, associated with AIDS are biased and misleading and it is harmful both for AIDS related groups and for the society as a whole. We have already paid a huge price in terms of morality and economics, for in the long run, it fuels the spread of the epidemic. In the way AIDS was termed as 'gay plague', the message was easily taken as heterosexuals will not get it and meanwhile homosexuals was judged; when it was merely given the name of a sexually transmitted disease, its blood transmission mode could be easily ignored and when it was naively associated with a political system, capitalism, then members in socialist society had nothing to do with this epidemic[45]. However, the fast spread of AIDS, from gay to general public, from Western capitalist societies to socialist communities, is the best evidence to show these labels are wrong.

4.4.2 The source of the distinction and why it is wrong: A punishment theory of disease?

Appropriate use of language in the face of the epidemic is critical and it determines partly our responses to people with AIDS. What is conveyed both explicitly and implicitly in the language of the impact of AIDS on people has a significant impact on public knowledge, policy design and interventions.

As shown above, some misconceptions, such as 'gay plague' and 'capitalist disease', have been self-defeating and as the nature of AIDS epidemiology has gradually become clearer it can be seen these misconceptions were mainly based on a lack of knowledge about AIDS.

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[43] Chinese Bureau of Hygiene & Tropical Diseases AIDS Newsletter, News item 213. 1990.

[44] The UN Theme Group on HIV/AIDS in China (2001) *HIV/AIDS: China's Titanic Peril. 2001 Update of the AIDS Situation and Needs Assessment Report.*(Accessed on 1st March) http://www.hivpolicy.org/Library/HPP000056.pdf.

[45] It is once believed that members in socialist China would not expose to AIDS 'because our superior ideology, cultural identity and cultural superiority can prevent people from contracting AIDS'. Beijing Review (1987) AIDS: Will it spread in China.

However, today, we can frequently hear comments about whether or not people are to blame for getting AIDS which embodies the guilty/innocent claim. In the example that Kopelman provided, "she is not to blame for having HIV/AIDS since she got it from her husband who is an intravenous drug user." As he pointed out: "the implication is that while she is not blameworthy, he is. This explanation is deeply ingrained to account for why people get sick." In earlier times of AIDS, many people in the West, including patients, held that AIDS was sent by God as divine punishment for the sin of homosexuality, or for adultery.[4647] It was even believed by some that "were there no homosexuality, there would be no AIDS"[48]. Even many health care professionals endorsed these propositions. When reflecting from the earliest awareness of AIDS to now, what's worrying is the persistent trend of associating moral blame to AIDS. One of the underlying ideas is viewing disease as 'punishment' for sin, and this view is ancient but still active. Kopelman terms it as the "punishment theory of disease".

Punishment theory of disease is defined by Kopelman as "the view that being bad or doing bad things can directly cause disease, and when it does, blame should be placed on those who get sick."[49] He then clarified that "a[A] punishment theory of disease does not employ a causal concept of responsibility but rather a moral concept of blame or moral responsibility."[50] Two forms of this theory then were examined: the religious versions hold that disease is divine punishment and secular or moral versions hold that we are punished for blameworthy lifestyles. It is then concluded by the author that both fail as a general account of why people get sick and risk blaming people unjustly. Both also undermine compassionate care for people and can be an excuse to ignore or abandon people in need. Moreover, these views "jeopardize the cooperation needed within and among nations to

[46] Kopelman, L.M. (2002) 'If HIV/AIDS is punishment, who is bad?' *Journal of Medicine and Philosophy*, vol.27, no.2, pp. 231-243.

[47] It is interesting to note that not all religious views see homosexuality as an immorality. Some early Christians saw diseases as the result of demonic influence. Then, under such a view, 'it was not god who was punishing, but demons who were torturing. Such a view attributed to god the role of protector and healer'. Murphy, T.F. (1988) supra n.44.

[48] Ibid.

49 Kopelman, L.M. (2002) Supra n.43.

50 Ibid.

respond to this pandemic"[51]. To summarize, this view is "not only irrational but also dangerous because it influences policies and cost lives".[52]

Similarly, some other commentators, through examining the validity of the claim that the morality of homosexual behaviour is against utilitarian, de-ontological, and natural law theories of ethics, conclude that "such behaviour involves no impediment to important moral goals and is not therefore immoral". [53] And consequently, it is argued that "the punishment notion of AIDS is intellectually indefensible and entirely counterproductive in attempting to understand and control the disease".[54] Thus, we have a 'prima facie reason' for rejecting the philosophical version of the punishment thesis.

However, some further considerations raised the issue of the impotence and limitation of these sorts of rational deliberations on the punishment notion of AIDS because the punishment idea "does not participate in rational deliberation at all". Churchill challenged that those who hold such views will be persuaded by Kopelman's 'eloquence and logic'. His words read that "Perhaps we should not be surprised that the divine punishment notion turns out to be unreasonable. For it may not be a matter of reason at all, and its unreasonableness may well account for its universal and persistent character."[55] From a literary and anthropological perspective, Churchill argued that deeply embedded views associate 'dirt' and disorder with AIDS. 'Dirt', as he pointed out, "is not a hygienic concept, but an ontological one. Culturally speaking, dirt is what is out of place, or does not belong…Dirt is a disruption which, if allowed to persist, threatens the established and proper design of things."[56]

These sorts of metaphors play a critical role in shaping our understandings of phenomena. They lead us to think about problems in certain specific ways and they are very influential in determining how we will respond to those problems. To illustrate, when we thought of AIDS as a plague, we are inclined to want to isolate

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51 Ibid.
52 Ibid.
53 Murphy ,T.F. (1988) supra n.44.
54 Ibid.
55 Churchill, L.R. (1990) supra n.37.
56 Ibid.

those infected to prevent them from contaminating others although they are not necessarily stigmatised; when AIDS was conceived of as a condition relating to 'ritual dirt' or 'defilement', it directs us to live a life attaining 'ritual cleanliness', which "dictates not only avoidance of AIDS, but avoidance of persons with AIDS";[57] When we think of the AIDS epidemic as a 'Titanic peril' to the country's development and stability as portrayed in China, the first thought is to control the spread as soon as possible while the welfare of those infected is very likely to be neglected because our discussions would focus on identifying the most effective and efficient approach, e.g. massive mandatory testing for high-risk people, to respond to an immediate threat.

There are widely divergent and competing narratives and images that are used to account for the conception of AIDS in different subjects and in different places of the world. It has been found that through all these diverse proposals, there is one commonality among them: namely the "tendency to reproduce existing social divisions between gay and straight, white and black, foreign or native, guilty or innocent, etc., where these various conceptions are based on simplified unitary identities and essentialist biological categories"[58]. If we want to bring some meaningful change to improve our response-ability in the face of AIDS in China, it is important to subject AIDS related 'names' to ethical scrutiny while also being attentive to some Chinese characteristics in the light of Confucian ethics.

4.5 Rectifying the conception of 'innocent infection' and 'guilty infection' in AIDS through Confucian ethics

It is important that we should not expect to discover or make a single 'name' favoured by everyone and applicable for all contexts. The realization of this endeavour is quite unlikely and also undesirable. Confucius's advice to rectify names is not meant to urge a change to use new name to replace an old name, but to ensure names are applied to fitting persons, or ensure person have to change in order to live up to the name they carry.

[57] Churchill, L.R. (1990) supra n.36.
[58] Sherwin,S. (2001) 'Feminist Ethics and the metaphor of AIDS'. *Journal of medicine and Philosophy.* vol.26, no.4, pp.343-364.

As we have shown, Churchill, Kopelman, and Sherwin have made some useful 'Western style' attempts to account for and rectify AIDS related 'names' for the disease of AIDS and for PLWHAs. Some are more useful and applicable in Chinese society than others. For example, due to lack of religious tradition against homosexuality and AIDS[59] in China, we at least do not need to worry about the religious aspect in the divine punishment idea. Apart from that, philosophical aspect of the punishment notion, as well as other various negative beliefs related to AIDS and PLWHAs, e.g. the idea of viewing AIDS as 'dirt' and disorder, are no less prevalent in China as in the West.

For the rhetoric of innocent and guilty infection in China, I will resort to indigenous idea, *zhengming*. Through applying this tool to address these misconceptions and prejudices against AIDS, those entrenched convictions would become clear.

4.5.1 *Ming* (name) and *shi* (actual situation/reality) in AIDS

As a primarily ethical idea, *zhengming* has been constructed as "things in actual fact should be made to accord with the implication attached to them by names"[60]. There are two sides in this meaning: the name (*ming*) and the actual situation or reality (*shi*). The 'name' of father, family, have been extensively examined and the standard reality has been widely appreciated, but what about those new phenomena or things? The disease of AIDS was only identified three decades ago and a clear understanding of it is still in progress. However, the scientific 'names' regarding this disease is not the primary (only the secondary) concern of *zhengming*, whereas it is the conception of PLWHAs which should be the main target in this chapter.

In the case of AIDS, is there ever a genuine truth of the standard/ideal 'reality' of PLWHAs or is the belief of 'reality' always in the eyes of beholder? Moreover, does

[59] Some people might object that homosexuality is against the value of reproduction, which is an important virtue in Confucian teachings. There are at least two fatal flaws in this argument: firstly, Confucianism has been widely held more as a philosophy rather than a religion. Secondly, although reproduction is a key virtue in Confucianism, it has almost never been used as a reason to object homosexuality nor has been argued as incompatible with homosexuality. On the contrary, homosexual activities were quite popular in old dynasties when Confucianism was the state ideology in Chinese history. (In Western Judeo-Christian society homosexuality is an attack on th sanctity of the family – maybe you need to refer to this)

[60] Fung, Y.L. (1952) supra n.12.

zhengming merely serve as a symbol for pre-existing and unproblematic classifications and only work retrospectively? Or, can it also works prospectively if we can recognise uncertainties and most likely actions in the future? And ultimately, how can we translate the theoretical discussion of *zhengming* in AIDS in practical activity? These questions will be answered in this section.

Perhaps the nature and the 'concept' of PLWHAs is epistemologically old and ontologically new. It's old because fundamentally PLWHAs are still people whereas it's new is that these people are widely (wrongly) believed as contaminators, polluters, 'others' not 'us', or even somehow sub-human. Their identities are basically transformed by association with AIDS from 'pre-existing' (as human beings) to something new (as PLWHAs). These are the 'actual situation/reality' in contemporary societies throughout the world, but it is not what it supposed to be in ideal. What I meant here is not that the concept of PLWHAs be rectified to the name 'people', it would be an over-simplistic way of understanding PLWHAs. Rather, I intend to say that the name PLWHAs be rectified to remove its negative connotations.

Zhengming needs to be not only retrospective but also prospective. Its most popular demonstration shows people are required to living up to standards set by 'names' given to them, but merely interpreting *zhengming* in this way is too narrow and misleading. The process of *zhengming* is a two way street, in Kurtis words, it reads:

> *"As a primarily ethical doctrine, zhengming has two sides: the name (ming) and the actual situation (shi)...when categories are fitting, then living up to them is zhengming. When they are counter productive, then reconstructing them is zhengming. In other words, attuning names involves making the actual situation congruent with a constructive ethical vocabulary. Thus, one must both tune behaviour and the ethical concepts which give behaviour its guidance."*[61]

Applying this interpretation of *zhengming* in HIV/AIDS means, it is not behaviour change I to be considered but the (mis)understanding of/mis-ascription of morality

[61] Hangen, K. (2002) supra n.8.

to the name of PLWHAs. These lines of thoughts shall not be understood rigidly as that when 'bad names' are assigned to innocent people: under the idea of *zhengming*, these people are encouraged to change their behaviour, namely, turn to bad behaviour, to conform to their bad names.[62] In the case of AIDS, it is the vocabulary of 'guilty', 'shame', 'pollution' attached to these people that needs to be removed.

4.5.2 Rectification of the concept of HIV/AIDS and PLWHAs

In the case of HIV/AIDS, *zhengming*, is ultimately a struggle of how best to represent and interpret the concept of AIDS and PLWHAs respectively and this has significant implications in determining the appropriate medical, legal, societal and ethical responses to AIDS and PLWHAs.

Perhaps we could learn some lessons from the claims and practices of the gay community in challenging the dominant public tendency to distinguish between 'innocent' victim and 'guilty' ones in the West. They denied the legitimacy of describing their sexual behaviour as blameworthy and punishable. Their explicitly political voices in AIDS discussions have proven effective as they have managed to shift the focus from a matter of identity to one of behaviour. Educational programs have also proved successful in gay communities and infection rates has been slowed.

It has also been proposed in our understanding of AIDS, an important shift should be made from viewing it as plague or epidemic of a fatal disease to see AIDS as a chronic and manageable disorder that can run for 20 years or more, or a form of disability[63]. These views implied the need of a change in prioritising resources. More attention should be given to ensuring effective public education campaigns (aimed at reducing transmission and anti-discrimination) and providing resources to communities who are infected. At the same time, as AIDS activists have been concerned, we should promote images of infected individuals as people entitled to compassionate and effective health care. Those familiar images represent people

[62] The practical danger of this understanding is that it not only increase anti-social behaviour but also fosters hostility between PLWHAs and those uninfected by HIV/AIDS in society.

[63] Bickenbach, J.E. (1992) 'AIDS and disability'. In C. Overall and W. Zion (eds.), *Perspectives on AIDS: Ethical and Social Issues*. Toronto: Oxford University Press.

with AIDS as dangerous contaminators passively waiting for death should be replaced by members of society who experience hardships but still be able to live meaningful lives. By choosing labels like "person living with HIV/AIDS (PLWHAs)" over that of "AIDS victim" or "AIDS patient," they stress the fact that this virus is something that happens to people, but it does not constitute them, so we must continue to recognize that infected individuals are more than their virus or illness. This approach is clearly useful and beneficial to Chinese discussion of AIDS.

Some might argue that why cannot we talk about AIDS in a straightforward way, as Sontag argued in her *Illness as Metaphor,* that our tendency to use disease labels as metaphors for all sorts of social and political ills is a disservice to all who are ill. She then concluded that "illness is not a metaphor…the most truthful way of regarding illness—and the healthiest way of being ill—is one most purified of, most resistant to, metaphoric thinking." [64] This resonates our concern with name in China although I do not fully agree with her. I do not think illness can be purged of metaphor, nor can our response to some members of our community, who are affected by a fatal or sexual disease, be purged of the thinking of 'names' for them when we see them in China. As Churchill put, "we cannot clean our language of metaphor, nor our actions of ritual".[65] Essentially it is simply because for most Chinese, 'name' and its associates, constitutes their world and the order of life.

These constructs proposed in our discussion surrounding AIDS are very important and necessary in shaping the appropriate medical and societal response to AIDS universally, including in Chinese society. However, they are not sufficient to address some of the entrenched values and beliefs with respect to AIDS's 'Chinese names'.

This construction could be summarized as the idea of "combat AIDS, but have compassion for PLWHAs" as many health professionals are taught. Such a separation is fragile because treating PLWHAs with compassion doesn't necessarily lead to treating them as equal members of community. To many, they are at best being seen as "victims" of a fatal disease *deserve sympathy not blame*

[64] Tontag, S. (2001) *Illness as Metaphor and AIDS and its Metaphors*. New York: Pcador.
[65] Churchill, L.R. (1990) supra n.36.

but still have to face the refusal of others to see them as essentially members of the 'mainstream' community.

To rectify this phenomenon in China, it requires people to appreciate their capacity to fulfil their social role in Confucian society as I have demonstrated in chapter 3. It is very important not to remove the expectation of obligations and responsibilities from PLWHAs that they were assigned before they got infected. In practice, this means to believe that PLWHAs are still expected and also are able to make good fathers, sons, and friends. It is important to ensure that the possibility and expectation of becoming morally exemplary persons, *junzi*, is still open to them irrespective of their HIV status. Whether associated with AIDS or not shall not be considered a factor to evaluate the morality of action and agent, the only standard that shall remain is how well one cultivates his character and fulfil his responsibility in relations. An HIV positive son can still make a 'good son' or a 'good father'.

Practically, this task is difficult but still achievable and realistic. Parallel to the attempt to promote awareness of homosexuality in China through this metaphor, homosexuality as to heterosexuality is like left-handed to right-handed. Characterising the nature of difference in people's sexual orientation in this way is neutral and irrespective with morality. It conveys the message that the difference is real but shall not be understood in a moralistic way. This metaphor, though failing to deliver any scientific knowledge, is clearly a good name for homosexuality especially in the anti-discrimination campaign. Similarly, in our discourse about AIDS as well as media and public education, we could promote some real positive and virtuous examples of PLWHAs while ensure the images are settled in family and in relation to others, and call for people to learn their resilient, optimistic attitudes towards their own lives and virtuous behaviour towards others related to them.

The next chapter, in a strict sense is also a demonstration of the process of '*zhengming* (rectification of names)' in the context of Chinese AIDS control policy: it will expose the confusions and peril of misapplying 'names' to different programmes in AIDS control in China in official discourse, and in particular, the

strategy of ‘harm reduction’ (a programme comprising of different measures aiming at behaviour modification of high-risk groups in HIV/AIDS). This exploration is also very helpful and important to the West as the next chapter will illustrate that some Western societies made the same mistakes, but in a different way.

5 Chapter 5 - Can we learn from the traditional Chinese concept of *biao ben jian zhi* (BBJZ) in HIV/AIDS control?

This chapter resonates with previous two chapters, although in a different context. For one thing, like chapter 3, it reinforces the idea that cultural and traditional ideas, as well as cultural differences, are real and fascinating, but they can be very tricky to interpret accurately and helpfully. For another thing, this chapter is also a vivid example of the practical application of the Confucian doctrine of *zhengming* as chapter 4 focused. In this chapter, focusing on the (mis)application of an ancient concept of '*biao ben jian zhi*' (BBJZ) in Chinese AIDS control policy by dominant official discourse, I not only expose some serious theoretical confusions and practical implications, but also illustrate the appropriate use of this concept of BBJZ. It is believed that this investigation can also be beneficial to Western societies to better able and more adequately develop their AIDS control policy.

5.1 Introduction

The concept of *biao ben jian zhi* (BBJZ),[1] originating from therapeutic principles in traditional Chinese medicine (TCM), is a popular idea in China. This principle includes the concepts of *biao* (branch/symptom) and *ben* (root), that is, the idea of treating a disease by analysing both its root cause and its symptoms and accordingly using different methods to treat *biao* and *ben* respectively. The source of *biao* and *ben* comes from *Huangdi Neijing* (Yellow Emperor's Inner Classic),[2] an

[1] For the purpose of simplicity, I shall use BBJZ as the abbreviation for Biao ben jian zhi. The components of BBJZ, such as biao, ben, zhibiao and zhiben, will not be abbreviated.

[2] The ancient text of Huangdi Neijing (Yellow Emperor's Inner Classic) "plays a role in Chinese medical history comparable to that of the Hippocratic writings in ancient Europe. Many practitioners of Chinese medicine still consider it a valuable source of theoretical inspiration and practical knowledge in modern clinical settings". It is composed of two texts, the first and the more important one, the Suwen (Basic Questions), covers the theoretical foundation of Chinese Medicine and its diagnostic methods. The second and less referred-to text, the Lingshu (Spiritual Pivot), discusses acupuncture therapy in great detail. "Available evidence suggests that at the basis of the Suwen is a layer of texts written beginning in the second or first century BC, with some of its conceptual contents possibly dating from the third century BC." The discussion of biao and ben in different diseases and contexts existed in both Suwen and Lingshu. An English translation of Huangdi Neijing is given below:

ancient Chinese medical text which has been the fundamental doctrinal source for Chinese medicine for more than two millennia and still is today. Although the expression BBJZ is today an evolved result of the principle of *biao* and *ben*, the meaning of it has already been reflected in the ancient doctrine.

In recent times, the application of this idea has transcended its original medical context to a variety of wider issues as a useful principle. For example, in response to HIV/AIDS, this principle appears frequently not only in written HIV/AIDS related policies and legislation but in the public speeches of government officials and in HIV-related literatures in China.[3] [4] However, the discussion of the concept itself and its application in the context of HIV/AIDS is extremely rare in China. It seems that the government has decided that the behaviour intervention 'Harm Reduction' programmes aimed at behaviour modification and preventing or reducing negative consequences for high risk groups are '*zhi biao*' (treating the symptoms) and are seen as 'just' a stop-gap measure and so assigned relatively low status and priority, whereas enforcing the law against drug users and prostitutes and ultimately eliminating them is '*zhi ben*' (treating the root cause). It is a widely held belief that using punitive forces to constrain those populations is the fundamental method for addressing *ben*, that is, ultimately eliminating these 'deviant' behaviours.

The adoption of the Harm Reduction programmes by the government stems primarily from pragmatic considerations because China is heavily burdened by the negative consequences of HIV/AIDS. If we appreciate the urgency of treating *biao*, to what extent do we tolerate and accept remedies categorized as '*zhi biao*'? What if *biao* measures conflict with *ben* measures? Might this conflict have any impact

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Unschuld, P. (2003). *Huang Di Nei Jing Su Wen: Nature, Knowledge, Imagery in an Ancient Chinese Medical Text, with an Appendix, Doctrine of the Five Periods and Six Qi in the Huang Di nei Jing Su Wen*, University of California Press.

[3] For example, this principle was addressed by China's Premier Wen Jiabao in a visit to HIV-infected ethnic minority people in Sichuan province on 1 December 2010. (In Chinese) **http://www.china.com.cn/news/txt/2010-12/02/content_21462610.htm** and by a leading scientist, Shao Yiming, who is also CEO of the National Centre for AIDS/STD Control and Prevention, China CDC in an interview. (in Chinese) **http://news.xinhuanet.com/society/2010-11/30/c_12833247.htm**

[4] Mid-Long Term Plan of HIV/AIDS Prevention and Control in China (1998-2010). Access via http://library.jgsu.edu.cn/zscq/04/Product2/Law/19_medication_sanitation/19_medication_sanitation1918.htm (in Chinese)

on PLWHAs? Might this conflict facilitate or inhibit the fight against HIV/AIDS and wider public health? Is this conflict a result of the principle of BBJZ being misapplied/misinterpreted in the HIV/AIDS prevention policies?

The main insight of this chapter is that BBJZ has been wrongly interpreted as a principle for responding to HIV/AIDS control. There are three ways in which BBJZ is misapplied. First, the attention of '*zhi ben'* has currently solely focused on law enforcement while Harm Reduction was merely considered as '*zhi biao'*. This chapter will propose that Harm Reduction is also '*zhi ben*' (some interventions such as NSP help to educate/counsel people and encourage them to enrol voluntarily in drug treatment programmes) rather than merely '*zhi biao*'. Second, some (though not all) measures of law enforcement (such as police waiting outside NSP centres) are actually counterproductive to '*zhi ben*' for both HIV and drug abuse control, so these measures should not be placed within the strategy of '*zhi ben*' at all for both problems. Third, the defining of '*zhi biao*' meaures and '*zhi ben*' measures in the context of the AIDS epidemic is still based on concerns for individual health rather than the wider public health.

In this chapter, I shall briefly explain the concept of BBJZ and its origin in TCM and then critically review its particular role in HIV/AIDS prevention and control. I shall then argue that current Chinese policy on HIV/AIDS prevention applies the concept of BBJZ incorrectly and is unhelpful and that this misconceiving of BBJZ actually puts the health of people at risk. It is proposed that more appropriate use of the principle in this context would be to include Harm Reduction programmes as a '*zhi ben*' strategy. Furthermore, the political motivations behind the government's choice to use BBJZ in HIV/AIDS policy will be explored.

5.2 What is BBJZ?

The concept of BBJZ originates from the therapeutic principles in traditional Chinese medicine. *Biao* (literally 'branch') refers to symptoms and superficial aspects/causes, and is associated with secondary disease. *Ben* (literally 'root'),

refers to primary aspects/causes, and is associated with primary disease.[5] Both *biao* and *ben* are nouns in this context. *Jian* is an adverb, meaning 'concurrently' and 'simultaneously', whereas *zhi* is a verb, meaning 'to cure' or 'to treat'. BBJZ therefore means to treat a disease by analysing both its root cause and its symptoms, and to treat them concurrently and simultaneously. *Biao* and *ben* are two distinct concepts used to indicate primary and secondary relationships[6] with varied connotations in various kinds of disease. A few examples[7] can illustrate this further. In terms of etiology and symptoms, the cause of disease is *ben* and the symptoms are *biao*. In terms of the sequence of disease, primary disease is *ben* while secondary disease is *biao*. Pathological changes in internal organs are *ben*, while changes on the body surface are *biao*.

It is important to identify the root cause of a disease in order to prescribe the right medicine. It should be noted that when we refer to this principle, for the majority of the time the emphasis is accorded to *ben*. Generally, '*zhi ben*' is superior to '*zhi biao*', because *biao* is more explicit and obvious whereas *ben* is normally implicit and less obvious. For this reason, identifying the root cause is of equal importance to the syndrome differentiation upon which the treatment is based.[8] This principle is prevalent in TCM.

A disease may consist of various symptoms, yet it only has one root cause. Successfully identifying the root cause may help treat a disease, and *vice versa*. Headache, for instance, can be caused by both exogenous and endogenous factors. Exogenous headache can be treated by external relief therapy with acrid-warm herbs if it is caused by pathogenic wind-cold, with acrid-cool herbs if it is caused by wind-heat. [9] Endogenous headache may be caused by deficiency of

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[5] For example, normally, in the case of diabetes, diabetes is the primary disease (ben) while the complications, such as the problems with eyes, nerves and kidneys caused by diabetes, are secondary disease (biao). Another example is that, in principle, for a patient with end-stage renal disease, kidney transplantation is the primary treatment (zhiben) while dialysis is the secondary treatment (zhibiao).

[6] http://www.tcmbasics.com/diagnose.htm

[7] Concentrating treatment on the root cause, **http://tcmdiscovery.com/culture/soft/UploadFile/2009-8/200981020132472889.pdf** (accessed on 10 July 2012)

[8] Ibid.

[9] A common cold can be treated differently by a TCM practitioner. There are two types of syndrome clinically, wind-cold and wind-heat, in catching a cold. A wind-cold type syndrome is characterized

blood (‘*yin*’), blockage of vessels, upward disturbance of phlegm-dampness and dysfunctional activity of the liver (‘*yang*’). Treatments of endogenous headache thus concentrate on nourishing *yin* and invigorating the blood, activating the blood to resolve stasis, drying dampness and resolving phlegm, soothing the liver and suppressing *yang*.[10]

5.2.1 Application of BBJZ in TCM

Ben is the root cause while *biao* refers to the clinical manifestations. ‘*Zhi biao*’ tackles the symptoms whereas ‘*zhi ben*’ goes to the primary cause. In TCM, *biao* and *ben* seem to play different roles: the former treats symptoms at the acute stage, the latter treats the root cause during the chronic stage.[11] In acute cases, this principle is often practised. Symptoms that bring suffering, that are life-threatening or contagious are often treated immediately. Such symptoms include massive haemorrhage, extreme high temperature and sharp pain. If they are overlooked, pathological conditions may be aggravated. In the view of TCM, this makes it difficult to treat *ben* later. When acute symptoms are relieved, it is time for treatment of the root cause.

In cases in which *biao* and *ben* may have the same degree of severity, a simultaneous treatment of both *biao* and *ben* (that is, BBJZ) is considered more effective than either treated separately. This proposition was supported in a study[12] in 1996. *Zhengqi* (the ability of body resistance against disease, namely, immunity)

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by chills, fever, anhydrosis, headache, a thin and white tongue coating, and a floating and tight pulse. The treatment of such a cold should involve combination formulas including diaphoretic medicinal herbs pungent in taste and warm in nature to disperse wind-cold from superficies. Quoted from Jia, W. Gao, W. et al. (2004) 'The rediscovery of ancient Chinese herbal formulas', *Phytotherapy Research*, vol. 18**,** pp.681-686. A wind-heat type syndrome is characterized by severe fever, headache, redness of the eyes, a swollen and sore throat, a thin and yellow tongue coating, and a floating and rapid pulse, medicinal herbs pungent and cool in nature will be used in the formulas.

[10] This example comes from http://www.tcmadvisory.com/BasicTheoryofTCM/info/20080925_396.html (accessed on 17 July 2012)

[11] This idea equals another famous Chinese therapeutic principle designed to explain the application of biao and ben, that is: relieving the secondary symptoms first in treating acute disease and relieving the primary symptoms first in treating chronic disease. (ji ze zhi qi biao, huan ze zhi qi ben.)

[12] Xu, D. Shen, Z.. et al. (1996) 'A study of the effect of ‘Strengthening Body Resistance Method’ on asthma attack', *Chinese Journal of Integrative Medicine*, vol.2, pp.86-90.

is a common treatment of *ben*. In a study of asthma attack, two groups were compared. Group 'BBJZ', the test group, was treated for both secondary and primary aspects of the disease; whereas Group '*zhi biao*', the control group, was given symptomatic treatments. The findings reveal that the treatment for Group 'BBJZ' achieved higher effectiveness.

The merits of treating *ben* are shown in today's scientific findings. Yet they have been long recognized in the history of TCM. A Chinese proverb dating back to 541BC says "the superior doctor prevents sickness; the mediocre doctor attends to impending sickness; the inferior doctor treats actual sickness". [13] A superior doctor is honoured for his/her ability to identify *ben* in the absence of *biao* because more effort and time is required to identify and treat *ben*. In this context, *ben* is considered superior to and more vital than *biao*.

Due to its apparent plausibility, the principle of BBJZ has been applied to a variety of contexts outside medicine. We can easily come across the term BBJZ in many different and diverse circumstances beyond the medical context. For example, to deal with escalating traffic congestion, this term has frequently been employed. For example, measures such as charging lower parking fees in areas far from downtown are considered as the treatment of symptoms or a specific phenomenon ('*zhi biao*'), while measures such as limiting car purchase and encouraging green travel patterns are generally regarded as treatment of the root cause ('*zhi ben*'). As another example, it is always stated that to combat corruption, we need to apply the principle of BBJZ. In this case, it is believed that '*zhi biao*' refers to measures such as the severe punishment of corruption, while '*zhi ben*' means to standardize institutions and limit the exercise of power. [14] These two examples hopefully demonstrate how broadly and prevalently this principle has been adopted (rightly or wrongly) in response to different problems.

An important point needs to be raised: when BBJZ shifts from a focus on the treatment of disease in an individual to application to social issues, such as public

[13] The Chinese version is 'shangyi yiguo, zhongyi yiren ,xiayi yi bing'. This idea originated from Sun Simiao (581-682 AD)'s *Qian Jin Yao Fang* ("*Supplement to the Formulas of a Thousand Gold Worth*"). Sun was a famous traditional Chinese medicine doctor of the Sui and Tang dynasty.

[14] Liu, C. (2002) 'Philosophic consideration about the treatment of corruption by looking into both its roots cause and symptoms'. *Journal of Qiqihar University*, vol.2.

health in an AIDS epidemic, it is necessary to take a group or population perspective when we are to interpret BBJZ. Interventions which aim to protect and promote health at population level may not be beneficial substantially for each individual person. I shall come back to this point later.

5.3 How to address BBJZ in the case of HIV/AIDS

In many circumstances, however, this concept has been applied blindly and arbitrarily without thoughtful consideration. To a certain degree, it has been dogmatized and sloganized. Its employment in the case of HIV/AIDS provides a good illustration of this point. In either HIV/AIDS related policies or speeches delivered by high officials, the phrase BBJZ is heavily and repeatedly quoted.[15] [16] Sadly, its appearance only indicates how important the phrase is, it does not indicate how effective the plans are. Moreover, BBJZ is often quoted along with another popular principle, '*shi shi qiu shi*' ('seek truth from the facts'), one of the most underpinning principles of the Chinese Communist Party. For example, in an important official guideline on control of AIDS, under the section on 'guiding principle', it is stated that "based on the national reality, we need to learn from the successful experience of other countries, and adhere to the principle of '*shi shi qiu shi*' and '*biao ben jian zhi*' …" [17] Disregarding whether or not the purpose behind repeated reference to the principle is to tell the public how committed the government is to fighting HIV/AIDS, the point is: does this principle make sense to the public? Is it understood by the public, and more vitally, by officials?

Unlike other principles such as *filial piety,* respect and beneficence, BBJZ is more abstract and less directive, thus giving less guidance to people on how to respond to it, and it suggests little in terms of a morally appropriate course of action. How it

[15] This principle was addressed by the Chinese Premier Wen Jiabao in a visit to HIV-infected ethnic minority people in Sichuan province on 1 December 2010. (In Chinese) **http://www.china.com.cn/news/txt/2010-12/02/content_21462610.htm**

[16] It was also addressed by a leading scientist, Shao Yiming, CEO of the National Centre for AIDS/STD Control and Prevention, China (CDC), in an interview. (in Chinese) http://news.xinhuanet.com/society/2010-11/30/c_12833247.htm

[17] Mid-Long Term Plan of HIV/AIDS Prevention and Control in China (1998-2010). Access via **http://library.jgsu.edu.cn/zscq/04/Product2/Law/19_medication_sanitation/19_medication_sanitation1918.htm** (in Chinese)

is perceived, interpreted and applied might have significant impact on HIV/AIDS policies. The choice of whether to focus on *biao* or on *ben* might greatly determine the welfare and interests of PLWHAs.

It is particularly important to ask this fundamental question: what do *biao* and *ben* represent in the discourse of HIV/AIDS? Sadly, so far, existing debates on HIV/AIDS do not provide any detailed response to this question. Ridiculously, they assume that everyone knows about it. If *biao* and *ben* are not clearly defined, how can the root cause be identified, and the appropriate corresponding treatment, either '*zhi biao*' or '*zhi ben*', be prescribed?

BBJZ in its original TCM context is a morally neutral principle. But when applied to public health policies, it seems to be moralised in terms of establishing particular behaviours as superior to others. The following part of this chapter will critically review current HIV/AIDS policies and practices in China and discuss how the idea of BBJZ is implemented despite the ambiguity of its components. More importantly, by reviewing policies and practices, the chapter will clarify the government's interpretation of *biao* and *ben* in HIV/AIDS, and the current corresponding measures towards each of them should become clearer, as this concept has always been implicitly discussed.

5.3.1 The Context of HIV/AIDS in China

AIDS is an acquired immunodeficiency syndrome, the first cases of which were reported in the USA by the centres for Disease Control in 1981. It is generally agreed by scientists that the human immunodeficiency virus (HIV) causes AIDS. There is still no cure for AIDS, but treatment for people with HIV has improved enormously since the mid-1990s.

Currently, there are an estimated 780,000 people living with HIV in China (out of a large population of 1.3 billion). In 2009, around 26,000 people died from AIDS. Although overall HIV prevalence remains at a low level, high infection rates are found among particular sub-populations. There is also a tendency of AIDS to spread further to the general population. In 2009, it was reported that AIDS had become the country's leading cause of death among infectious diseases for the

first time, surpassing tuberculosis and rabies.[18] As I have shown in the previous chapter that many studies have suggested that the stigmatisation of and discrimination against high-risk groups and infected people (most of them are intravenous drug users, commercial sex workers or homosexuals) are very common in China. These are considered as the chief barriers holding back high-risk groups from seeking HIV testing and general medication. This background suggests that the actual number of PLWHAs is higher than officially claimed.

The HIV epidemic in China used to originate from unsafe drug injection and shared needles and syringes. According to official figures, at the end of 2005, people who used drugs accounted for 44.3% of the total estimated HIV cases.[19] Sexual transmission, however, has now surpassed other factors and has become the largest cause of new infections in China. In 2009, 75% of the estimated 48,000 new cases were transmitted through sex, suggesting that HIV has bridged to the general population. In addition, men who have sex with men, and former plasma donors and receivers are also among the most-at-risk groups.

5.3.1.1 Past approaches to HIV/AIDS

5.3.1.1.1 The 'Western disease'

The first AIDS case reported in China was the death of a foreign tourist in 1985. In the subsequent five years, a small number of cases, infected either whilst overseas or by imported blood products, were identified. The issue did not attract much attention and was considered to be a consequence of the 'western decadence' problem associated with homosexual and 'abnormal' sexual behaviour. For China, it was thought of as only "the flies blown in as the side-effect of reform and the open door policy".[20] The strategy at that time was to stop this western disease from entering China and enforce restrictions on the entrance of people and blood

[18] Official figures show that 6,897 people died from AIDS and 44,839 were infected with HIV in the first nine months of 2008. These figures come from 2008 Healthcare Reform and Development Situation in China report. See details from http://www.gov.cn/gzdt/2009-02/17/content_1233236.htm (In Chinese)

[19] Liu, Z. et al (2006) 'Drug Use and HIV/AIDS in China', *Drug and Alcohol Review*, vol.25, no.2, pp.173-175

[20] Pan, S. (2003) *Zenyang to lijie aizibing ganranzhe? (How to understand HIV infected people?)* Beijing: Zhonggong zhongyang dangxiao chubanshe (Party School of the Central Committee of CPC Press). (in Chinese)

products from overseas. In that era, HIV/AIDS was perceived as a 'patent' of capitalism as reflected by its early Chinese name '*ai zi bing*', literally meaning 'loving capitalism disease'.[21] Hence, it was optimistically reported by the Beijing Review that AIDS was unlikely to occur in China because "homosexuality and casual sex are illegal and contrary to Chinese morality".[22] As a result, this strong sense of complacency made China's early-stage HIV policy isolated from those of other countries.

5.3.1.1.2 'A disease of drug users, blood donors, sex workers and homosexuals'

The second period started from the outbreak of China's indigenous HIV cases among 147 drug users in Yunnan province near the southwest border from 1989 to the mid-1990s. During that time, HIV spread steadily from Yunnan into neighbouring provinces and from drug users to their sexual partners and children. During that period, the most well-known event was the notorious commercial blood donation scandal in the central region, which contributed to a sharp increase in HIV cases. In addition, transmission through heterosexual sex in eastern coastal cities increased rapidly. A series of containment and isolation policies were enforced and a notion of high-risk groups was widely coined in public. For instance, laws against drug use and prostitution were strengthened and authorities were allowed to isolate HIV-positive individuals.[23] It was prevalently held that HIV/AIDS was absolutely related to recognised high-risk groups rather than high-risk behaviour. This false popular belief has had a fairly long-term impact on people's perception of HIV-related risk in China. Above all, the negative history of the officially sanctioned isolation policy strengthened the existing discrimination and hostility toward those people whose behaviour was disapproved of by society.

5.3.1.2 The emergence and implementation of 'Harm Reduction' strategies

After finding that traditional methods proved ineffective, experiencing an increasing trend of HIV spreading beyond the high-risk population into the general population,

[21] Bureau of Hygiene & Tropical Diseases AIDS Newsletter, News item 213. 1990.
[22] MacLachlan, M. (2006). *Culture and health: A critical perspective towards global health*. Wiley. pp.252.
[23] Wu, Z. et al. (2007) 'Evolution of China's response to HIV/AIDS', *Lancet*, vol.369, no.9562, pp.679-690.

and observing the dramatic devastation caused by HIV/AIDS in other countries, the government's attitude changed substantially.

In response to the rapid spread of the epidemic and in the absence of a more effective and cheap remedy for HIV/AIDS, public health policies in China as well as in many other countries focused instead on the aim of preventing transmission. The Harm Reduction programmes announced in the early 2000s were a product of this background.

'Harm reduction' refers to policies, programmes and practices that aim to prevent or reduce the negative consequences of particular behaviours, without necessarily eliminating those behaviours.[24] In the case of illegal drugs, harm reduction is a pragmatic and humanistic approach to preventing or reducing the individual and social harms associated with illegal drug use. The defining features are the focus on the prevention of harm, rather than on the prevention of drug use itself, and the focus on people who continue to use drugs.

Harm reduction strategies in the context of HIV/AIDS include: information and education, including safe sex education; condom distribution; drug treatment and substitution programmes; outreach and peer-education; increase of access to sterile injecting equipment and safe disposal; and voluntary counselling and testing for HIV.[25] In recent years, many of these harm reduction programmes have been established across the country. These strategies were ratified by the AIDS Prevention and Control Regulations[26] which was released in March 2006. The accompanying Five-Year Action Plan to Control HIV/AIDS（2006-2010）[27]

[24] What is harm reduction? International Harm Reduction Association. http://www.ihra.net/files/2010/08/10/Briefing_What_is_HR_English.pdf. (accessed on 20 May 2011)
[25] Centre for Harm Reduction (2006) *Understanding Harm Reduction Fact Sheet*, Melbourne: The Burnett Institute.
[26] State Council of the People's Republic of China. Regulations on HIV/AIDS Prevention and Treatment. Decree of the State Council of the People's Republic of China number 457. Beijing, 2006 (in Chinese)
[27] State Council of People's Republic of China. China's action plan for reducing and preventing the spread of HIV/AIDS (2006-2010). State Council Document (2006) number 13. Beijing, 2006 (in Chinese)

described the use of harm reduction strategies and provided strong support for the expansion of such programmes.[28]

However, these strategies triggered heated debates as they boldly challenged traditional moralistic attitudes. To public thinking, these policies gave the appearance of condoning and consenting to stigmatized behaviours which have been highly dismissed by traditional moral belief. The first voice about the elimination of discrimination was embodied in the HIV/AIDS Regulations which stated that it is illegal to discriminate against PLWHAs and their families. Although, to certain extent, these actions had an active effect on the public, PLWHAs are still stigmatized, as has been revealed in many recent studies.

Controversies are especially intense in the debates over drug substitution programmes and needle exchange programme for intravenous drug users. This is mainly because, first, these programmes seem sharply contradictory to the past tough approaches and items in existing narcotics laws towards drug users, and second, among the estimated HIV positives, 38.1% were infected through injected drug use in 2007.[29] Hence, the impact of the bold shift of the policy towards drug use is significant. Third, the group of drug users is more intimately related to crime compared with homosexuals and prostitutes. In this context, the discussion of *biao* and *ben*, '*zhi biao*' and '*zhi ben*' in the following section will mainly be focused on the case of drug use.

5.4 From *zhiben* to BBJZ

Use of the principle of BBJZ in the HIV/AIDS context was proposed in the mid-2000s. Evidently, one main difference between '*zhi ben*' and BBJZ lies in the inclusion of *biao* in the latter policies. In an article published in a high-profile, state-run medium under the heading 'The emergence of a new strategy in HIV/AIDS

[28] Sullivan, S. and Wu, Z. (2007) 'Rapid scale-up of harm reduction in China'. *International Journal of Drug Policy,* vol.18, no.2, pp.118-128.
[29] China 2008 Country Progress Report. http://www.unaids.org/en/dataanalysis/monitoringcountryprogress/2010progressreportssubmittedbycountries/2008progressreportssubmittedbycountries/china_2008_country_progress_report_en.pdf (accessed on 21 May 2011)

prevention: the shift from '*zhi ben*' to '*biao ben jian zhi*',[30] the new '*zhi biao*' harm reduction programmes were said to have been endorsed by the government, but at the same time, severe policies towards intravenous drug users (IDUs) were still maintained through law enforcement and forced detoxification and incarceration. These strategies are perceived as '*zhi ben*'.

Interestingly, during the time when the government focused on traditional approaches to controlling AIDS, the rhetoric of '*zhi ben*' was not put forward. It was not until the emergence of the Harm Reduction programmes that the political rhetoric of BBJZ started to be raised. Then, the traditional law enforcement measures were being labelled as '*zhi ben*' while Harm Reduction was being labelled '*zhi biao*'. As it is true that '*zhi ben*' is superior to '*zhi biao*', the message implied in this labelling was that traditional law enforcement is more important than Harm Reduction. It is suspected that the rise of and emphasis on BBJZ is actually less motivated by incorporating '*zhi biao*' into policies, and more from the attempt to specify Harm Reduction's inferior status to '*zhi ben*'.

Two important points deeply held by the government emerged through analysis of the upholding of the application of BBJZ in the AIDS context in China. First, it was firmly believed that both *biao* and *ben* factors contribute to the spread of HIV, and hence that differentiating between the *biao* and the *ben* factors is very necessary and important. To put it concretely in the AIDS case, it was believed that the key *biao* factor is high-risk behaviour while the key *ben* factor is the population with these practices and behaviours. Second, it was held that only by identifying and treating the *ben* factor can we substantially control AIDS in the long run. Corresponding to *biao* and *ben* as identified above, the treatment of the *biao* factor ('*zhi biao*') is the strategy of the Harm Reduction Programme aiming to change risk-related behaviours (*biao*), while the treatment of the *ben* factor ('*zhi ben*') is the law enforcement policies aimed at constraining the high-risk populations (*ben*).

Table 1 shows the root cause and symptoms for the HIV/AIDS epidemic that the government has identified in its policy documents.

[30] Zhang, Y, Tan, A.L. (2005) Cong zhiben dao biao ben jian zhi. (The shift from 'zhiben' to 'biao ben jian zhi').http://politics.people.com.cn/GB/1027/3464573.html (in Chinese)

Factor	***Manifestations***	***Treatment (zhi)***	***Goal behind it***
Ben (root cause)	High-risk behaviour and related population	law enforcement policy (‘*zhi ben*’)	eliminating high-risk behaviour and related population
Biao (symptoms)	negative consequences of high-risk behaviours	harm reduction programme (‘*zhi biao*’)	preventing or reducing negative consequences of certain behaviours, and behaviour modification
‘Biao ben jian zhi’	both	both	both

Table 1 Root Cause and Symptoms for the HIV/AIDS Epidemic Identified by the Chinese Government

The shift of policy was also a response to the lack of effectiveness of the traditional ‘*zhi ben*’ strategies which aimed to eradicate the high-risk groups by using severe police enforcement, and methods of the containment and isolation of infectious disease cases.[31] A pragmatic approach came up within the government with the aim of changing risk behaviours. The rationale behind this strategy of ‘paint a picture with two brushes at the same time’ is that if people adhere to traditions and morality, there would be no multiple sex partners and no drug abuse, and therefore no room for the spread of HIV. Ultimately, the disease would be exterminated. Although transmissions through blood infusion and mother-to-child would still exist, these are considered as ‘clean’ cases, which are immune from immorality.

However, there are contradictions between the components in the implementation of BBJZ. Criticisms were raised about the use of law enforcement on IDUs. Drug rehabilitation centres aim to force drug users to quit drug use, and prevent them from committing crimes. Very often, centres are overcrowded, understaffed and underfunded and are equipped with limited resources to provide drug users with extra health education, skills training and maintenance treatment.[32] In China, the process of detoxification follows a three-tier system of increasing duration and

[31] Wu, Z., Rou, K., and Cui, H. (2004) ‘The HIV/AIDS epidemic in China: history, current strategies and future challenges’. *AIDS Education and Prevention*, vol.16 (Supplement A), pp.7-17.
[32] Sullivan, S. & Wu, Z. (2007), supra n.29.

severity of punishment.[33] This 'treatment' seems to have little association with the principle of BBJZ. Rather, it brings inconsistency and ambiguity to policies.

5.4.1 MMT (Methadone Maintenance Treatment Programme) and NSP (Needle/Syringe Exchange Programme)

As stated earlier, an important reason to discuss MMT and NSP is because the shift of attitudes towards drug users as such is very significant. More importantly, it is because it provides a good illustration of the conflict between '*zhi ben*' measures and '*zhi biao*' measures in practice.

In principle, there is nothing wrong in desiring that HIV/AIDS, drug abuse and commercial sex be eliminated from society. An ethical issue that needs to be discussed is whether adhering to morality (for example, no multiple sex partners and no drug abuse) or implementing awareness programmes (for example, the distribution of condoms and provision of needles, which are at risk of violating some moral values) poses greater importance. A few questions are raised in the Chinese context. If we appreciate the urgency of treating *biao*, to what extent do we tolerate and accept remedies categorized as '*zhi biao*'? What if *biao* measures pose a conflict with *ben* measures? Does this conflict have any impact on PLWHAs? Does this conflict facilitate or inhibit the fight against HIV/AIDS?

BBJZ has been misapplied as a principle for responding to HIV/AIDS control. Insofar as drug abuse is morally and socially disapproved of, there is a political tendency to use the law as a means to eradicate this behaviour and to regard this forceful eradication as the appropriate implementation of '*zhi ben*' for HIV as an additional justification. This conflicts with Harm Reduction programmes which aim at reducing or preventing the risks and harms of such behaviour (without necessarily eradicating the behaviour itself), which is perceived as '*zhi biao*' only because drug abuse is morally and socially disapproved of.

In reality, the impact posed by conflicting measures is immense and negative. Although support from the government for harm reduction programmes is increasing, there is an imbalance between the rapid expansion of methadone

[33] Qian, H.Z., Schumacher, J.E., et al. (2006) 'Injection drug use and HIV/AIDS in China: Review of current situation, prevention and policy implications', *Harm Reduction Journal*, vol.3, no.1, pp.4.

maintenance treatment programmes (MMT) over needle and syringe programmes (NSP). This is because the latter has generated much controversy.

For the purpose of clarity, MMT is the use of substitution (methadone) therapy for combating drug addiction. It is usually operated in a clinic. NSP provides a platform where IDUs can obtain clean needles and syringes so as to reduce the chance of transmission. NSP stations are located in designated places, such as pharmacies, hospitals and designated needle exchange centres.

However, both strategies have their weaknesses. There is poor access to MMT for drug addicts. MMT clinics are required to have a minimum of six members of staff.[34] To maximize effectiveness, clinics are built only in districts with more than 500 drug addicts. Even though clinics are built, other barriers hinder access. Entry into the programme requires registration with the public security department, which may act as a deterrent for the unregistered.[35]

NSP does not have this weakness. It does not require registration. It might have potential tremendous public health benefits because the number registered is less than half of the whole estimated number of drug users.[36] Furthermore, NSP has its strengths in rural areas and areas with fewer than 500 drug addicts where it is not practical to build an MMT clinic. However, NSP is often frowned upon and distribution of needles means that drug use appears to be acceptable, which contradicts the law. Therefore, the scaling-up of NSP is very limited and faces difficulties. Therefore, IDUs living in rural areas or areas with fewer registered drug users cannot access MMT and due to the limited numbers of NSP units, most of them cannot access NSP either.

Both MMT and NSP are core components of the Harm Reduction programme. Of course, we do not necessarily have to accept the full package of harm reduction, but based on what moral grounds, if any, shall we favour one over another? The difference between the two seems that one is about providing the tools for drug

[34] Sullivan, S. and Wu, Z. (2007). supra n.29.
[35] Ibid.
[36] The number registered in 2005 was 1.16 million, while the actual number (including the unregistered) is likely to be much higher, with estimates of 3.5 million in the highly affected region only.
Kulsudjarit, K. (2004) 'Drug problem in southeast and southwest Asia', *Annals of the New York Academy of Sciences*, vol.1025, no.1, pp.446–457.

use while the other is about providing the drug itself for drug use. At this point, we need seriously to scrutinise the basis of our convictions towards the two programmes.

Of course, there seems to be a large difference if harm/benefit analysis is carried out from the individual perspective (rather than from the social perspective of reducing HIV spread). While MMT may be regarded as just substituting one form of addiction for another (though its optimal treatment is to move patients to a stage where they no longer are dependent on methadone), it does help patients to improve their health, well-being and lives, unlike NSP. So MMT may actually be closer to ben given its links to TCM, which is about individual health and life.

It may be perfectly reasonable for individuals to judge NSP as not a '*zhi ben*' measure because it may not be able to promote individual health immediately and directly. However, we should bear in mind that the principle of BBJZ is now applied in a public health context rather than a traditional individual medical setting. From a public health perspective, it has enormous benefit for the wider population and society as it reduces HIV infection substantially[37]. Furthermore, NSP is a useful means of getting in touch with people who inject drugs in order to provide education and counselling and to connect them to health-care services and drug treatment programmes.[38] It is undoubtedly within the '*zhi ben*' strategy. Therefore, we should be reminded that sufficient consideration from the public health perspective needs to be taken when we apply BBJZ in the context of HIV/AIDS.

5.4.2 The political importance of the principle of BBJZ for China

BBJZ has a strong influence in the fight against HIV/AIDS in the absence of effective medical and social remedies. Under the current interpretation (or insufficient interpretation) of *biao* and *ben*, this principle actually bears too much political weight. It is reasonable to suspect that under the HIV/AID prevention programmes, there is another mission to achieve.

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[37] See WHO (2004) Effectiveness of Sterile Needle and Syringe Programming in Reducing HIV/AIDS Among Injecting Drug Users, Available **online:** www.who.int/hiv/pub/idu/pubidu/en. **(**accessed on 23 May 2011)

[38] Ibid.

Analysis of the government's distinct attitudes towards MMT and NSP has shown that curbing AIDS is not the most important objective. Strategies designed to combat HIV/AIDS have been compromised to pursue another purpose, that is, the control of drug use. There is a political tendency to use the law as a means to eradicate this behaviour, to regard this forceful eradication of drug use as the appropriate implementation of '*zhi ben*' for HIV as an additional justification. To some government departments, such as public security, and for some people, HIV/AIDS is used as pretext to further their own agenda rather than to support the health and welfare of infected people and those at risk. There are reports indicating that police wait near NSPs to arrest both drug users and outreach workers.[39] Some studies have also reported that drug users arrested during NSP have associated (rightly or wrongly) their arrest or increased drug control activities with inclusion in the trial and have later shunned the programmes.[40] This may be caused by ambiguity in the policy. The AIDS Prevention and Control Regulation endorses condom promotion and methadone therapy, yet it does not explicitly mention NSP. It was not until the Five-Year Action Plan to Control HIV/AIDS (2006-2010) that NSP was included. The omission of NSP created a conflict between China's AIDS Regulations and public security policies such as narcotic laws. It appears that public health ministries tend to focus on '*zhi biao*' (harm reduction) while public security ministries tend to focus on '*zhi ben*' (police enforcement).

Effective drug policy will involve a pragmatic mix of prevention, treatment, law enforcement and harm reduction. According to a report from the United Nations Office on Drugs and Crime (UNODC):

> *Improving the performance of the drug control system … requires four things simultaneously: enforcement of the laws; prevention of drug-related behaviour; treatment of those who are neither deterred nor prevented from entering into illegal drug use; and mitigation of the negative consequences of drugs, both for those who are caught in the web of addition, as well as for*

[39] IHRD(2006) *Harm reduction developments 2005:Countries with injection-driven HIV-epidemics*, New York: International Harm Reduction Program (IHRD) of the Open Society Institute.

[40] Hammett, T.M., Chen, Y., et al. (2006) 'A delicate balance: law enforcement agencies and harm reduction interventions for injection drug users in China and Vietnam'. In *AIDS and social policy in China*, pp. 214–231.

society at large. The last of those four is what is normally called: harm reduction.[41]

It is the case that, in China, the goals of controlling drug use are primarily pursued through law enforcement, which has a negative impact on the health and human rights of people who use drugs and on the public health endeavour of HIV/AIDS control more broadly. The ambivalence and the ambiguity in HIV policies in China, and challenges faced in practice, can only be eliminated through re-interpreting the *biao* and *ben* of HIV/AIDS. There is a strong need to reinterpret and let the public know and understand that Harm Reduction programmes are also '*zhi ben*' rather than merely '*zhi biao*'. Meanwhile, some measures of law enforcement (such as police waiting outside NSP centres and detoxification centres without medical treatment) are actually counterproductive to '*zhi ben*' for both HIV and drug abuse control. We need to bear in mind that in the response to HIV/AIDS and drug control, promoting health, saving lives and attempting to change risk behaviours constitute the very essence of *ben*.

5.5 Conclusion

After this explanation of the concept of BBJZ and the systematic examination of its application in the context of HIV/AIDS, it is argued that current Chinese policy on HIV/AIDS prevention is applying the concept of BBJZ incorrectly and unhelpfully, which has a negative impact on the health of people who use drugs and on public health more broadly. A better interpretation of BBJZ in the HIV/AIDS context would be to include in Harm Reduction programmes '*zhi ben*' rather than merely '*zhi biao*'. Some perceived '*zhi ben*' measures are actually counterproductive to '*zhi ben*' and should not be placed within the strategy of '*zhi ben*' at all. It is also suspected that the adoption of BBJZ is to achieve another political mission beyond the context of HIV/AIDS. To use a Chinese proverb to summarize, the rationale of killing two birds with one stone does not work in this context. Here, severe policies and law enforcement plus health programmes towards high-risk populations are the stone while the epidemic of HIV/AIDS is one bird and the epidemic of drug abuse is the

[41] UNODC (2008) World Drug Report 2008, United Nations Office on Drugs and Crime. p.217.

other. The persistence of tensions between drug control and harm reduction will have negative effects on programmes until a fully harmonized policy environment is established. Excessive reliance on law enforcement and forced detoxification will not solve the problems of substance abuse or of HIV epidemic among drug users.

5.6 Why it is important for the West?

Now that we have understood the concept of BBJZ and its elements, we have also explored how it is misapplied in Chinese AIDS control policies. This misapplication is focused on the strategy of harm reduction, which should be considered as a '*zhi ben*' measure rather than '*zhi biao*' if we apply BBJZ in the right way. However, what is the relevance to the West? What lessons can be learned so as to avoid similar difficulties? Is it important for western people to understand the principle of BBJZ and its application?

This chapter argues that the concept of BBJZ and its correct application in the public health context is also very helpful and important to the west. In response to the spread of AIDS among drug users, when developing countries, such as China, were starting to shift the focus from punitive measures to pragmatic harm-reduction strategies, some western countries,[42] for instance the UK, were precisely doing something very different. Between 1987 and 1997, the UK had a public health approach to drug use and there were some notable achievements in reducing drug-related harms. However, in the late 1990s, concerning the priorities in drug policy, there was a shift "from a focus on individual and public health (the health phase) towards the harm arising from drug-related crime within communities and at the societal level (the crime phase)".[43] "As the concern shifts to crime, drug users are no longer seen as being harmed, but as harming non-drug users."[44] Therefore, there is increasing reliance on coercion into treatment through the criminal justice

[42] For details about the developments in the use of compulsion in drug policy in Western countries, please see Hunt, N. and Stevens, A. (2004) 'Whose harm? Harm reduction and the shift to coercion in UK drug policy'. *Social Policy and Society*, vol.3, pp.333-342.
[43] Ibid.
[44] Ibid.

system.[45] The objective of crime prevention has overridden public health goals. This reorientation of drug policies is described as "decidedly unhealthy"[46] and it is evident that it disregards the health needs of drug users and has adverse impacts on health.[47]

It is a fact that the epidemic of AIDS is no longer a primary concern in public health and that the spread of AIDS is less driven by drug users in the UK. So the discussion of harm reduction in the UK is more often taking place in the context of drug use rather than AIDS control. Compared with China, the problem in the UK is within harm reduction, the misinterpretation of harm, whereas the problem in China is about Harm Reduction, the misinterpretation of the role of harm reduction as '*zhi biao*' measures in AIDS control. Fundamentally, the mistakes in both countries are the same: the confusion of '*zhi biao*' and '*zhi ben*'. Arguably, the change of UK drug policy is actually shifting the focus from '*zhi ben*' (harm reduction focusing on health) to '*zhi biao*' (a punitive approach to crime prevention). Punitive and compulsory approaches to drug use and AIDS have been proved ineffective in China and many elements are counterproductive to the control of drug use and of AIDS. These approaches might prevent drug-related crime in the short term through imprisonment ('*zhi biao*'), yet there will be detrimental impacts on public health in deterring drug users from seeking treatment.[48] The primary concern (*ben*) for a drug use policy should be to enable drug users to lead healthy lives, to respect their human dignity, and to respect human rights. Crime reduction should not be the prime motive for drug policy but it should be seen as a secondary concern (*biao*). Western societies, for example the UK, would be able to better recognise this point and consequently avoid unhealthy policies if they were familiar with the lessons from misinterpreting *biao* and *ben* in Chinese responses to drug use and HIV.

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[45] Two compulsory policies have been introduced in Britain: first, Drug Treatment and Testing Orders (DTTOs), and second, Drug Abstinence Orders (DAOs). Ibid.
[46] Stimson, G.V. (2000) 'Blair declares war: the unhealthy state of British drug policy', *The International Journal of Drug Policy*, vol.11, pp.259-264.
[47] Barrett, D. (2010) 'Security, development and human rights: Normative, legal and policy challenges for the international drug control system'. *International Journal of Drug Policy*, vol.21, no.2, pp.140-144.
[48] Ibid.

I have critically examined the (mis)application of the Chinese concept of BBJZ specifically in the strategy of 'harm reduction' in Chinese AIDS policy in this chapter. In the next chapter, rather than applying indigenous concepts in contemporary AIDS related ethical issues, I will examine some Western ideas or practices, in particular, the particular opt-out system advocated by UNAIDS in HIV testing policy, and discuss its applicability in a duty-based Chinese context.

6 Chapter 6 - West meets East: rights-based approach meets Chinese Duty-based familism in the context of HIV testing and Biobanking

This chapter is comprised of two parts: in contrast to the previous chapter, the first part concerns the applicability of and compatibility between Western ideas or practices and the Chinese context, in particular, a popular rights-based opt-out approach to HIV testing encountering duty-based Confucian tradition. Note it should not be generalised as human rights, perceived as by and large a Western norm, at odds with Chinese culture and categorically not applicable in any domains of activities in China.[1] Rather, it is perhaps the sensitivity of HIV/AIDS which makes the conflict between an opt-out system in HIV testing and a duty-based familism tradition a particularly useful example. To provide a comprehensive understanding of duty-based familism tradition, the second part of this chapter will continue to discuss its application in another booming subject, biobanking, where it presents a better alternative to the rights-based approach.

6.1 Part 1

6.1.1 Introduction

'Too little, too late' is the characteristic of the situation of HIV testing in many societies. It is widely recognised, by policy makers, health practioners, and human rights advocates alike, that the low uptake of HIV testing and counselling is a major challenge in the response to the epidemic that needs to be urgently addressed. At the end of 2007, in China, approximately 75% of people infected with HIV remained undiagnosed while in the United States it is 25%.[2][3] It has been also

[1] Actually, many contemporary scholars has provided compelling evidence that human rights are not incompatible indigenous Chinese moral-political-religious systems such as Confucianism. See: Nie, J.B. (2011) *Medical Ethics in China A transcultural interpretation*, New York: Routledge. ; De Bary, W.T. (1998) "Asian values and human rights: A Confucian communitarian perspective, Cambridge, MA: Harvard University Press.

[2] Wang, L (2007) 'Overview of the HIV/AIDS epidemic, scientific research and government responses in China' in *AIDS*, (suppl 8) :S3-S7

[3] Branson, B. M., Handsfield, H. H., Lampe, M. A., Janssen, R. S., Taylor, A. W., Lyss, S. B., & Clark, J. E. (2006). *Revised recommendations for HIV testing of adults, adolescents, and pregnant women in health-care settings*. US Department of Health and Human Services, Centers for Disease Control and Prevention.

observed that many people who present symptoms of HIV infection, and others who would otherwise benefit from knowing their HIV status through contact with health facilities are often not offered an HIV test. Many people are diagnosed with HIV only when they have progressed to AIDS; among these late diagnoses some have been infected for 10 years or longer, unknowingly exposing their partners to HIV. Moreover, healthcare costs related to the late stage of HIV infection increase massively, especially when accompanied by opportunistic complications.

Identifying the "hidden epidemic" of those HIV infected but undiagnosed people represents the biggest challenge for HIV/AIDS control in many societies. More timely diagnosis of HIV can improve treatment and care of those infected with HIV, prolong survival, and reduce the spread of HIV. Therefore, scaling up the access to HIV testing is an urgent task faced by many countries. Currently, the dominant model of HIV testing is the Voluntary HIV Counselling and Testing (VCT) model. Although the existing VCT programme has showed remarkable success worldwide, some inherent barriers associated with VCT uptake remain, including that: clients have to initiate testing themselves; lengthy pre- and post-testing counseling; implementation difficulties; and patient concerns about confidentiality. Various possible strategies for expanding HIV testing have been proposed, such as 'know your HIV status' campaigns, mobile VCT services, community and home based HIV testing. The most innovative and radical one is perhaps the 'provider-initiated HIV testing and counselling' (PITC)[4], also referred to as 'opt-out' HIV testing or 'routine offer of HIV testing', proposed by the Joint United Nations Program on HIV/AIDS (UNAIDS) and the World Health Organisation (WHO) in 2007. This approach is raised under a wider political commitment made by governments to provide "Universal Access" to HIV prevention, treatment, care and support services to all those in need by 2010.[5]

[4] WHO/UNAIDS (2007) 'Guidance on provider-initiated HIV testing and counselling in health facilities.' Geneva: World Health Organisation.

[5] WHO/UNAIDS/UNICEF (2007) Towards Universal Access: Scaling up priority HIV/AIDS intervention in the health sector. Progress Report. Geneva: World Health Organisation.

6.1.2 What is the PITC (provider-initiated HIV testing and counselling) and opt-out system?

According to the Guidance on PITC in Health Facilities[6], an 'opt-out' approach is strongly recommended along with simplified pre-test information. With this approach, an HIV test is recommended for all patients, irrespective of epidemic setting, whose clinical presentation might result from underlying HIV infection. Individuals must specifically decline the HIV test if they do not want it to be performed. If they choose to be tested, informed consent is confirmed verbally and the rapid test is done immediately. Pre-test counselling is not a requirement while post-test counselling is focused on ensuring that patients understand the test result and giving prevention messages, helping them cope with the associated emotions, and making follow-up arrangements for clinical care, support and prevention services. However, the guidance also admits that an 'opt-in' approach to informed consent may merit consideration for highly vulnerable populations.

WHO, UNAIDS and CDC (the Centres for Disease Control) now recommend PITC as a streamlined and cost-effective HIV testing approach to rapidly and massively increase HIV testing rates in medical settings.[7] PITC and the opt-out approach have been proved effective and successful through increasing HIV testing rates in many societies, with absolute increases varying from 5% to as high as 50% in some.[8][9] The opt-out approach has also been accepted by people because they feel 'less fearful' of participating in routine HIV testing because this approach would be perceived as a 'standard of care' offered to all patients.[10] By normalizing HIV testing through integrating it and associated HIV care into standard clinical practice, in some sense, it also reduces the risk of stigma and other adverse social consequences when compared to the opt-in VCT policy.

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[6] WHO/UNAIDS (2007) Supra n.4
[7] WHO/UNAIDS (2007) Supra n.4.
[8] Jurgens, R. (2006) 'Routinizing' HIV testing in low-and middle-income countries—Background paper. New York: Public Health Program of the Open Society Institute.
[9] WHO/UNAIDS (2007). Supra n.4.
[10] Chandisarewa, W., Stranix-Chibanda, L. et al. (2007) 'Routine offer of antenatal HIV testing ("opt-out" approach) to prevent mother-to-child transmission of HIV in urban Zimbabwe', *Bulletin of the World Health Organisation.* vol.85, no.11, pp.843-850.

PITC have also raised several concerns regarding informed consent, counselling support, staff workload and access to care for the increased numbers who test positive, especially in settings marked by poverty, illiteracy, gender inequalities, weak health-care infrastructure and poor access to ART (antiretroviral treatment).[111213] The main concern is around informed consent, would it become coercive and manipulative due to the unbalanced power relations between patients and providers, especially in resource constrained settings? Moreover, there is high potential that patient's rights can not be adequately protected and they might not be empowered to exercise their rights. After all, PITC allows a bigger role of providers in the process of HIV testing. For instance, the PITC study among STI patients in Cape Town, from an observer's perspective showed there was a spectrum in the ethical practice of nurses. Some nurses were more explicit about and facilitative of the patient's rights to refuse than others.[14]

6.1.3 Rights-based opt-out system and Confucian duty-based familism

Voluntariness should always be the underlying value of HIV testing strategy. As the WHO/UNAIDS guidance indicates, under an opt-out approach, HIV testing is initiated and offered by doctors and people are tested unless they explicitly opt out and refuse to be tested. The default position under an opt-out policy is to test rather than not to test under an opt-in policy. This opt-out approach can be ethically equivalent to affirmative consent (opt-in) if the refusal is adequately informed and if the patient has sufficient liberty to say no.[15] From a rights-based approach, we can easily find out that the opt-out regime requires much higher consciousness of rights than the opt-in regime, as people need to be able to comprehend and exercise the

[11] Leon, N., Colvin, C.J., et al. (2010) 'Provider-initialed testing and counselling for HIV—from debate to implementation', *South African Medical Journal*, vol.100, no.4.
[12] Chandisarewa, W. Stranix-Chibanda, L. et,al. (2007) supra n.10
[13] Nieburg P., Cannell T., et al.(2005) *Expanded HIV testing: critical gateway to HIV treatment and prevention requires major resources. Effective protections*. Washington DC: Center for strategic and international studies.
[14] Leon, N., Naidoo, P., et al. (2009) 'The impact of provider-initiated (opt-out) HIV testing and counseling of patients with sexually transmitted infection in Cape Town, South Africa: A controlled trail', Poster Presentation at the 11th World Congress Africa conference of the International Union Against Sexually Transmitted Infections, Cape Town, 9-12 November 2009. cited in Leon, N. Colvin, C.J. et al. (2010) supra n.10.
[15] Rennie, S. and Behets, F. (2006). 'Desperately seeking targets: the ethics of routine HIV testing in low-income countries', *Bulletin of the World Health Organization*, vol.84, pp.52-57.

right of refusal or right to decline. It seems to me that this aggressive policy is applicable to societies with a tradition of human rights and continuous effort to strengthen legal protections. Although significant public health goals have been achieved in some countries by adopting this opt-out HIV testing policy, it seems unsuitable and cannot be justified in China due to a variety of practical and cultural difficulties. One of the most essential and important reasons is precisely that this rights-based opt-out approach is incongruous with duty-based Confucian morality which is underpinning Chinese society.

6.1.3.1 Duty-based Confucian hierarchy

As China's long standing heritage, Confucianism placed considerable emphasis on the individual roles and fulfillment of duties, which was deeply embedded in people's thinking and practice in ancient China as well as contemporary China. An important feature of Confucian society is its hierarchical system, as I have explained in the introduction and chapter 2, in which both social and familial relations are duty-based, not rights-based. Each person in Confucian society holds an explicit defined position and is educated to be responsible rather than have rights.

Traditionally there is no conception of rights in Confucian doctrine and society. Western human rights see human beings as innately equal in moral worth and dignity, and deserving equal treatment irrespective of status. Although this belief was introduced to China from the nineteenth century, consciousness about rights remains very low among the whole population. How much an individual's rights can be actualized depends on the individual's sense of rights and requirements and even so his complex and burdensome duties take precedence over his rights. That is, it is widely held that the individual would normally enter into a position to claim and seek for his interest and rights only once he has fulfilled a series of duties to his family and state, which was also clearly pre-ordained by tradition.

6.1.3.2 The impact of duty-based morality on HIV/AIDS

The unequal nature of Confucian moral hierarchy has a significant impact on people's attitudes towards HIV/AIDS related people. A study of knowledge and

attitudes towards HIV and HIV testing among pregnant women and health professionals in Yunnan Province, showed that 23% of health professionals and 45% of pregnant women thought HIV was a disease of "low class and illegal" people.[16] The negative attitudes towards HIV/AIDS are further buttressed by the fact that there are laws against drug use and commercial sex work, and homosexuality was officially listed as psychiatric disorder until 2001. As the main proportion of existing HIV cases and potential HIV positive patients, these populations was regarded as carrying a disastrous effect for Confucian harmonious society. Also, these groups are already presupposed as people of moral degeneration because of their 'deviant' social behaviours, including homosexuality, drug use, and commercial sex. Hence, many people hold the view that those high risk people are morally inferior people worthy of less respect and even deserving the epidemic. This perception manifested itself through several prevalent assertions not long ago that "AIDS is the punishment for people with moral degeneration," "AIDS is the punishment against promiscuity" (various conceptions and metaphors like this have been further explored and addressed in chapter 4).

Following this high level of moral inequality belief, in the context of HIV testing, those high risk people are not only expected, but are required to undergo HIV testing. This duty of accepting HIV testing of those high risk people in China could be reinforced by opt-out policy in two ways: first, in an opt-out regime, unlike client initiated HIV testing and counseling, initiation and communication of the policy in clinical settings and by doctors poses hidden coercive influences. Confronting the high social status of doctors in a Confucian society, high risk people may feel compelled to accept testing, and it seems to be their duty to obey authority and thus undertake the test regardless of whether it is a rational decision to do so. Obviously, the voluntary nature of informed consent is compromised and weakened, especially for those who do not intend to be tested. Therefore, they can hardly have the right to decline even if they realize or are informed about having such a thing as the right to opt-out. Second, that HIV testing is offered and

[16] Hesketh T., Duo L., et al. (2005) 'Attitudes to HIV and HIV testing in high prevalence areas of China: Informing the introduction of voluntary counselling and testing programmes', *Sexually Transmitted Infections,* vol.81, no.2, pp.108-112.

recommended by doctors could easily be understood by patients as an official endorsement which sends a clear message: as an institutionally sanctioned judgment that being tested for HIV is the correct thing to do. To those high risk people, it is not an offer, but a top-down order. Because in traditional Confucian society complying with orders from the authorities is the virtuous and laudable behavior, it would be regarded as disruptive to harmony and morally repugnant to opt out. All of these indicate that the opt-out approach cannot satisfy the requirement of being a morally warranted policy in Confucian context because it adds extra pressure to some already existing non-voluntary duty fulfillment.

6.1.3.3 Family interest vs individual rights

In a duty-based Confucian society, the notion of family, although evolved and developed over centuries, still has unique and important status. Family has an influential effect in almost every sphere of an individual's life, especially in medical care related decision making. The main characteristics of family rely on two facts - higher interest than individuals, and intimate relationships within family - which makes the pursuit of individual interests and rights hugely difficult, and inseparable from the family.

Confucianism accorded superior primacy to the interests of the family. In a rights oriented society, in general, it is immoral and unjustifiable to infringe individual's rights in order to protect the welfare of certain groups. However, in the Confucian context it is conceived that it is the duty to compromise or sacrifice the individual interest if necessary for the family welfare. In the past, for instance, young people have to be obedient to their family (the family elders)'s arrangement for their marriage. Usually the interest of the family is to seek bonding with wealthy and influential families, and this interest is prioritized over the individual interest, such as affection. Even though the young individual does not know the partner chosen by his family, he is required to perform the duties and responsibilities owed to his family and marry this partner. While things have changed enormously and there are few arranged marriage nowadays, obtaining parents or important family member's approval is still a prerequisite to the individual decision making especially on significant affairs.

The significance of opting-in or opting-out in HIV testing is no less than an individual's marriage. Since the test result not only concerns the interest of individual but also the welfare of his family, according to Confucianism, the test decision-making authority should be based on the family, not on the individual. According to this line of thought, under an opt-in approach as initiated by the client, the decision of whether testing or not testing could be a fully discussed prior decision made among family members, and carefully considered, voluntary and non-coerced, and affirmative. Consequently, the individual and family could be prepared for the coming result practically and psychologically no matter whether it is negative or positive. It could be said that this approach is compatible with Chinese moral tradition as it leaves sufficient room for a family decision making process. However, according to the opt-out model, the procedure of the HIV testing decision making occurs in the health care settings and is recommended by doctors, which is often not relevant (although some doctors perceive in another way) to people's initial intention of seeking for specific medication. Under burden and pressure posed by this innovative model, patients may not opt-out because they fear that this could result in negative treatment by doctors and will thus feel compelled to consent to the offer. There is no time for family discussion about it if patients believe it is necessary. Apparently, this decision lacks voluntariness, is compromised by the coercion, and is time rushed and which in most cases cannot reflect patient's real wishes. Moreover, due to the absence of advance family discussion about the HIV testing, accepting the accompanied result could be a severe challenge to the patient and his family, especially the positive report. The individual is afflicted by the painful dilemma: he is required to reveal his infection status to his family members in the light of Confucian duty based morality. But he is also afraid of bringing disgrace and pressure on family members and the following discrimination from people around them, which in Confucianism was considered to be highly against filial piety and even to be a crime in ancient days. This suggests that by rigidly putting individual rights in opposition to family interests, the opt-out approach is antithetical to the deep rooted Confucian notion of family.

Another feature of Confucian family is its intimate relations with family members, which adds further weight to the assertion that the Western opt-out HIV testing policy is incompatible with Confucian duty-based morality. There was no independent person in traditional Chinese society, every person was connected to every other one. As Henry Rosemont remarks:

"For the early Confucians there can be no me in isolation, to be considered abstractly. I am the totality of roles I live in relation to specific others. I do not play or perform these roles; I am these roles."[17]

The existence of humans is bound to social relations. The relationships within one family is the closest among all other relationships, which could be reflected through the fact that the unit in a Confucian society, even to some extent in present China, is the family, not the individual. Decision making is a shared process and privacy is a shared among family members. Therefore any information should be transparent within the family. However, this shared privacy gives rise to a challenge of protecting confidentiality and ensuring fairness if adopting an opt-out regime in a Confucian context. The reason is that women are more likely to come into contact with formal health services, such as antenatal services, than men. Thus, they are more likely to subject to domestic violence and abuse, abandonment and discrimination if they are revealed to have HIV. Once a woman has tested positive, due to her subordinate position entailed by the traditional notion of '*Wulun*' she has the responsibility to reveal her HIV test report to her husband and also, due to intimate family bonding defined by tradition, normally her HIV status will soon be known to her parents-in-law or other important family members. Accordingly, this woman's interests and welfare will significantly depend upon her family's knowledge and attitude towards HIV/AIDS, especially when she is also economically dependent on her spouse. All this adds difficulty to promoting confidentiality and safeguarding fairness.

These kind of embedded ethical concerns might be reflected by and also resonate with some empirical studies involving post-test return rates in other societies. A

[17] Rosemont, H. (1988). 'Why take rights seriously? A Confucian critique.' In Rouner L.(ed.), *Human Rights and the World's Religions,* Iniana: University of Notre Dame Press. pp.167-182.

study in Botswana showed that a significant proportion of pregnant women (29%) who opted for routine HIV testing did not return to the clinic to collect their test results.[18] Likewise, in another, Kenyan, study, 31% of women (including 44% of HIV-infected women) did not return to obtain their test results.[19] This might be due to practical reasons, such as that the results were not immediately available or that there were transportation difficulties. But it surely challenges the validity of voluntariness in informed consent, and perhaps also the protection of women, conducted under 'opt-out' system. Those unreturned people in Botswana or Kenya, HIV positive or not, might not be reached by providers, however, their Chinese counterpart, as well as their employers and workplace, can easily be reached and identified by the police through the unique Household Registration System in China through which every Chinese person's record, including residential area, parents, spouse, and date of birth, can be found. This causes some further ethical problems of confidentiality and test result notification.

6.1.4 Conclusion

Fundamentally, when we develop any policies or approaches in HIV testing, it is important to balance the 'exceptionalising' (e.g. HIV testing entails exceptional requirements for consent) and the 'normalising' impulses (e.g. opt-out approach) in a way that results in ethical, effective, efficient and sustainable services.[20]

Based on the above concerns and arguments, we can safely draw the conclusion that a rights-based opt-out policy and a family-based Confucian society could mutually reinforce each other's features, or to put it more incisively, vulnerability, in an unharmonious way. We need great caution to ensure that patients' consent is genuine and solid and that their rights of opt-out are protected if PITC and the opt-out approach to HIV testing must be implemented in China.

The encounter of the rights-based approach and Confucian duty-based approach is surely not limited to the context of HIV testing, but appears in many other subjects which have bioethical interest, especially those topics involving sensitive

[18] Chandisarewa,W. Stranix-Chibanda, L. et al. (2007), supra n.10.
[19] James K, Nduati R. et al. (2000) 'HIV-1 testing in pregnancy: acceptability and correlates of return for test results', *AIDS,* vol.14, no.10, pp.1468-1470.
[20] Leon, N., Colvin, C.J. et al. (2010) supra n.11

information, which may relate to others, or significant body parts. To show a more comprehensive and systematic understanding of the latter, which is unfamiliar to Westerners, the next section will further demonstrate the confrontation of a rights-based conception of informed consent and Confucian duty-based familism in another scenario, biobanking.

6.2 Part 2 - An analogue: A Confucian duty-based approach to biobanking

Nowadays, like other genetic databases and biobanks, there have been particular concerns about UK Biobank because of the sensitive nature of personal genetic information as well as its significant commercial value given the large population involved. In this context, the classic ethical debate on dilemmas of individual rights (privacy, informed consent) and public benefits becomes even more complex. In this section, I will examine challenges and limits to informed consent related to biobanking, which was widely accepted as a rights-based conception in Western theories, and will introduce the duty-based theory of Confucian moral philosophy, which I will argue is a better alternative in biobanking.

6.2.1 Brief introduction of UK Biobank

UK Biobank is a major medical research project, which aims to study how the health of 500,000 people aged between 40-69 years in 2006-2010, from all around the UK is affected by their lifestyle, environment and genes.[21] The purpose of this project is to set up a resource that can support a diverse range of research, which is intended to improve the prevention, diagnosis and treatment of illness, and the promotion of health throughout the society. [22] To allow this, standard measurements (blood pressure, pulse rate, height, weight, body fat, etc.) and samples (blood and urine) need to be collected from every participant. These samples will be stored and used for tests to be conducted in approved research. It is believed that over many years this will build into a powerful resource to help

[21] UK Biobank information leaflet. Access on http://www.ukbiobank.ac.uk/docs/Informationleaflet130608.pdf (access on 20th April 2011)
[22] Ibid.

scientists discover why some people develop particular diseases and others do not.[23]

In terms of confidentiality, informed written consent would be sought from participants before Biobank researchers can access the corresponding medical records. It is also claimed that the information and samples from UK Biobank participants will be available only to researchers who have secured the relevant scientific and ethical approval for their planned research. The NHS Northwest Multicentre Research Ethics Committee (MREC) is the ethics governance body, responsible for reviewing and approving the relevant plans and protocols. In addition, an independent Ethics and Governance Council will also monitor the development and use of the resource. Moreover, a number of rigorous procedures are in place to protect the confidentiality of participants, including coding, de-identification, and excluding unauthorized access to information, etc.

6.2.1.1 Limitations of informed consent in biobanking

The development of biobanks poses challenges to the traditional decision making procedure due to two reasons. Firstly, as a tool that assists in carrying out existing and future research projects, its novelty lies in avoiding direct contact between research participants and researchers.[24] Further, in a biobank's research, the purpose and direction of new projects might not be fully known at the time when biological samples and consent were obtained from participants. New researches may also be devised even years after the individuals who provided the samples have died. This then poses difficulties in fulfilling the principle of traditional informed consent, which often covers face-to-face and specific information disclosure about the proposed study. To address this, new forms of consent have been introduced to cater to the nature of decision making in a biobank, such as open, blanket consent,[25] which is given only once, but could also be applicable to any future researches. However, this move has been criticized as either too vague

[23] Biobank Information, http://www.ukbiobank.ac.uk/about-biobank-uk/ (accessed on 20th April 2011)
[24] Nomper, A. (2005) *Open consent-A new form of informed consent for population genetic databases.* Dissertation for obtaining the degree of doctor iuris, University of Tartu pp:6 access on: http://www.utlib.ee/ekollekt/diss/dok/2005/b17285835/nomper.pdf (accessed on 25th April 2011)
[25] Caulfield, T. (2002) 'Gene banks and blanket consent', *Nature Reviews Genetics,* vol.3. no.8, pp.577.

or even inconsistent with individual rights. There have also been doubts about whether the existing procedures in gathering consent for this initiative are a 'real' consent at all.

Secondly, securing genetic information from individuals has an impact not only on the participant alone, but also on other people, who are genetically linked to the participant e.g. siblings and other family members. Thus, the information gathered is considered as a kind of shared information among the family, and genetic privacy can also be considered as a shared privacy among family members. However, traditional informed consent assumes that a decision is made by a single individual based on its value to one's own life, and limits any treatment or research only to the person concerned. In biobanks, the classical individualistic form of informed consent is again facing difficulties. It might appear to be improper to only seek individual consent for genetic information disclosure, when in fact any information disclosed may have an implication for the whole family's genetic status. Furthermore, this individual rights-based informed consent makes it more difficult for the protection of family privacy and the prevention of current and future threats and risks on people.

6.2.2 Introduction of a duty-based approach in biobanking

The discussion above showed that adopting an individual-centered, rights-based approach in the management of a biobank might be inappropriate, however, a duty-based Confucian familism approach could be a better alternative. Confucian moral philosophy focuses on the duties of an individual to the family, community, and even to the whole country. It is based on "Five Standards": '*ren'*, '*yi'*, '*li'*, '*zhi'*, and '*xin'*. These five standards represent 'benevolence, social virtue', 'justice, righteousness, and obligation', 'rites, courtesy, rules of propriety', 'sense and ability to identify what is morally right or wrong', and 'honesty, ability to keep promises'[26] respectively. Among the five, *ren* (benevolence or humanness) is the core of Confucianism. A person's self-cultivation in Confucianism is strongly associated with his virtuous action to others, and is also tied to his role in the family and the

[26] Cong, Y.L. (2004) 'Doctor-family-patient relationship: The Chinese paradigm of informed consent', *Journal of Medicine and Philosophy*, vol.29, no.2, pp.157-158.

community. Confucianism places considerable emphasis on the fulfillment of certain duties, which is based on the promotion of corresponding values. For example, a son is expected to perform the duties of deference in accordance with the value of filial piety. This then has to be reciprocated, so in return, parents have a duty to take care of their sons and to be a good role model to them. This adherence to performing roles and duties has been the underpinning structure of a harmonious functioning of the Confucian society.

Biobank research intends to benefit the general public through the genetic information gathered, which may significantly contribute to the welfare of the humanity in a great number of ways, including developing a genetic medicine or a therapy to cure genetic diseases, or potentially help us genetically enhance our resistance against diseases or biological defects. It could be proposed that a member of a family or a community has the duty to disclose his genetic information and contribute to the biobank study, in order to save lives and promote healthcare. In fact, in recent years, a moral obligation to participate in biomedical research has been raised and advocated by scholars from different perspectives. Harris uses the principle of 'do no harm' and 'fairness' to argue for the obligation to participate in biomedical research, especially "minimally invasive and minimally risky procedures" such as biobanking, as long as "safeguards against wrongful use are in place". He pushed even further that "the obligation…should be compelling for anyone who believes there is a moral obligation to help others, and/or a moral obligation to be just and do one's share."[27] Another recent paper views medical research from the perspective of a "social contract based in self-interest", and argues that "because all individuals share an interest in advances in healthcare" (which can only be attained through cooperative research efforts), therefore, "there is a moral duty to contribute to research", including biobanking.[28] All these have proved a significant turn, from rights to duty, in our discourse of participation in biobanking.

[27] Harris, J. (2005) 'Scientific research is a moral duty', *Journal of Medical Ethics*. vol.31, pp.242-248.

[28] Forsberg, J.S., Hansson, M. et al. (2013) 'Why participating in (certain) scientific research is a moral duty', *Jounral of Medical Ethics*, vol,3, pp.1-4.

Meanwhile, it has been agreed that researchers have the obligation to notify the donors of the biological samples with the appropriate information regarding the research projects and also have a duty to uphold genetic secrecy. The discourse of this duty is in conformity with *ren* (benevolence or humanness) and the bioethical principle of beneficence and non-maleficience. However, to promote the duty of participating in biobank research, three important preconditions must be met, (1). The autonomy of an individual as well as that of his/her family should be respected; (2). Personal information related to research shall be safely protected; and (3). Participants have the right to withdraw. The second and third premises mentioned are easy to understand, but introducing the familism approach to tackle the consent and privacy issues in biobank researches, is a new and unfamiliar concept, and a unique perspective originated in Confucianism, which will be further examined in this chapter.

6.2.2.1 Why include the family in the decision making in biobanking?

The short response to this question is simply that the unit in genetic information collection is a family and not an individual alone. The pursuit of a classic individualistic mode of informed consent is unable to take into account the interests of families and genetically linked relatives of the patient. Unlike HIV sero-status and other similar personal medical information that is individual-specific, genetic information is shared among and is relevant to genetically related individuals. Therefore, it is ethically problematic if an individual undergoes genetic testing without informing his family members, as the genetic information revealed through such test also has a potential substantive impact for genetically related people. It seems that to a certain extent the genetic privacy of the other members of the family is violated. The context may even become more complex when a person's genetic information is found to have a high risk of serious disease and doctors and researchers will be confronted with the dilemma of either upholding professional secrecy or informing the individual and other family members of the situation, so as to provide treatment.

Furthermore, it is quite clear that the main risk in biobank research is related to providing and sharing information,[29] which is also of fundamental importance. The disclosure of relevant information to third parties could have negative implications to the social relationships of an individual and his family (whether related by blood or not) if this will result in issues of discrimination. This issue is then too important to be left with individuals alone even if they are competent and well informed. Focusing on family-based concerns, especially the decision making issue, may be the key to understanding how family members perceive the value of biobanks and genetic information to future risk and cure to certain diseases.[30] This may also extend the benefits of biobank research in many ways such as through the dissemination of useful health information among family members. Lastly, individuals who intend to participate in biobank research are often motivated not only by their own responsibility towards their family but also by altruistic motives to contribute to the society in finding solutions to diseases. These important aspects of biobank participation will be identified and understood better if the opinion of the family members is taken into account in the decision-making process.

6.2.2.2 The familism approach and the duty to participate in biobanking

The duty to participate in biobank research is based on the principle of benevolence and strictly adheres to the application of the three criteria mentioned earlier. However, this duty to participate is not considered absolute or mandatory. Since everyone in the family is related to one another, it is noted that family members also have a duty to respect other members who are not willing to participate in the decision-making. To borrow Harris' words, "we are justified in assuming that a person would want to discharge his or her moral obligations [to participate in medical research] in cases where we have no knowledge about their actual preference. *This is a way of recognizing them as moral agents.*"[italic my own] What he, and I, mean here is that a duty to participate in medical research is

[29] Greely, H. T. (2007) 'The uneasy ethical and legal underpinnings of large-scale genomic biobanks', *Annual Review of Gemonics and Human genetics,* vol,8:pp343-364.
[30] Doukas, D. J. (2003) 'Genetic providers and the family covenant: connecting individuals with their families', *Genet Test,* vol.7, pp.315-321.

generally justifiable and particularly becomes justified in biobanking. This shall not be taken as we are advocating mandatory participation in research.

It is always preferable to get a family consensus by having a discussion and a compromise within the family, with a "combination of evidence and rational argument", before an individual gives, or doesn't give, genetic information. This consent will be considered as a family consent, which is based on an idea of family autonomy. As stated by Fan,

> *"unlike the Western principle of autonomy demanding self-determination, assuming a subjective conception of the good and promotes the value of individual independence; the East Asian principle of autonomy is based on family-determination, which presupposes an objective conception of the good and upholds the value of harmonious dependence."*[31]

The concepts of family autonomy and optimum approach to giving consent are very much applicable to biobanking. Apart from the relational nature of genetic information in itself, which supports an interpersonal family-centered model, the common property of genetic information also reflects the intimacy of the family members, which provides a basis to promote the value of harmonious dependence. In turn, the family affinity could also be strengthened because of this. Moreover, the beneficial effects of biobank research to people and society in general is also more apparent compared to other biomedical technologies. Since the potential benefits of biobank research will extend to some groups or even to the whole population and not only to specific individuals, in the context of participation, a person is not only considered as a person, but also an extension of the family. With a family having the same expectations in terms of genetic medication, it could explain why the concept of autonomy has to be practiced collectively in biobank. It can then be inferred that the moral requirement of having family autonomy is an important characteristic of biobank research. It is also important to note that introducing familism and duty-based approach would be essential to safeguard the attainment of valid family consent and to facilitate biobank research.

[31] Fan R.P. (1997) 'Self-determination vs family-determination: two incommensurable principles of autonomy', *Bioethics*, vol, 11, pp.309-322.

6.2.2.3 The familism approach and privacy

Genetic privacy frequently refers to informational genetic privacy, confidentiality, secrecy, anonymity, and fair information practices.[32] Confucianism regards privacy as a shared privacy among the family members and each family member has the duty to protect genetic privacy of the whole family, which makes confidentiality of information in biobanking easier to be fulfilled through a duty-based approach. However, conflicts may arise between family members in terms of the level of confidentiality within the family, and the proper mutual respect of each other's autonomy is the best solution to it. The issues discussed and agreed on within the family are neither arbitrary nor coerced, but there should be a process of mediation through communication with mutual respect. The familism approach to privacy as well as to consent does not mean that family determination is more superior to individual autonomy. Instead, it means that there is a need for a shared family determination and a mutual promise.

6.2.3 Conclusion

We can safely draw the conclusion from the above discussion that an individual-centered, rights-based approach in the management of biobanks might be inappropriate; however, a duty-based Confucian familism approach presents a better alternative. Because of the relational nature of genetic information in itself and the benefit sharing feature of biobank research, genetic information as common property among family members could be better protected through family-centered determination. Moreover, confidentiality concerning genetic privacy in biobanking could be more easily fulfilled through a duty-based approach in accordance with family autonomy.

The interaction between a particular approach and a specific cultural context can be far more complex and delicate than it seems to be. It is important to not only

[32] Anita, L. A. (1997) 'Genetic Privacy: Emerging Concepts and Values.' in Rothstein, M. (ed.) *Genetic Secrets: Protecting Privacy and Confidentiality in the Genetic Era*, CT: Yale University Press.

address the involved disparities or contradictions but also to determine whether they are morally-relevant and whether it is ethically justifiable to change the proposed approach, or whether it is ethically imperative to adhere to the existing approach. I hope this chapter demonstrates this point and the importance of being attentive to the nature of context when we are conducting cross-cultural bioethics. Neither the opt-out rights-based approach nor the duty-based familism approach is a “one size fit for all” for various contexts and situations.

7 Chapter 7 - Is it still altruistic and glorious to donate blood under the work unit quota system in China? A Mohist proposal

In the preceding chapters I have examined a series of ethical dilemmas in HIV/AIDS primarily from a Chinese-Western comparative perspective. In particular, I have shown the importance of critical interpretation of traditional concepts and demonstrated the notion of "taking cultural differences seriously".

In this chapter, I will illustrate another idea of "taking Chinese internal moral pluralism seriously" (an idea originally raised by Nie) through examining the application of different approaches originating from socialism, Confucianism, and Mohism in the particular context of blood donation promotion in China. "Taking Chinese internal moral pluralism" seriously shall not be merely understood as to respect the diversity of cultural practice. As this chapter will demonstrate, it also reminds us to be cautious of the danger of taking the official or dominant ethical views or cultural practices as the only representative of medical ethics in China without ethical judgment. Moreover, it is important to discover and encourage alternative approaches or ideas which are of particular help for addressing contemporary issues from other long-forgotten traditions which are also indigenous to Chinese culture.

7.1 Introduction

How to ensure an adequate and safe blood supply to support increasing modern medical demands and surgical practices is a challenging problem faced by many countries. The widely practised voluntary unpaid donation of blood and plasma has proved to be far from sufficient to meet the demand. There are many reasons why this problem is particularly intense in China, particularly the large aging population and shortage of young people, a (perceived) long-standing cultural reluctance to donate blood,[1] and the negative effect resulting from the notorious outbreak of AIDS through contaminated blood in the central region in the mid 1990s.

[1] Shanghai Daily (2007) 'Blood: the Mother of qi-Why Donating is a Big Deal in China', see: http://www.china.org.cn/english/health/235233.htm (accessed on 11 November 2012)

Because of the chronic shortage of volunteer donors, many societies have developed their own strategy to motivate donors. For example, in Japan, many 20-year-olds donate each year after attending the ceremony for Adults' Day on January 15. This traditional festival has been used to promote voluntary donations.[2] Many other countries, including the United States, the United Kingdom, France and Australia, have promoted autologous donations alongside their general voluntary programmes. That is, a person's own blood is collected and stored until he or she needs it.[3]

I am proposing a Mohist 'impartial caring' ethical framework in promoting blood donation in China, not only because it is familiar to and rooted in Chinese culture, but more importantly because it parallels the value of altruism that underpins voluntary blood donation. I shall argue that the application of this principle in blood donation can best promote the quality of altruism in Chinese society.

'It is glorious to donate blood without payment' (*wuchang xianxue guangrong*)[4] is the current slogan in a Chinese public health campaign to promote voluntary unpaid donation. But China also takes a distinctive approach called the Work Unit Quota blood donation to supplement the voluntary donation system. And in many cities, this approach has taken the main role in securing an adequate blood supply. Under this system, the responsibility for donor recruitment is placed on local government. Donation quotas are frequently assigned to work units such as factories and universities, who have to pressure employees into donating to meet the assigned quota by the use of incentives such as monetary compensation and time off work. Thus, many of these donors are not true volunteers. They are also different from paid donors. Sometimes, the quota system works in a more mandatory and ruthless way, especially when it is implemented in universities. According to a policy announced recently by the Beijing Municipal health bureau,

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[2] Wang, Y. (2004) 'Encouraging Volunteers to Give Blood'. China Daily 9 December (online edition). Available at: http://www.chinadaily.com.cn/english/doc/2004-12/09/content_398710.htm (accessed on 11 November 2012)

[3] Ibid; Rutherford, C.J. and Kaplan, H.S. (1995) 'Autologous Blood Dontaion-Can We Bank on It?' *The New England Journal of Medicine*. pp.332

[4] Also translated as 'Non-remunerated blood donation is glorious'. Erwin, K., Adams, V. and Le, P. (2009) 'Glorious deeds: Work Unit Blood Donation and Postsocialist Desires in Urban China', *Body & Society*. pp.15

"blood donation facts will be listed as an indicator that affects the evaluation results and academic performance of college students and the assessment of teachers".[5]

There are many ethical problems implied in this quota system, for example, social welfare *versus* individual interest, voluntariness, altruism, autonomy, coercion and manipulation, justice and human rights. This chapter is intended to present a discussion of the theme of voluntariness and altruism from a very different 'inside out' angle of indigenous Chinese moral theories, primarily Confucianism and Mohism. From this 'inside out' approach, it is also interesting to ask this question: is it still glorious and altruistic to donate blood under the quota system as it is operated so differently from voluntary unpaid donation, especially with compensation? Or, should donors within a work unit feel this way?

Some important categories of donation practices need to be clarified. In terms of whether blood donation is remunerated or not, donation can be grouped as non-remunerated donation and remunerated donation. In terms of voluntariness, donations are categorised into voluntary and non-voluntary, or compulsory. In terms of the utility of the blood, for example, for clinical use or for use by a pharmaceutical company, there are also whole blood donation and blood plasma donation. It is widely believed that non-remunerated donors are voluntary; they are called volunteers in this chapter.[6]

A definition of voluntary, non-remunerated donation from the International Society of Blood Transfusion states:

> *"Voluntary non-remunerated blood donors are persons who give blood, plasma or other blood components of their own free will and receive no payment for it, either in the form of cash, or in kind which could be considered a substitute for money. This includes time off work, other than reasonably needed for the donation and travel. Small tokens, refreshments*

[5] Global Times: 'Students Grades, Giving Blood Linked', 30 January 2012. Available at: http://www.globaltimes.cn/NEWS/tabid/99/ID/693866/Student-grades-giving-blood-linked.aspx (accessed on 20 December 2012).

[6] The word "donor" is problematic that masks the nature and relations in blood procurement-the word "donors" are both referred to those who give or sell their blood.

and reimbursement of direct travel costs are compatible with voluntary, non-remunerated donation."[7]

Richard Titmuss famously believed that exclusive reliance on unpaid donation, unlike paid donation, promotes altruism and social solidarity, which are very important values in modern societies.[8] This principle has been shared by many people and has been the core of many countries' blood donation services, for example, the UK National Blood Service.

This chapter consists of four parts: first, the history of blood donation and HIV/AIDS will be briefly reviewed. Second, it will explore the idea of the blood donation quota system and the concept of the work unit (*danwei*). Third, the chapter will continue by examining how factors derived from Confucianism, such as graded love, have an impact on Chinese blood donation decision making and attitudes. It will also address the question of what role the unique strategy of the work unit quota system plays in promoting altruism and social solidarity - is it motivating or discouraging people from voluntary unpaid blood donation? Fourth, it is proposed that the Mohist principle of impartial caring be used as the ethical framework in blood donation, and I shall argue that it is a better alternative that needs to be applied in the effort of promoting blood donation in China.

7.2 Blood donation and HIV/AIDS in China

The scope of this chapter is limited to a discussion around whole blood donation rather than blood plasma donation. The latter in China is mainly organised by pharmaceutical companies instead of by the healthcare systems, and the donors are paid for each donation, which is not my concern in this chapter.

For whole blood donation, in general, there are three modes of donation in China. The first mode is volunteer donation by donors who donate to street blood collection vans or hospitals on their own initiative. The second mode is

[7] National AIDS Control Organization, India (2007) 'Voluntary Blood Donation Programme-An Operational Guideline', available at: http://www.nacoonline.org/upload/Policies%20&%20Guidelines/29,%20voluntary%20blood%20donation.pdf (accessed on 1 December 2012).

[8] Titmuss, R. (1971) *The Gift Relationship: From Human Blood to Social Policy*. New York: Vintage Books.

replacement donation. Donors donate blood to cover the transfusion needs of family members and friends. The third mode, also the main focus of this chapter, is donation under work unit quotas by work unit affiliated workers. In reality, this mode has been the most effective measure to secure sufficient supplies of blood for many Chinese cities. A salient difference between these three modes is that the first and second are non-remunerated donation while the third uses varying types and amounts of reward. Moreover, in terms of voluntariness, it is arguable whether there is a high level of voluntariness in the first and second categories (especially for the first case as some people argue that donors in the second category may be under family pressure to give against their own will), while issues in the third category are much more complicated.

7.2.1 The history of the practice of blood collection in China

The following paragraphs present a brief overview of the history of blood collection combined with the spread of HIV/AIDS in China over the past three decades.

In 1985, in order to keep HIV/AIDS outside China's borders and in 'capitalist countries' where homosexuality and intravenous drug use had become serious social problems, the Ministry of Health banned the importation of all blood products. Consequently, the plasma fractionation industry grew rapidly and many new collection stations mushroomed all over China. Most collection stations were set up in county towns, primarily because of their proximity to rural areas where donors could be more easily recruited. Beginning in the early 1990s, over 270 commercial blood collection sites were established in the central Henan province alone (with a population of approximately 93.6 million). The rural poor, paid between 20 and 200 yuan ($2.40 to $24.00) per donation became willing donors.[9] The average monthly income from farming is $ 9-12.[10] According to a study by the China Centre for Disease Control, many donors gave as often as twice a week,

[9] Shao, J. (2006) 'Fluid Labor and Blood Money: The Economy of HIV/AIDS in Rural Central China', *Cultural Anthropology*, Issue. 21, no.4, pp.21; Erwin, K. (2006) 'The Circulatory System: Blood Procurement, AIDS, and the Social Body in China', *Medical Anthropology Quarterly,* vol.20, no.2, pp.20

[10] Wu, Z.Y., Rou, K.M., and Detels, R. (2001) 'Prevalence of HIV Infection among Former Commercial Plasma Donors in Rural Eastern China', *Health Policy and Planning,* vol.16, pp.41-46.

and some reports suggest that donors gave almost daily, facilitated by the consumption of a large bowl of salt water.[11] However, the HIV antibody test was not required and not performed at any of the local blood collection centres.[12] "To save money and increase donation frequency, many blood collection centres pooled the blood by type and used plasmapheresis to separate plasma from whole blood. Donors were reinjected, in some cases with pooled blood, or in other cases with reused needles and other unsterilised equipment."[13]

These practices resulted in a massive HIV crisis in central China and the creation of many 'AIDS villages'. "In some villages, 60-80 percent of the adult population is now HIV infected. These are among the highest rates in the world."[14] The Chinese government has acknowledged that at least 69,000 (others say the true number may be over 100,000) people have been infected through commercial blood collection and transfusion.[15]

In 1996, the Chinese government quietly closed many of its state-run commercial blood banks, and in 1998, a new blood donation law[16] became effective. This law banned all paid whole-blood donations for clinical use and encouraged all Chinese citizens between the ages of 18 and 55 years, who meet the health criteria for blood donation, to donate blood voluntarily.[17] Great efforts have been made in cleaning up China's blood supply. The government is actively seeking to promote voluntary blood donation, and mobile blood donation vans can now be seen on the streets of large provincial capital cities. The public are exhorted to do 'glorious' deeds to fulfil their social responsibility. The chapter will return to this point later.

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[11] Shao (2006) supra n. 9.
[12] Wu, Z.Y., Liu, Z.Y., and Detels, R. (1995) 'HIV-1 Infection in Commercial Plasma Donors in China', *The Lancet*, vol.346, pp.61–62.
[13] Erwin, (2006), supra n.9..
[14] Ibid, pp.140.
[15] This number includes both former commercial blood and plasma donors and recipients of blood through transfusion. It is said this number is a serious underestimate, and that the true number maybe over 100,000. 2005 Update on the HIV/AIDS Epidemic and Response in China. Ministry of Health of China, UNAIDS, WHO joint report. Beijing: Ministry of Health, 2006
[16] Standing Committee of the National People's Congress. Blood donation law. Order number 93 of the President of the People's Republic of China. Beijing 1998. available at: http://www.moh.gov.cn/publicfiles/business/htmlfiles/mohzcfgs/pfl/200804/18252.htm(accessed on 12 December 2012)
[17] Xinhua News Agency. 2001.*China to Promote Donation Work for Blood Safely*. People's Daily 4 December.

It is clear that these campaigns have raised public awareness of blood donation and have increased the supply of blood and it is said by government sources that the total blood supply is now considered adequate to meet ordinary demand. It is reported that 78% of blood for clinical transfusion was purchased from other countries before 1998, and by 2006, this figure was down to 2-5% nationwide.[18] However, the situation varies from location to location. The reality is that Shanghai, with its population of 16 million, needs 100,000 to 150,000 volunteers a year instead of the current 30,000 to meet demand.[19] In addition, up till now, China's overall donation rate is only 0.87%, which is much lower than the rate of 4.54% in high-income countries and also behind 1.01% in middle-income countries.[20]

Moreover, it should be noted that the statistics quoted above are not purely from voluntary donation. They also included blood collected through quota-based work unit obligatory donations, which often make up the majority. In Shanghai, more than 60% of the city's blood supply has been dependent on work unit quota donations rather than on volunteers who receive no money or holidays in return.[21]

The work unit quota is not without critics in China and they primarily concentrate on the condemnation of opening the door for underground blood selling. The widespread reluctance to give blood has made some work units look to outsiders to donate on the work unit's employees' behalf, rewarding them with money. Middlemen, often called 'blood heads', made large profits through contacting these work units under the quota task and organising poverty-stricken locals or out-of-town labourers to donate and earn 'blood money'.[22]

In 2006, it was said by a high official at a press conference that the Regulations[23] which encourage voluntary blood donation and urge governments of various levels to set blood donation quotas for social institutions and work units in the city were

[18] Erwin (2006), supra n.9, pp.55.
[19] Wang (2004), supra n.2.
[20] China Daily (2010) *Blood Donation*. 5 November. Available at: http://www.chinadaily.com.cn/opinion/2010-11/05/content_11505520.htm (accessed on 3 March 2012)
[21] Wang (2004), supra n.2.
[22] Shao (2006) supra n.9.
[23] The full name is The Regulations on Mobilising and Organising Beijing Citizens to Donate Blood.

terminated in Beijing.[24] As recently as early 2011, however, a massive blood quota associated underground blood-selling practice involving poor villagers and migrant workers as well as college students in an outlying district of Beijing was exposed in *News Beijing* (*Xin Jing Bao*), one of Beijing's most widely-read newspapers. This event suggests that the mandatory work unit quota is still in practice. The report made it clear that "Blood head and AIDS will continue to haunt China without the abolishment of the blood quota".[25] It is reasonable to believe that similar practices persist in other cities in China because this rampant blood-selling practice for meeting quotas on this scale was even occurring in Beijing, the political and cultural centre of China.

7.2.2 What is the blood donation quota?

In the public health domain in China,

> "*Procurement of blood takes place through two legitimized mechanisms: 'planned' (jihua) donation organized through work units, schools and other institutions like the neighbourhood committees, to meet established quotas; and blood donation at mobile vans or blood centres that is voluntary, and largely non-remunerated, and what we might also call 'unplanned.'*"[26]

Compared with donating in vans, the blood quota system has several salient features:

1. 'Planned'. It is organised by the work unit (the *danwei*), which is an institutional structure providing the 'iron rice bowl'[27] for employees and is more than just a workplace in the socialist society. So unlike 'unplanned'

[24] Xinhua News Agency. *Beijing Ends Blood Donation Quotas*. 2006. 30 March. Available at: http://www.china.org.cn/english/2006/Mar/163964.htm (accessed on 3 December 2012)
[25] News Beijing (Xin Jing Bao) (2001) 'Blood head and AIDS will continue to haunt China without the abolishment of the blood quota' (xianxue zhibiao bu qu, xuetou youling nan chu). 2011. 8 April. Available at: http://www.chinanews.com/jk/2011/04-08/2958673.shtml
[26] Erwin (2006), supra n.9, pp. 60.
[27] The Chinese pinyin for "iron rice bowl" is tie fan wan. It is a Chinese term used to refer to an occupation with guaranteed job security, income and benefits. People who have "iron rice bowl" generally refers to those who works in a work unit, including members of the civil services and employees of state run enterprises.

donations, donating blood under the quota is not entirely a matter of individual decision-making and practice.

2. It is a mixture of compulsory and voluntary donations.[28] The quota is set compulsorily at the work unit level, not the individual level. Failure to meet the quota will cause fines and a poor reputation for a work unit for failing to meet its public service and obligation. In principle, no individual is coerced to donate blood, but future awards or promotion possibilities are often connected with one's performance on this matter. Therefore, they are not true volunteers in the strict sense. However, studies have suggested that there was widespread insistence by some workers that blood donations organised by the work unit were a means of donating voluntarily at the individual level because they saw blood donation as fulfilling a personal social responsibility and compensation as the care and support from their work unit.[29]
3. Generous compensation. Workers who volunteer to participate in the 'blood drive' which was set up by the work unit to encourage participation are often generously compensated for their donation. The amount of compensation was often related to the wealth of the work unit. It is reported some donors can receive up to 2000-3000 yuan ($250-$350) and up to several weeks of paid time off.[30] This makes a striking comparison with the amount received by some of the peasants during the blood donation scandal – around 50 yuan ($6). At the same time, the mobile vans offered donors little compensation (a souvenir, bread and milk).
4. Effective and stable. The work unit blood drives are clearly more effective and stable than the mobile van campaign in securing blood donations in many cities in China as the latter are subject to many uncertainties, such as weather, distance and holidays.

[28] China Newsweek (zhongguo xinwen zhoukan) (2005) 'Blood Donation Quota' is Moving towards a 'paid but non-voluntary" system (xianxue zhibiao bianxing ji). 31 January 2005
[29] Erwin (2006) supra n.9. pp. 55.
[30] Ibid, pp.61

5. More recognition for the individual. Donation behaviour is transparent within the work unit and it is common for work unit leaders to visit donors at home in the days after donation, to deliver food and show appreciation for the workers' contribution to the public good. In contrast, donating in vans is an individual behaviour and not seen or known by many people.

The blood quota has been operating in China for nearly two decades. Most of the debates in the literature have focused on the commodification of body parts and the selling of blood. But any ethical examination of this blood quota system is extremely rare in China. Does the existence of the quota and of incentives obscure the distinction between blood donation and blood selling? With generous compensation, is it ethically justifiable to classify the quota as a means of promoting voluntary blood donation, as held by many Chinese people?

7.2.3 What is a work unit (*danwei*)?

One important concept closely associated with the quota system needs to be explained. The work unit, or *danwei*, is an institutional structure that provides a means for locating urban Chinese in the socialist society. A *danwei* could be a factory, a non-manufacturing business such as a banking or retail enterprise, a university or a primary school. But the *danwei* is more than just a workplace. It also provides the safety net once known as the iron rice bowl, and its leadership monitors public participation in the socialist mobilisations, one of which is blood donation.

The following words capture the role of the *danwei*,

> *"People used to be assigned to jobs in a particular danwei, and from their danwei, received their salary and food stamps, permission to marry or divorce, and housing assignments. The danwei also provided education and training, including weekly political studies, and monitored adherence to laws and policies even outside the workplace. The city, provincial and central governments received revenue, or goods, through*

taxes and quotas on the danwei, and there was no personal income tax."[31]

Due to the economic reforms, including the freedom to open private companies in the late 1980s, the importance and centrality of *danwei* in monitoring all aspects of urban Chinese lives diminished. College graduates are no longer assigned jobs in a work unit and instead they have to compete for positions in either publicly-owned work units or private or foreign enterprises.[32] Urban incomes vary dramatically depending on the success of a particular *danwei*.

However, "the work unit nevertheless remains an important organising structure of social life in urban China - particularly as a means of managing social mobilisation".[33] Hence, the state has invoked this familiar strategy to impose work unit quotas to ensure a safe and sufficient blood supply.

The slogan "It is glorious to donate blood without payment" is an important part of the national campaign to boost voluntary blood donation in China. To people who have some knowledge about contemporary China, this slogan would remind them of similar slogans which were very popular during the Maoist era. For example, during the Cultural Revolution, urban young people sent to work in remote areas were told that "to climb mountains and descend to the countryside is glorious". Most well-known, perhaps, was Mao's famous call "to learn from comrade Lei Feng" (a soldier who, during a life of only 22 years, had devoted himself to the service of others. Lei Feng has been an inspirational figure in the past decades) and consequently the slogan "it is glorious to learn from comrade Lei Feng".

Certainly, "exhorting the population to glorious (or heroic) deeds has been a hallmark of Chinese socialism since the Maoist era".[34] By invoking the familiar socialist propaganda terms, the slogan for blood donation may arouse people's socialist nostalgia and their responsibilities towards the nation. But this is far from enough. For example, what if traditional Confucian belief and cultural assumptions do not espouse this socialist slogan? Which one shall we adhere to and how shall

[31] Ibid, pp.56.
[32] Ibid
[33] Ibid
[34] Ibid, pp.53.

we reconcile the conflict? Blood donation is embedded in much more complex webs of different cultural beliefs which require identification and analysis.

7.3 Confucian partiality and the graded love

Confucianism has influenced Chinese society for over 2,000 years. *Ren* (humaneness) and *li* (behavioural propriety) are two foundational concepts in Confucianism. The cultivation of *ren* begins with the development of family relationships with their correlative emotions and special obligations. As expressed in the Analects (*lunyu*), there is the idea that others should not all be treated in the same way. Most basically, special consideration should be accorded to one's parents over any other people; this partiality reflects the special nurturing which one's parents have already provided. This distinctive Confucian moral view of differentiated love or graded love was best summarised by Mencius,

> *"A virtuous man (junzi) is caring toward non-human animals but is not benevolent toward them; he is benevolent toward the people but is not devoted to them. He is devoted to his parents but is merely benevolent toward the people; he is benevolent toward the people but is merely caring to non-human animals."*[35]

It seems that Mencius only taught us the differentiated degrees and attitudes of treating other people, but how exactly shall we treat other people? Specifically, do we have a particular moral obligation towards strangers? Indeed, Confucianism maintained that individuals participate in *wulun* (five cardinal social relationships): ruler to minister, father to son, husband to wife, elder brother to younger brother, friend to friend, and specific duties and responsibilities were inherent in each of these relationships. Notable by its absence is any relationship between individual and stranger. What are the duties and responsibilities, if there are any, existing between strangers, or between individuals and society, according to Confucianism? Does the practice of donating blood exceed our obligation presumed in Confucianism? Or, does the judgement on this issue depend more on to whom we donate?

[35] Legge, J. (1970) *The work of Mencius*, New York: Dover Publications.

7.3.1 Is Mencius' idea of *tui* (extending) application in China?

Mencius introduced the concept of *tui* ('push', 'extending') explicitly to suggest the extension of the scope of human caring. Namely, one should "extend (*tui*) the natural feelings one has for family members to all people and [he] argues that the process of moral self-cultivation entails learning to extend compassion from one's in-group outward, eventually reaching all people".[36]

His most cited maxim advocates:

> *"Treat with respect the elders in my family, and then extend that respect to include the elders in other families. Treat with tenderness the young in my own family, and then extend that tenderness to include the young in other families*." [37]

Therefore, the process of *tui* is a continuous development of widening circles of mutually beneficial relationships.[38]

Blood donation is a good example to test whether this 'extending' is workable or successful in China because the recipients of donated blood can be both family members and friends, as well as strangers. It is felt that Chinese people are much more willing to donate blood to family members or people who are related to them. To utilise this strong affective bonding within the family, some local governments developed the policy that if the blood from family members does not match, transfusion recipients may also be pressured to provide donors from among their family and friends to 'replace' the blood that they have used.

China's overall donation rate is less than 1% and among the donors many are work unit donors. Of course this disappointing figure may result from many factors, such as low awareness, lack of education or health concerns. Also, from a sociological and psychological perspective, it is human nature to prioritise the welfare of those who are related to us and the concept of *tui* appeals to this. But at least it suggests that the role of the concept of *tui* in expanding and embracing all humanity in reality is far from satisfactory. It might be because this process, as cultivating one's virtue,

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[36] Csikszentmihalyi, M. (2005) 'Altruism in Chinese Religions',Neusner, J. and Chilton, B. (ed), *Altruism in World Religions.* Georgetown University Press. pp.179-191.
[37] Chan, W. (1969) *A source book in Chinese philosophy*. New Jersey: Princeton University Press.
[38] Lai, K. (2008) *An Introduction to Chinese Philosophy*. Cambridge University Press. pp.61.

is a long process and needs a social supporting environment in place. But given the grave reality of the lack of an adequate blood supply, the strategy of *tui* seems too passive and inactive.

Moreover, the existence of the blood donation quota is propagating this culture of divisiveness and factionalism by acting partially towards work unit donors and providing a huge benefit to them over the voluntary unpaid donors. Work unit donors can be regarded as an in-group (*ziji ren*, a loose sense of self which includes fellow people bound by the same work unit) whereas the van donors can be seen as an out-group (*wairen*, like strangers) with no associations. The accompanying outcome and the comparison of this divide is striking: in-group work unit donors enjoy generous compensation and paid time off work, while out-group donors get no material reward. Ironically, a recent survey conducted by the Shanghai health department indicated that 70% of Shanghai street blood donors are migrant workers, who are unequivocally perceived as the out-group (*wairen*) who are outside the work unit system. It has also been reported that white-collar workers and well-educated people comprise only a very small percentage of donors. [39]

Titmuss once stressed that "the ways in which society organises and structures its social institutions - and particularly its health and welfare systems - can encourage or discourage the altruistic in man; such system can foster integration or alienation …".[40] It is arguable that the work unit quota system in blood donation is such a social institution: it serves the role of alienating people and by doing so it also runs the risk of discouraging altruism and undermining the enthusiasm for voluntary donation in people.

7.4 A Mohist proposal for 'impartial caring'

[39] China Daily (2011) '70% of Shanghai Street Blood Donors are Migrant Workers'. 26 August 2011. Available at: http://www.chinadaily.com.cn/micro-reading/dzh/2011-08-26/content_3609372.html.(accessed on 1 March 2012)

[40] Titmuss (1971) supra n.6. p.225.

I am proposing a Mohist concept of 'impartial caring' as the ethical framework in promoting blood donation. In doing so, it has a chance of appealing to values unfamiliar in the Chinese context, for example, the value of altruism.

More than 2,000 years ago, the radical thinker Mozi presented the main opposition to the Confucian teachings that one should act partially toward one's kin. The Mohist School derives its name from its founder, Mozi (about 468-376 BC, although his dates are disputable as others say 479-381 BC). "In ancient times his fame was as great as that of Confucius, and his teaching was no less influential".[41] He is also considered to be the "most important philosopher in the early half of the classical period".[42]

7.4.1 The principle of *jianai* ('impartial caring') in Mohism

Mozi criticised the Confucian reliance on paradigmatic men to bring about social-political well-being and argued for a more participatory approach to maximising collective welfare: every one must practise '*jian ai'* for everyone else. '*Jian ai'* has been translated as 'impartial caring', 'universal love' or 'all-embracing love'. This chapter adopts the first of these translations. The doctrine of impartial caring ('*jian ai'*) is in striking contrast to the Confucian notion of graded love (or love with distinction), by which our attitude toward other people depends on who we are, who they are, and how they are related to us.[43] The Mohist concept of impartial caring is in strong condemnation of war as he believed that the root cause of social-political unrest was the selfishness of individuals; the majority of people lacked genuine concern for others not immediately connected with them.[44] Moreover, by encouraging people to give priority to family relationships, Confucians only made matters worse.

Mozi also explicitly rejected the Mencius approach of *tui* which relies on cultivating concern for others by the extension of one's particular relational attachments. Mozi

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[41] Fung, Y.L. (1948) *A short history of Chinese philosophy*. New York: The Macmillan Company. pp.49.
[42] Hansen, C. (1992) *A Daoist Theory of Chinese Thought*. New York: Oxford University Press. pp.95.
[43] Stepaniants,M (2002) *Introduction to Eastern Thoughts.* Rowman & Littlefield Publishers. pp.196.
[44] Lai (2008) supra n.38.

did not believe that *tui* is possible or workable. There are two reasons for this: first, the two situations are different. One involves family settings with specially cultivated affection and the other is a generalised distant community. Second, those virtues which are considered as the root of *ren*, filial piety (*xiao*) and brotherly concern (*ti*), teach people to discriminate against non-family and would be best realised in a partial way. If they are practised in a wider circle beyond the family, they will lose the very affiliation on which these terms are based. Hence, according to Mozi, the Mencius' idea of *tui* is self-defeating.

7.4.2 Mohist *jianai* ('impartial caring') and altruism

Unlike the Confucian focus on the cultivation of character, Mozi evaluated actions or rules in terms of their benefits for people in general, which makes Mohism an early (perhaps the earliest) and simple version of utilitarian/consequentialist theory. [45] The definition of utilitarianism from the Stanford Encyclopedia of Philosophy is that "utilitarianism is generally held to be the view that the morally right action is the action that produces the most good …" The prominent theorist Jeremy Bentham's utilitarianism identified pleasure as what is good or beneficial, and pain as what is bad or harmful, and held that we ought to maximise the good, that is, bring about "the greatest amount of good for the greatest number". The Mohist gives a more objective characterisation of good/benefit as wealth, high population, and social order, and harm as poverty, low population, and social chaos.

The concept of '*jian ai'* (concern for everyone) provides the basic principle for the realisation of the collective good and equal resource allocation. This principle is basically that "one must treat one's friend's body as if it were one's own, and one must treat one's friend's parent as if he or she were one's own".[46] Mohists believe that if everyone practises '*jian ai'*, there would no longer be an unequal distribution of resources caused by favouritism based on affiliations with friends, family or community. It should be noted that by the term 'friend', Mohists are referring to

[45] Norden, B (2007) *Virtue Ethics and Consequentialism in Early Chinese Philosophy*. Cambridge University Press.
[46] Watson, B. (1963) *Mo Tzu: Basic Writings*. New York: Columbia University Press.

something different from the normal understanding of someone with whom one has a special relationship, not shared with people in general. It is used "in some extended, nonstandard sense" as the Mohist impartialist is "someone who is 'friends' with everyone, and cares for everyone else as he cares for himself".[47]

There are important parallels between Mohist 'impartial caring' and altruism. The Oxford English Dictionary's definition of altruism is "regard for others as a principle of action; unselfishness, concern for other people". Altruism has been a fundamental value in the history of Western Christianity. The command of Jesus to love our enemies can be regarded as the highest form of unconditional love. The story of the Good Samaritan is also an exemplary illustration of altruistic love. It is taught that human kindness and benevolence should be available to all people, no matter whether they are your immediate family or foreigners. [48]

The word 'altruism' has two expressions in Chinese that are roughly equivalent: one is '*li ta zhuyi*' (the doctrine of 'doing good for others'). The other is '*she ji wei ren*' (placing the interests of others before one's own).[49] It seems that altruism in the sense of caring or concern for others can be found in any culture. But a more complete exploration of the concept of altruism requires the cross-cultural understanding of 'self' and 'other'. For example, Confucians emphasise that, in some cases, one should sacrifice some interest for the good of family. "It is possible to regard this type of sacrifice as a limited form of altruism, or, more likely, a form of egoism in which the self includes one's parents and children".[50]

7.5 Mohism: a better alternative to Confucianism in promoting blood donation

[47] Norden, B. (2003) 'A Response to the Mohist Arguments in "impartial Caring"', In Chong, K., Tan, S. and Ten, C. (eds) *The moral circle and the self: Chinese and Western approaches*. Open Court Publisher. pp.44.

[48] Ma, A. (2009) 'Comparison of the Origins of Altruism as Leadership Value Between Chinese and Christian Cultures', Leadership Advance Online. Available at: http://www.regent.edu/acad/global/publications/lao/issue_16/LAO_IssXVI_Ma.pdf (accessed on 4 April 2012).

[49] Ellis, R. (2009) 'Understanding Interpersonal Relationships in the Chinese Context', *Journal of Intercultural Communications,* vol.20.

[50] Csikszentmihalyi (2005), supra n.36. pp.183.

Confucian or Daoist ethics can generally be called 'virtue ethics' because they see identifying and cultivating the proper virtues as the basis of their ethical theory. Nurturing virtues and performing obligations are the key to making the world good. However, Mohism is generally much more concerned with the question of determining what sorts of action are right. Always practising impartial caring will create the greatest benefit for all mankind, without regard for the specific benefits to those related to you or yourself. This action rule, rather than a virtue, guides people towards creating a good world. It is observed that the process leading to a good world, from the perspective of Confucianism, is a process of 'transforming people', while in Mohism's view, it is a process of 'transforming their actions'.[51] Therefore, Mohism can be called an 'action ethics' philosophy because it asks whether the consequences of an action promote an ethical outcome, and does not tend to ask whether the actor is a virtuous/ethical person (Mohism may identify good people as people who do good).[52]

This focus on behaviour transformation/modification, and the principle of impartial caring, is very important in the promotion of blood donation in China. There are three reasons for this. First, the action of donating blood voluntarily should be the focus in a blood donation system rather than the acknowledgement of this action. It is very much the case that in China, the action of blood donation has been closely associated with glory, recognition, fame, honour and so on, especially under the work unit quota system.

Admittedly, the current attention on the acknowledgement and appreciation of blood donation might act as a means to encourage future blood donation (although this may not be the case as it is a fact that many work units still cannot fulfil the quota even given the generous incentives). But it is ethically questionable as many people within the work unit believe in reciprocity in blood donation as reflected in the survey which was mentioned previously. People expressed the view that "anyway, donors devote themselves to the society and other people, and though they don't require a reward, the work unit should give them some proper

[51] Eno, R. (2010) 'Mohist Thought' Early Chinese Thought, Indiana University (B/E/P374), available at: http://www.indiana.edu/~p374/Mohism.pdf. (accessed on 7 April 2012)
[52] Ibid.

compensation", "it is a way to show recognition from the work unit for the act of donation", and "certain economic compensation should be provided". In addition, two retired women interviewed together agreed that "if the work unit is indifferent, people will not donate blood …" and that "no compensation was seen as a sign of indifference to the donor's sacrifice".[53] Those words also show that under a work unit quota, by mistakenly yet firmly associating the donation behaviour with the attitudes of the work unit, these workers are very unlikely to foster or cultivate a sense of citizenship and responsibility towards the wider society.

Second, it is altruism rather than reciprocity that should be the essence in blood donation. As we have already demonstrated, Mohist impartial caring has many elements in common with the value of altruism. But, strictly speaking, it is very difficult to find the value of altruism in Confucianism. The scope and hierarchy in Confucian graded love make this search a vain exercise. A philosopher and writer of the early twentieth century, Lin Yutang, even attributed the absence of altruism in China to Confucianism. As Lin said, "the family, with its friends, became a walled castle, … coldly indifferent toward, and fortified against, the world without."[54] He also wrote that "the family mind is only a form of magnified selfishness". Lin's view might be too extreme, but it shows the difficulty of promoting altruism under the dominance of Confucianism.

On the other hand, the Confucian principle of reciprocity may lead blood donation in a wrong direction. It is understandable why work unit people are so amenable towards compensation. The Chinese view reciprocity and the exchange of gifts and favours as a means of building and strengthening social relationships (*guanxi*) with others. "Confucian family relations themselves are understood to mandate reciprocal obligation".[55] Failure to reciprocate leads not only to the breaking of a balanced social relationship, but more devastatingly may also deter people from giving in the first place.

The promotion of altruistic blood donation, however, requires something very different. Donors receive no direct reciprocal obligation but accept the expectation

[53] Erwin (2006), supra n.9. pp. 51-70.
[54] Lin, Y. (1935) *My Country and My People*. New York: Reynal & Hitchcock.
[55] Erwin (2006), supra n.9. pp. 150.

to continue to give again. At the societal level, reciprocity might exist as the roles of giver and recipient can be exchanged through a donor receiving blood while a recipient gives blood. But specifically in the case of individual donors, there is no immediate reciprocal obligation incurred by the action of giving. Therefore, this continual expectation of giving from donors contradicts the obligation of reciprocity embedded in Chinese *guanxi* relations. This might also account for the striking fact that Chinese people are much more willing to donate to people related to them as their deed would be more likely to be reciprocated in the future, while they hesitate to donate in general to an anonymous recipient.

Obviously, under the work unit blood donation system, the work unit, on behalf of recipients, takes up the role of fulfilling the reciprocal expectation from the donor, or more accurately, on behalf of the state. The compensation and especially the visits by unit leaders are the recognition of the glorious deed, and donors feel honoured and their status is enhanced. This reciprocity from a Confucian perspective might be interpreted as the appreciation of *ren*, in the sense of compassion for others, manifested by the donating behaviour. But it is worrying that if reciprocity rather than altruism becomes the norm in blood donation, then the supposed altruistic motivation of the desire to help others would diminish and become marginalised. It may also open opportunities for the commercial blood trading from which China suffered bitterly decades ago.

In addition, generous compensation to the donors within a work unit also poses significant challenges to social justice in donating. People may be discouraged from donating to the street vans (unpaid) when they see other donors receiving generous rewards from their work unit. These two sorts of system, the work unit quota system and voluntary unpaid donation, with their two different underlying principles, reciprocity and altruism, are fundamentally contradictory and cannot co-exist in the long run.

Third, a safe and ample blood supply relies on regular, repeated blood donations. The effort of promoting regular donation behaviour involves the modification/conversion of current replacement donors (who donate blood to cover

the transfusion needs of relatives and friends) and work unit donors into regular voluntary donors. This goal can only be achieved by adopting the Mohist approach. The World Health Organisation recommends that blood and blood components should only be collected from voluntary, non-remunerated repeat donors. We have good reasons to believe that the transformation of the first two categories would be unlikely to happen under Confucian thinking and the current work unit donation system. This is simply because in these two groups, the donation behaviours are primarily motivated either by affiliations and kinship, or by the expectation of compensation/reciprocity.

Mozi might address this problem and encourage people to donate in this way: It doesn't matter whether you are a virtuous literati or a vulgar butcher (although Confucius made clear distinction in terms of morality between these two and believed the former to be morally superior to the latter[56]), nor does it matter that you are in the work unit system (Mozi may think it is acceptable to receive rewards if the donation is motivated by the desire to benefit other people) or outside the system (the potential van donors); as long as you are practising impartial love and participating in the blood donation to benefit others, your action is good and glorious and so are you. Regular, repeated voluntary donation is less associated with the Confucian valued fame, recognition, honour and reputation, but more about genuine and persistent commitment to the welfare of any anonymous others, which is precisely what the Mohist principle of impartial caring emphasises.

7.6 Conclusion

This chapter examined Chinese practices of blood donation, and in particular, the work unit quota system, in the light of the Confucian principle of 'graded love'. It is argued that by putting the emphasis on favouring affiliations and kinship as well as reciprocal human relationships, Confucianism is distant from altruism and thus fails

[56] Confucians believed that one must harden one's heart to kill so butchers who often kill are less likely to feel compassion and benevolent. Therefore, they are less likely to be the virtuous people. Mencius also talked about the importance of vocation to make this point explicitly as "Noble men should distance themselves from kitchen"(Junzi yuan paochu) in Menzi 2A7. It means junzi, the virtuous man should refrain from doing things which may compromise their virtue of compassion and sympathy towards others, for example, killing.

to motivate voluntary blood donation in China. Moreover, the practice of the work unit quota simply intensifies this conflict by further dividing donors into in-group donors (who donate to the work unit quota) and out-group donors (van donors) through completely different treatment towards them. In contrast, the action-based Mohist approach and its impartial caring principle is agent-neutral in requiring people to be concerned with the welfare of all, no matter whether they are related or not. This shares many elements with altruism. It is argued that the Mohist approach is a better alternative and should be adopted as the ethical framework and applied in the promotion of blood donation in China.

As this chapter demonstrated that there are many parallels between the action-based Mohist approach and its impartial caring principle and the idea of altruism, there are also differences among these apparent similarities. In the next chapter, I will further examine some similarities among differences and make the 'incommensurable' concepts originating from Confucian and Western ethical traditions 'comparable': it will raise the question of whether the popular concept of "personal responsibility for health" is a moral responsibility and then provide a conceptual analysis of the theory of moral responsibility from a Confucian perspective, while also refute the normative argument that "there are no account for moral responsibility in China".

8 Chapter 8 - A better alternative? Confucian reflection on moral responsibility and its application in the concept of personal responsibility for health

As I have indicated in the introduction and also shown in previous chapters, one of the common vices in cross-cultural bioethical study is to examine other cultures with the assumption that specific characteristics of our own system must be mirrored in theirs. Failure to find parallel elements in this foreign system then means denying its existence entirely. The approach to resist this tendency is to 'break down' the specific ideas or concepts, and look at how different traditions will respond to individual elements of the concepts.

In this chapter, I shall try to construct an important theory of moral responsibility in a Confucian virtue ethics perspective in order to show that Confucian ethics does not have to cover the same problems (as the ones in Western tradition) in order to be a 'recognised' theory. Under this moral framework, I shall then offer a conceptual analysis of the popular concept of 'personal responsibility for health' and also present some unexpected and interesting Confucian insights and wisdom.

8.1 Introduction

While I am writing my dissertation in the UK, I know that in the Region of Xinjiang in China, my 91-year-old grandfather diligently does *Tai Ji* (*Taichi*) every morning and evening, my mother watches her favourite *Yangsheng* diet lectures and strictly follows the recipes every day, my auntie receives her acupuncture treatment twice every week in the hope of weight loss (although she is not fat), and even my seven-year-old little nephew learns about calculating the fat in various foods in his math class.

These are an ordinary Chinese family's daily health-related activities, which shows how information about health and illness and related actions permeates their lives. I am sure that it is also the case in many other societies. Accompanying an enthusiasm for the pursuit of health is the emergence of the notion (familiar to

many societies, especially Western) of personal responsibility for health promoted by governments, health professionals and academics, including those in China.

It is good that we use information regarding the determinants of health to make better decisions about our lifestyles and about directing our money, but it is disputable whether responsibilities for health and illness should be assigned to individuals, and even more disputable whether health resources should be allocated on this basis as proposed and practised in many places globally. This idea is manifested in two forms: (1) through inviting reactive attitudes on the part of others, very often negative ones such as blame or condemnation and resentment; and (2) through developing mechanisms to hold people accountable or to make them pay a price for their perceived irresponsible actions. This chapter argues that implicit in these practices is the (perhaps deliberately) unacknowledged view that personal responsibility in the health realm is a moral responsibility, at least partially.

In the West, generally, to say that one is morally responsible is to say that moral rules apply and that one ought to be praised or blamed for performing or failing to perform the act in question (with a few exceptional circumstances). However, the conceptualisation of moral responsibility prevalent in the West is likely to be problematic when applied to Chinese cultures for it is claimed by some scholars that "there is neither an equivalent of the term 'moral' in classic Chinese culture nor even an appropriate context for an account of moral responsibility"[1]. A framework for understanding responsibility is clearly not only needed but of particular importance in the discussion of responsibility for health in China.

This chapter will formulate a cross-cultural framework of responsibility, health and guilt in relation to morality in Western and Confucian cultures. It consists of two parts: in the first part the concept of personal responsibility is briefly examined in each culture, and then the hidden political agenda is also identified. It is argued that in China there is a trend of an over-emphasis on and exaggeration of individual responsibility for health, or perhaps more accurately, for disease. Note

[1] Hansen, C. (1972) 'Freedom and moral responsibility in Confucian ethics.' *Philosophy East and West*. vol.22, no.2.pp.169-186.

that this does not stem from the tradition of the West in which there is a stress on individual autonomy and liberty as well as free will, but from a Confucian obligation to build and maintain health for the interest of oneself and the people around one. The second part will examine the characteristics of Chinese understanding of the notion of personal responsibility for health in the light of an account of moral responsibility from Confucian ethics. During this process, interestingly, we may gain some valuable insights (extracted precisely from this alleged 'non-existant' Chinese moral responsibility theory) which are beneficial to our understanding of health promotion in China and the West.

8.2 Brutal and honest: you are responsible for your health.

Few would argue that individuals bear no responsibility for health-related decisions and actions. But is the responsibility for health a moral responsibility? According to the Stanford Encyclopedia of Philosophy, to be morally responsible for something, say an action, is to be worthy of a particular kind of reaction — praise, blame, or something akin to these — for having performed it. In the light of this definition, it appears that the notion of 'personal responsibility for health' nowadays has been increasingly understood in a moral sense as demonstrated by contemporary practices. In the West, in recent years there has been a trend of moving from the discussion of whether to a discussion of how to hold people responsible for their lifestyles and adverse health given their correlation. There are proposals appealing to either actual or concrete rewards/punishments or to public attitudes in the attempt to rectify people's behaviour. Strategies to do this include rewarding workers for good behaviour (like exercise and stopping smoking) and punishing them for bad behaviour (continuing to smoke, gaining excess weight). Some companies offer gym membership reimbursements, insurance premium discounts, and cash bonuses to entice workers to take better care of themselves. Through provoking public attitudes or even stigmatising obesity, England's public health

ministers say that GPs and other health professionals should tell people that they are fat rather than obese to help encourage personal responsibility for health.[2]

Surely, there has been an extensive and increasing volume of evidence about the correlation between lifestyle and health, but does this mean that we can hold people responsible for their own adverse health on the basis of what they have done or left undone? And does this correlation also warrant a particular reaction, for example, praise and blame, towards these actions? It is important to distinguish this form of responsibility from some other commonly referred to 'responsibility' or 'responsible'.

8.2.1 Four kinds of responsibility

I would like to distinguish four kinds of responsibility based on the taxonomy given by H.L.A. Hart[3]. Discussions can focus on just one kind of responsibility but essentially they are interrelated.

8.2.1.1 Role responsibility

The duties one has for doing various things which come with occupying a certain role in society. This concerns what one should do in the future. For example, we say that the responsibility of fire fighters is to respond in emergency situations and rescue people and property from all types of accident and disaster.

8.2.1.2 Causal responsibility

What caused something to happen. This concerns particular events in the past. For example, we might say that the recent storm Sandy was responsible for at least 97 deaths in the US and Canada. Here we mean there is a causal link between the storm and the casualties.

8.2.1.3 Liability responsibility

Who is liable for something's happening. Hart suggested three conditions: 1) psychological conditions (capacity responsibility); 2) causal conditions (suitable connection to the harm); and 3) personal relationship conditions. A person who

[2] Tiggle, N. (2010) NHS should use term fat instead of obese, says minister. Accessed on (10th March 2013) http://www.bbc.co.uk/news/uk-10789553

[3] Hart, H.L.A. (1968) *Punishment and Responsibility*, Oxford: Clarendon Press.

satisfies these conditions is liable to receive punishment or praise/blame. For example, George Bush was responsible for the suffering in Iraq.

8.2.1.4 Capacity responsibility

The capacity of a person to be held liable or responsible for their actions. Hart suggested that this concerns the psychological condition of the agent of responsibility, in particular, understanding, reasoning and control. When these capabilities are partially absent, capacity responsibility is said to be 'impaired' or 'diminished'. It is completely absent in young children and in non-humans. For example, a mentally retarded mother is not responsible enough to babysit.

8.2.2 Being responsible and being held responsible

It is also important to differentiate two dimensions of moral responsibility: 'being a responsible agent' and 'being held responsible'. The former is both self-directed and other-directed; self-directed means one recognises oneself to be blameworthy implying that first of all one bears some feeling of responsibility for the violation of a particular moral order (rightly or wrongly). This could also be understood as one's internal subjective experience of feeling responsible. This understanding could be categorised as 'role responsibility'. Identification of a responsible agent is not necessarily followed by some social instruments that ensure adequate redress. Other-directed responsible agent means that the person is "someone whom we recognize as bearing characteristics of the sort that make him a member of the moral community".[4] The latter, being held responsible, is other-directed, which means ascribing specific reactions (often negative) to a particular candidate in question from external imposition no matter whether the candidate accepts the responsibility or not. Moreover, the person, presumed to possess and to be able to exercise certain capacities, is expected to account for his behaviour, which involves giving some statement of the person's intentions regarding the act. After this, specific social instruments are in place to redress the person's action and to ensure conformity with moral rules. This idea is more in line with responsibility of

[4] Oshana, M.L. (1997) 'Ascriptions of responsibility', *American Philosophical Quarterly*, vol.34, no.1, pp.71-83.

liability or accountability. The claim of 'being responsible' does not necessarily need to be the premise of 'being held responsible' and *vice versa*. If the theory of moral responsibility is like a stream, then the former claim is in the upper reaches while the latter is in the lower reaches. These two concepts are inextricable both in theory and in practice, but for the conceptual analysis of moral responsibility in China and a particular case of guilty infection of HIV/AIDS in this chapter, the first dimension merits more attention. A pragmatic reason for this is because the intellectual discussion of personal responsibility for health has not yet started, so it is better we start from the upper reach. The cultural reason is that given the distinctive guilt/shame culture in China and other East Asian societies, people are more likely to experience self-directed responsibility. Below, we shall examine the salient features of the Chinese understanding of personal responsibility which will be informed by the contrast with its Western counterpart.

8.3 Moral responsibility in West and East

The seemingly simple premise that 'individuals are responsible for their health' means very different things to different people even in the West. The individual-oriented advocate who calls for the change of personal lifestyle may hold a very different interpretation from that of those for whom the community-oriented approach emphasises the important social, political, economic and structural factors that affect personal and public well-being. In any case, a level of consensus has been reached that to varying degrees individuals are responsible for their own health, and that is a moral responsibility. To discuss Chinese understanding of this issue (which has almost never been seriously raised yet among policy makers and health professionals, far less academics), it is important to examine a more fundamental philosophical problem, that is, the Chinese understanding of moral responsibility. Without examining this, the discussion around the notion of personal responsibility for health in Chinese contexts would very likely be shallow and groundless. Moreover, only through this process of contrasting and analysing Western and Chinese medical moralities could we be able “to discard the dross

and to select the essence"[5] (a famous Chinese idiom) and consequently propose a proper interpretation of the premise of 'individuals are responsible for their own health' based on Chinese contexts.

To begin with, is there a theory of moral responsibility in Confucian ethics? The answer seems to depend on how 'moral responsibility' is understood. For some, it has been claimed that "not only was there no account of moral responsibility in Confucian ethics, but there was no appropriate 'context' for such an account"[6] as well as "there is no equivalent of the term 'moral' in classical Chinese".[7] For others, it is argued that Confucian ethics provides a rich account of and has a high sense of moral responsibility.[8] [9] There is also the possibility that Chinese moral theory is different from its Western counterpart but it cannot be denied as an account of moral responsibility. The section immediately following is a discussion of the Western philosophical reflection on moral responsibility. This is followed by an exploration of Chinese understanding of this concept. And then, the use or misuse of this in the context of health as well as health promotion will be discussed.

8.3.1 Western theory of moral responsibility

According to the Stanford Encyclopedia of Philosophy, when a person performs or fails to perform a morally significant action, we sometimes think that a particular kind of response is warranted. Praise and blame are perhaps the most obvious forms this reaction might take.

Five factors are involved in the moral responsibility discussion: (1) the concept of moral responsibility itself; in the West, it is related to a set of moral rules and obligations; (2) the morally responsible agent and the criteria, that is, one who qualifies as an agent will be open to responsibility ascriptions. A special kind of control and a particular capacity need to be possessed and exercised; (3) the

[5] This idiom comes from Mao, Z.D. *Shi jian lun* (1951) On practice: on the relation between knowledge and practice-between knowing and doing), in collections of Mao Zedong.People's Publication Press.
[6] Hansen, C. (1972) supra n.1.
[7] Rosemont, H.(1991) 'Rights based individuals and role-bearing persons', in Bockover, M. (ed.) *Rules, Rituals and Responsibility*,,LaSalle, Illinois: open court.
[8] Jiang, X.Y. (2002) 'Mencius on moral responsibility',in Jiang, X.Y.(ed.) *The examined life: Chinese perspectives: essays on Chinese ethical traditions.* Global Academic Publishing.
[9] Nie, J.B.(2011) Medical Ethics in China:A Transcultural Interpretation. New York: Routledge.

conditions under which the concept of moral responsibility is properly applied; those conditions under which moral ascriptions can be applied to persons for a particular something. For example, a moral agent can be responsible for an action she/he has performed only if she/he performed it freely, where acting freely entails the ability to have done otherwise at the time of action; (4) there are also circumstances under which moral responsibility should not be applied and individuals ought not to be blamed even when they have violated the moral code; these are called 'excuse conditions'. If these conditions apply to the action in question, they absolve the agent from blame for his act; and finally (5) possible objects of responsibility ascriptions (for example, actions, omissions, consequences, character traits).

It will be shown that in terms of these five components of a moral responsibility theory, Chinese Confucian ethics provides a strikingly different perspective to elaborate them.

It has been widely held in the West that free will is also a necessary condition for moral responsibility. With regarding to the compatibility between free will and determinism, Western philosophers may be classified as being one of two types:1) incompatibilist about causal determinism and moral responsibility holds the view that if causal determinism is true, then there is nothing for which one can be morally responsible; or 2) compatibilist believes that a person can be morally responsible for some things, even both who she is and what she does is causally determined.[10]

The result of taking free will into account is the prevalent Principle of Alternative Possibilities (PAP):[11] a person is morally responsible for what he has done only if he could have done otherwise. But there is an important question of whether people even could do anything other than what they actually do. This implies that if there is a lack of alternatives, then the person should not be held responsible. This PAP principle has been opposed on the grounds that a lack of alternatives is not

[10] Eshleman, A. (2009) 'Moral Responsibility', *The Stanford Encyclopedia of Philosophy* in Edward N. Z. (ed.), accessed on (12Mar 2013)http://plato.stanford.edu/archives/win2009/entries/moral-responsibility/

[11] Frankfurt, H. (1993) 'What we are morally responsible for', in Fisher, J.M., Ravizza, M. (eds.) *Perspectives on moral responsibility*, Cornell University Press. pp.286.

inconsistent with moral responsibility when someone acts as he does for reasons of his own, rather than simply because no other alternative is open to him. For example, it might be straightforward that someone who encounters a car accident may be regarded as worthy of praise for having saved a child from inside the burning car. Or, the same person may be regarded as responsible for not having called the police to report a crime he has witnessed.

It becomes more complicated in the latter case when a few details are added: what about when this person does not want to get involved so he decides not to call the police and does nothing. Besides, as a matter of fact unknown to him, the telephone system has in fact collapsed and all relevant lines are out of order.[12] Therefore, no matter what this person had done, he would have failed to call the police anyway. Obviously there is a lack of alternative, which means no possibility of doing otherwise. In this situation, when faced with the question of 'is this person responsible for failing to call the police', there are varying answers from philosophers. If we adhere to the principle of PAP, this person is not responsible for his act simply because he could not have done otherwise as no alternative was open to him. Some have argued that this person may be morally responsible for failing to call the police even though he could not have avoided the failure of that action.[13] The reason is perhaps that his behaviour is a sufficient condition for his failure irrespective of the consequences. In contrast, it is also contended by others, for example Van Inwagen, that

> *"This person may be responsible for failing to try to call the police (that much he could have done), or for refraining from calling the police, or for … being selfish and cowardly. But he is simply not responsible for failing to call the police."*[14]

Three related principles regarding moral responsibility were also proposed by Van Inwagen:

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[12] Van Inwagen, P. (1978) 'Ability and responsibility', *Philosophical Review*, vol.87, no.2, pp.201-224.
[13] Frankfurt, H, (1993) supra n.11.
[14] van Inwagen, P. (1978) supra n.12.

1. *"The Principle of Possible Action: A person is morally responsible for failing to perform a given act only if he could have performed that act (the principle concerns 'unperformed acts' (things we have left undone)."*

The other two are principles of possible prevention (PPP), which have to do with 'the consequences of what we have done (or left undone)':

2. *"PPP1: a person is morally responsible for a particular event only if he could have prevented it."*

3. *" PPP2: a person is morally responsible for a state of affairs only if (that state of affairs obtains and) he could have prevented it from obtaining."*

Another problem which has also been raised is that should being responsible for something also mean, in a certain strong sense, being fully responsible for it? According to Frankfurt, "A person is fully responsible, then, for all and only those events or states of affairs which come about because of what he does and which would not come about if he did otherwise."[15] In this sense, the person in the case is not fully responsible for his having failed: his inaction is a sufficient condition for his failure, but it is not a necessary condition; because of the collapsed telephone system, he would have failed no matter what he had done.

Concerning this scenario, what comment would Confucian ethics make? Should this person be held responsible for his failure to call the police or not, and if so, in what sense, fully or partially? Ought he to feel guilty for not calling the police? Does the fact of the collapse of the telephone system play a role in making a moral judgement of this person's action? Also, is full responsibility a necessary condition for moral responsibility in Confucian ethics?

In my opinion, the response from Confucian ethics is unequivocal: of course he is responsible for his failure to call the police and he should be blamed or condemned. Yet, the Confucian reason to blame him is not based on his inaction, although it caused the blame, but for his being *buren* (non-human hearted, or non-empathetic). The fact that he did not even try to call the police suggests that he did not want to get involved and fundamentally that is due to a lack of *ren*, translated as 'humane-ness' or 'beneficence' (specifically in this case, *ren* means the inability

[15] Frankfurt, H, (1993) supra n.11.

to see other people's suffering), which is a fundamental virtue in Confucian ethics.[16] Essentially, he is being criticised for failing to cultivate his character and virtue properly. His omission or action is merely evidence of this failure, and although it caused the blame, the blame is neither for omission nor action.

The arguments expounded above may sound alien or even paradoxical to some Western moral philosophers, not only because they are unfamiliar with Chinese Confucian philosophy, but also because of their habitual attempt to find, or expectations of finding, something comparable to their own thought system which is pre-believed to be mirrored in a foreign culture. This is not to say that these two philosophies differ so much that neither the parallel issue nor the parallel concept, for example, the concept of moral responsibility, is to be found in the studied culture. Rather this means that we should resist the tendency to seek explanations based on one side's moral tradition, and therefore prejudge the other side. At the same time, we should also resist another tendency of exaggerating cultural differences and then dichotomising different cultures and believing they are incommensurable with each other. A trans-cultural bioethics should focus on the similarities in differences and the differences in similarities.[17] Thus, a trans-cultural approach towards some basic issues around interpersonal life and behaviour (such as the idea of personal moral responsibility for health) calls for comparisons, contrasts and conversations between Western and Chinese perspectives on these issues.

8.3.2 Chinese account of moral responsibility

To begin with, an important conceptual problem needs to be clarified. As mentioned previously, it has been argued that Confucian ethics does not have an account of moral responsibility because fundamentally Confucian ethics has a "neglect of normative ethics" and it is a "moral psychology".[18] It has also been

[16] It is presupposed that the person has the knowledge that calling for the police would stop the crime and help the victim, which is doing good rather than harm and in Confucian ethics, it is a virtuous thing to do. However, lack of the capacity of understanding this or due to the physical mobility restraints would absolve this person from being accused.
[17] Nie, J.B.(2011) supra n.10.
[18] Hansen, C. (1972) supra n.1.

argued that “within the Confucian context, moral rules do not have ultimacy [*sic*] in human life in the sense that moral norms cannot be construed as universal, impartial, objective principles”. These statements might be true because unlike the case of contemporary Western philosophy, in Confucian society there is a lack of moral code/formulas or a set of rules which are taken as standards in governing people’s behaviour in the West. For those who believe that Confucian ethics does not have an account for moral responsibility, the rationale goes this:

> *“… since a theory of moral responsibility is associated with an action-based ethical theory, which seeks to establish moral rules or formulas, Confucian ethics is not an action-based ethical theory but a virtue-based one that rejects the formulation of abstract rules. Therefore, there is not a theory of moral responsibility in Confucian ethics. The reason why the account of moral responsibility relies on an action-based ethics is this: if to be moral is to follow moral rules, moral failure means failing to perform acts according to moral rules. Since there always will be some exceptions to rules, there is a need to define those conditions under which one ought not to be morally blamed for failing to act according to moral rules. If we call those conditions 'excusing conditions', then, theories of moral responsibility are philosophical attempts to systematize and justify excusing conditions. If an ethical theory does not emphasize the application of moral rules, it will have no need to define excusing conditions and therefore no need to account for moral responsibility.”* [19]

However, this line of thought is problematic. It commits the mistake of assuming that failing to find parallel elements in a foreign system means denying its existence entirely. Confucian moral theory does not have to cover the same problems (as the ones in Western tradition) in order to be a 'recognised' theory. Even if we accept the premise that Confucian ethics is completely virtue-based and there is no account for moral actions, we still cannot conclude that there is no theory of Confucian moral responsibility.

[19] Jiang, X.Y. (2002) supra n.9.

8.3.2.1 The components of Confucian moral responsibility

This section attempts to provide a comprehensive account of Confucian theory of moral responsibility in light of the widely-accepted five standards of moral responsibility presented above showing how they differ in these special respects from a typical Western ethical system. Presenting a Chinese account of moral responsibility in this way does not mean that this is simply another attempt to seeking equivalent counterparts (presumed to exist) in a foreign system, rather I find through this familiar structure that we are better able to have a systematic understanding of this issue.

8.3.2.1.1 The concept of Confucian moral responsibility

It has been proposed that there is one rule in Confucian theory of moral responsibility: promote cultivation of character in yourself and others related to you in specific ways. Cultivation to the highest level is possible for everyone.[20] There are different levels of development and presumably the highest level represents the ideal form of moral judgment and action. Confucian moral theory is not a normative one but a 'theory of human nature'. According to Mencius, who believed in the goodness of human nature, there are *siduan* (four beginnings, also translated as four seeds or sprouts), which make an important contribution to the problem of the connection between morality and human nature and good human life. They are the *xin* (mind/heart) of (1) compassion (*ceyin zhi xin*), (2) aversion to shame (*xiuwu zhi xin*), (3) courtesy and modesty (*cirang zhi xin*), and (4) right and wrong (*shifei zhi xin*).[21] *Siduan*, each of these, when fully cultivated, guarantees correct moral behaviour. It is presupposed that human beings are disposed to be virtuous just as water is disposed to flow downward.[22] The proper development of *siduan* into virtues is the process of self-cultivation towards the ideal of the good human life. Under this understanding, for Confucianism, we can see that moral action is completely natural and ultimately does not even involve moral rules. Therefore, ideally in Confucian societies people's behaviours are controlled in a

[20] Hansen, C. (1972) supra n.1.
[21] Cua, A.S. (2001) 'Xin and moral failure: reflections on Mencius' moral psychology', *Dao*, vol.1, no.1, pp.31-53.
[22] Jiang, X.Y. (2002) supra n.9

different way: not by rules but by models and natural moral inclinations common to all men.

8.3.2.1.2 Confucian moral agent

Before we seek the criteria for becoming a Confucian moral agent, let us review the not-reporting-a-crime case again. From the Confucian perspective, what is at issue is the moral failure in the agent's character. This failure may be a failure owing to a lack of willingness to extend primarily the *xin* of compassion (*ceyin zhi xin*) in the theory of *siduan*. A distinction needs to be made here between a refusal to act (*buwei*) and an inability to act (*buneng*). The external forces of the collapsed telephone system may render any act by the agent doomed to failure for a successful reporting to the police and should only be seen as related to the person's inability to act (*buneng*). But it is *buwei*, the refusal to act as explicitly expressed in this case, which manifests the resolve of the agent. Because it relates to the agent's character, it is subject to ascription of ethical responsibility and, in this case, blame or condemnation.

In Confucian theory, being human is a developmental, relational, open-ended and dynamic activity, termed also as "person making".[23] Tu has elegantly summed the situation up as that "ontologically we are irreducibly human, and existentially we must struggle to remain human".[24] An ideal Confucian moral agent is able to recognise and fulfil his responsibilities and roles within each relationship in which he is involved, and meanwhile develop his good natural tendencies, namely, those 'moral sprouts' of *siduan*. This man, often called the exemplary person, *junzi*, also has the responsibility to exert his positive influence on others. Failure to develop *siduan* is due to failure to overcome specific deficiencies of moral agency, for example, lack of will, lack of a sense of moral priority or importance when there is a conflict of values.[25]

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[23] Hall, D., Ames, R. (1987) *Thinking through Confucius*. Albany: State University of New York Press.

[24] Tu, W.M.,(1984) 'Pain and suffering in Confucian self-cultivation', *Philosophy East and West,* vol.34, no.4, pp.17.

[25] A full list of deficiencies consists of: (1) lack of will; (2) lack of a constant xin; (3) lack of a sense of moral priority or importance, especially when there is a conflict of goods; (4)lack of constant self-

Those who have a higher position in Confucian society bear a higher responsibility, such as officials, fathers, teachers and so on. Confucian ethics present a normative doctrine of how this scholar-elite should behave and exert their influence on others. The argument is that "one should rule by virtue, not force, fear or penal codes". "Given the psychological theory, the virtue of the ruler will inevitably produce peace and harmony because the people will be drawn to emulate the ruler's virtue and in doing so will cultivate their own moral mind. Ultimately they will be consistently virtuous even in the absence of ideal conditions".[26] When that level has been reached, it is not that their action is subject to the discipline of rules but the other way around: it is that moral rules should approximate the virtues of people, who are often considered sages in Confucian doctrines.

In opposition to abstract rules or laws, the Confucian way of teaching is through moral example or model emulation, "even when virtue is to be learned through books, the medium is not rules but stories and descriptions of models".[27] This tradition could partially explain the odd phenomenon that there has been a constant emergence and collapse of self-help health 'sages' and 'gurus' and their enormous popularity in recent years in China. This is partly because they appeal to the Chinese habitual process of emulating gurus and experts as they are successful hyped whether the health-related information they try to deliver is either absurd or common sense.[28] Also, partly because they make the public feel happily

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examination, leading to failure in correcting moral faults; (5) lack of means to support a constant xin and (6) lack of appreciation of the nature of the current situation. See: Cua, A.S. (2001) supra n.20.

[26] Hansen, C. (1972) supra n.1.

[27] Ibid.

[28] One of the best examples is once known as "Beijing's most expensive traditional Chinese medicine doctor", Zhang Wuben. His lectures on "diet therapy" have been broadcast by several TV stations and his book, based on the lectures, entitled Eat away the Disease You Get from Eating sold millions of copies and topped the best seller lists for weeks, has been found faked his medical qualifications. Zhang tells people that "you are your best doctor, your kitchen is your best hospital, food is the best medicine." Aside from the generic common sense "eating healthy" tips, one of the central claims in Zhang's theory is that mung beans are a panacea that works wonders if applied properly. According to Chinese traditional medicine dictionaries, mung beans are described as having the medical value of "dispelling heat and cleansing toxins", but Zhang pushed the claims to new heights: he claimed that eating half a kilo of mung beans everyday can cure diabetes, short-sightedness, while 2.5 kilograms a day will greatly improve the chances of surviving various cancers. It is said he is responsible for the skyrocketed price of mung beans in the market. It may sounds absurd to people with some basic medical knowledge but cynically he still draw large followings and make handsome profits. For detailed information see:

empowered and confident of being the master of their health through over-exaggeration of the role of individual and diet, or of various odd exercises (without scientific evidence) in determining their health. Following him is actually less a process of following his diet therapies but more a Chinese habitual process of emulating an 'expert'. In addition, it is also suggested that there is an over-emphasis on the role of lifestyle, especially eating, in determining health in Chinese society. But I identify something more worrying and dangerous, which is that implicit in this phenomenon is the potential abuse of the general public's psychological need to have contemporary sage-like people to emulate (unfortunately not the scientific health information). This issue will be further discussed in the section on personal responsibility for health later in this chapter.

8.3.2.1.3 Condition (includes excuse conditions)

This part corresponds to points 3 and 4 in the previous outline of moral responsibility theory, as the former (which concerns in what conditions moral ascriptions can be applied to persons) could be more easily understood through the examination of the latter (excuse conditions by which persons can be absolved from blame for their actions).

In an action-based morality, we evaluate the condition under which whether moral rules should apply and then attribute responsibilities for performing or failing to perform the act in question. In virtue-based ethics, we also need to ask about the conditions under which one could form or fail to form a virtuous character. Mencius proposed that for the formation of moral character, there are two indispensable conditions: self-cultivation and specific environmental conditions. Self-cultivation is internal and crucial to one's moral development and no-one can be virtuous without it. A minimally good environment, as an external factor, is also necessary for one to develop good character. People are excused (not blamed) for failure of self-cultivation in conditions of extreme economic hardship; or a failure by the state or by parents to provide proper model-instruction; or names not being rectified.

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http://www.danwei.org/health_care_diseases_and_pharmaceuticals/from_laid-off_worker_to_tcm_ma.php (accessed on 13th March 2013)

Certainly, people are morally responsible for cultivation when the conditions are favourable.

In reality, it is sometimes difficult to make a moral judgement as actual conditions become complicated when the values involved are in conflict. Compromise of moral values is required. Take the case of sheep-stealing as an example, Confucius stated that "the father conceals the misconduct of the son and the son conceals the misconduct of the father. This is uprightness."[29] Implied in his message is that "the criminality of stealing is not at issue, or is, at least, of lesser importance than one's duty and obligation to the family".30 According to Confucius, the son who sees his father doing wrong should remain respectful, and it is inappropriate for him to place any negative moral judgement on his father over his obligation to parents. From this example, some people might think that as a consequence of the lack of fixed rules, Confucian society could easily become a chaotic, unprincipled community. We leave aside this immediate speculation due to the limited space (although it is a very interesting separate topic), and the point which I want to make is that Confucius assumes that parents and rulers (and other people who hold higher positions and responsibility) are moral examples, or, more plausibly, it is imperative that people with increased responsibilities should be moral. For another thing, this also suggests that Confucian moral judgement is highly contextual and subjective.

8.3.2.1.4 Objects of responsibility ascriptions

In ascribing moral responsibilities, Western theory is based on the individual's choices, action and omissions, whereas its Confucian counterpart is more concerned with the traits of character, or virtue, of the moral agent. Supposing you refused to take your ill father to hospital and consequently he died. When we say that at least partially you are responsible for your father's death, we are expressing that you are accountable for your non-action which caused the event of your father's death. The moral condemnation from others invited by your behaviour is for your violation of some rule in the West, but for your being *buxiao* (non-filial) in

29 Legge, J..(1971) *Confucius: Confucian Analects*, New York: Dover Publications.

[30] Lai, K.L. (1995) 'Confucian moral thinking', *Philosophy East and West*, vol.45, no.2, pp.249-272.

Confucian ethics. You will be criticised for failing to cultivate the virtue of filial piety properly and ironically your father may also be held partially responsible for your moral failure if without additional justification. Your father is blamed for deficiencies of your character, perhaps due to his bad modelling, as your cultivation was in his hands.

Therefore, in the judgment 'X is responsible for Y', in investigating the meaning of responsibility ascriptions, drawn from the actual practice of praising and blaming, we could propose that Confucians are more interested in the notion of having responsibilities whereas Westerners are primarily concerned with the idea of being responsible. Namely, the Confucian is interested in investigating whether X has specific responsibilities, obligations or duties pertaining to Y. In contrast, Western understanding focuses on the responsible moral agency and causal connection (this is not to say that the notion of moral agency and causal connection is not important in Confucian moral theory, but to suggest the difference of emphasis between the two systems). Of course, that this judgment is not always associated with responsibilities or virtues. For example, one man was responsible for his bravery of action in rescuing his trapped dog from a frozen river but clearly he did not have an obligation to do so, whereas on the contrary, he was condemned by fire fighters as doing something "extremely dangerous".[31] Surely, it might be another story if this man was like Robinson Crusoe, living alone on his island with only his dog for company.

It is important to distinguish causal responsibility from moral responsibility as well as a causal agent from a moral agent. It has been argued that "responsibility ascriptions credit a person (or a thing) with a role in bringing about an event or state of affairs, and nothing more"[32]. Young children and animals could be causally responsible for many things but we do not hold them morally responsible. Also, this does not mean that a person who can be held morally responsible should be causally responsible for all those acts. For example, parents are both morally and legally responsible for at least some of the acts of their young children. Also, the

[31] BBC News (2012):Man in underwear crawls over frozen river to rescue dog. Accessed on (23th Feb. 2012) http://www.bbc.co.uk/news/uk-england-essex-17005566

[32] Oshana, M.L. (1997) supra n.4.

fact that one has been identified as merely a causal agent does allow for moral evaluation on him, judging the agent good or bad, praiseworthy or blameworthy. However, in Confucian ethics, this distinction is much less distinct and very blurred. It is more precise to say that, in some sense when deciding responsibilities, causal responsibility is implied in the ascription of moral responsibilities no matter whether arbitrarily or deliberately. Sometimes, the notion of causal responsibility is insignificant when compared with moral responsibility. There are two accounts for this. (1) It is because traditionally the moral responsibilities assigned to the social elite, or a father, are so heavy to the extent that he is indirectly, both causally and morally, responsible for behaviours in regard to any people below and related to him, no matter how distant. (2) The responsibility in both terms is shared between people because of a strong sense of interrelatedness and interdependency in traditional Confucian society. Even traditional legal punishments in China reflected this principle. The punishment of one's whole family was not just a more serious form of retribution, it was recognition that they shared in the responsibility, causally and morally, of the criminal, in terms of both his action and his moral shortcomings. In sum, the Chinese account of moral responsibility is virtue-based, relational, developmental and hierarchical. The Confucian moral agent is one who cultivates his good natural tendencies (*siduan*) and is able to recognise and fulfil his responsibilities and roles within each relationship. When moral faculty is properly cultivated, the evaluation of an action would become "immediate" and "effortless".[33] It is best captured in the Analects in the words of Confucius:

> *"At fifteen, I set my heart on learning. At thirty, I was firmly established. At forty, I had no more doubts. At fifty, I knew the will of heaven. At sixty, I obeyed easily. At seventy, I could follow my heart's desire without transgressing the rules."*[34]

8.4 An overview of the Chinese enthusiasm for health and lifestyle

[33] Hansen, C. (1972) supra n.1.
[34] The Analects. Also see Ibid.

It is important to have a sketch of the phenomenon of the Chinese obsession with health and lifestyles before we examine the notion of personal responsibility for health from a Confucian perspective. In recent years, with the enormous economic development and especially after the open-door policy, China has been caught up in a frenzy of enthusiasm about health, as was illustrated at the beginning of this chapter. Apart from the generic obvious reason that we all seek to live a long and healthy life, there are mainly three factors derived from medical science, culture and public health respectively.

First, as is the case in the West, people's increased awareness of health-related knowledge, particularly those over which we feel we have some control. This belief is driven by the increasing volume of evidence supporting the correlation between individual behaviour and health: smoking is linked to lung cancer; obesity is related to cardiovascular diseases and reduces life expectancy on average by nine years; skipping breakfast increases the chances of becoming obese, developing diabetes or even having a heart attack, while red wine can reduce one's risk of heart disease. Second, indigenous tradition in Chinese medicine theories and Daoism has a very rich record on how to live a long and healthy life, primarily the concept of *yangsheng*, which literally means to nurture or nourish life or vitality (sometimes *yangsheng* is also translated as health preservation, life cultivation, or life nourishment). *Yangsheng* is "a common accessible practice for ordinary people to cultivate health and harmony through daily activities. Rather than treating disease, the focus is on maintaining balance through an awareness of our connection to nature, to our own bodies, and to the spirit".[35] *Yangsheng* activities can be applied through the entire span of human life; from birth, growth, aging to death.[36] It refers to activities used to enhance health and achieve longevity by various methods and techniques, such as cultivating the spirit, adjusting diet, exercising the body, regulating the moods, moderating sexual life, adapting to the climate, and so on. This idea has been recently revived and has attracted unprecedented interest from the general public in China and many of the elements have been practised by

[35] Chen, K.W. 'What is Yang Sheng', accessed on (12th Mar. 2013) http://yang-sheng.com/?page_id=55
[36] Ibid.

Chinese people, especially the middle-aged and the old. Third, the rising medical expenses and defective health system also play an important role in driving people to seek 'self-help' health and disease prevention. With the economic reform, China's health system has ranged from a classic government delivery model to one radically driven by profit incentives ("it is now seeking a hybrid to suit its hybrid economy"[37]). The higher-priced drugs and tests, the denial of care to those without means, and other cost, quality, efficiency and equity problems have triggered widespread public outrage and even protest and violence. Surveys show that medical care is among citizens' top concerns.[38] These factors all contribute to Chinese people's rising interest in and enthusiasm for information pertaining to health which we think can be used to enhance our ability to cure or prevent disease.

8.5 Politics and patriotic health promotion in China

There is a prevalent slogan calling for 'healthily work for the country for 50 years', first proposed by a top Chinese university, Tsing Hua University It is implied that staying healthy is not your own business, but an obligation to the country. Being healthy is the means to serve the ends of a political mission, that is, working for the country for as long as 50 years. The combination of good health and patriotism is not new and it has been expressed in the West that "good health has become a new ritual of patriotism, a marketplace for the public display of secular faith in the power of the will".[39]

As a matter of fact, patriotism has played an important role in the tradition of Chinese public health campaigns. To create greater national unity and mass

[37] Freeman, C., Lu, X.Q (eds) (2011) 'Implementing Health Care Reform Policies in China.: challenges and opportunities', . CSIS (Center for Strategic & International Studies). http://csis.org/files/publication/111202_Freeman_ImplementingChinaHealthReform_Web.pdf (Accessed on 13th Mar.2013)

[38] Watt, J, (2008) 'China's Health reforms tilt away from the market", *lancet,* vol.371, no.9609, pp.292.

39 Levin, D. (1987) Pathologies of the Modern Self. New York University Press. Cited in: Minkler, M. 'Personal Responsibility for Health: Contexts and Controversies' in Callahan, D. (ed) (2007) Promoting Healthy Behaviour: How much freedom? Whose responsibility? Georgetown University Press. pp.10.

mobilisation, presenting a common 'enemy of the people' is the key in Maoist strategy. To illustrate, there are old examples going as far back as the first Patriotic Hygiene Campaign in 1952, when Mao Zedong ordered the killing of what he called the country's four biggest evils — rats, flies, mosquitoes and sparrows. A newer example was the 2003 epidemic of Severe Acute Respiratory Syndrome (SARS), when posters were published by the Beijing Times headed 'Declare War on SARS!' "The revolutionary red background, proletariat doctor … visually and literally link the Declare War on SARS! Poster to Maoist public-health campaigns."[40] In both examples, there were mass culls of the 'four pests' carried out by peasants in the first extermination of perceived SARS-related animals, such as civet cats, badgers, raccoon dogs and so on. However, apart from proving the Communist Party's power to mobilise people, the results of these strategies were counterproductive. Indeed, there are serious ethical issues around the welfare of animals, but that is outside our interest in this chapter. The prices paid in both cases were huge: in the first case, millions of people died in the ensuing famine due to plagues of locusts and ruined crops (because the sparrow as a vital link in the food chain had been exterminated). In the second case, apart from the enormous social panic these actions caused, WHO experts commented that killing the animals is more dangerous than letting them remain alive and could also mean the destruction of valuable evidence.

Clearly, this Maoist style of patriotic public health campaign is aggressive, radical, over-simplified and ultimately counter-productive. Although the political Maoist propaganda has subsided since the 1980s with the economic reforms, its legacy is still having an impact on present public health campaigns.

Personal responsibility for health has increasingly become a focus for the government in the health promotion movement in the West. It is tempting for the government to place heavy emphasis on individual responsibility for health and to assign blame for premature morbidity and mortality while discharging its own responsibility for the health of citizens. Given the Chinese Communist tradition of

[40] Hanson, M. (2008) 'The art of medicine: Maoist public-health campaigns, Chinese medicine, and SARS'. *The Lancet*. vol.372.

categorizing people and a legacy of 'class struggle', it would be very likely to reinforce an atmosphere of blaming the victim if our health promotion has a personalised focus. How the government uses, and misuses, the language of individual responsibility, and whether and how it designates a common enemy, is crucial for the success of any specific health campaign. Mis-use and mis-interpretation of the notion of personal responsibility to support programmes and policies such as those mentioned above might be devastating in the human costs and economic consequences.

8.6 Conceptualising 'Personal responsibility for health' from the Confucian perspective

The discussion of the notion of personal responsibility for health is notoriously controversial and difficult in the West. Views are presented mainly from the public health interest perspective and the libertarian perspective.[41] Arguments for a strong emphasis on personal responsibility for health include: impressive evidence supporting individual behaviour change can achieve improved health outcomes; a fundamental right claim, based on the principle of autonomy and self-reliance and self-determination, to make wise health-related choices. Arguments against the emphasis on personal responsibility for health consist of: a culture of 'blame the victim' and further stigmatize devalued groups; practical difficulty of defining the causal link between personal behaviour and lifestyle and diseases; social-economic determinants on health. This chapter will leave aside these debates and focus on the conceptual difficulties stemming from traditional Chinese morality which shape the understanding of this issue.

In the light of Chinese moral theory, there are several factors which make the conceptualisation of personal responsibility for health in China difficult and distinct: first is the relational nature of the Confucian moral agent; second is what I call

[41] Note some innovative ideas and angles can also be found in this discussion, for example, in John Harris' Could we hold people responsible for their own adverse health?, He presented a problem of "double jeopardy" if we give smokers a low priority in the allocation of health care resources, which means punishing people twice for the same offense, once by their contracting a condition caused by smoking and a second time by the refusing to treat that condition. Full article see:
Harris, J. (1995) 'Could we hold people responsible for their own adverse health?' *Journal of contemporary health, law and policy*, vol.12, no.1.

hierarchical responsibility; third is the non-dualistic, dynamic and holistic *yin-yang* view of health. In following section, we shall elucidate these three factors and discuss their role in the formulation of an anticipated Confucian version of personal responsibility for health.

The first factor concerns Confucian relational identity and self which makes localising the moral agent extremely difficult. Confucianism places great centrality on family. As we have discussed extensively in the chapter of vulnerability and relationality, the relational nature of personhood in this thesis, personal relations within the family, should be treated as part of the 'self' (or greater self which includes family members and significant others), not external factors, and one's own 'selfness' is confirmed only through interpersonal relationships. Being a member of a family means that particular demands are made on one, and that one is entitled to make particular claims. Therefore, the view that each man is responsible only for his own acts is quite alien to Confucianism. Health is an issue surely not possible to be considered solely as someone's own business. Confucianism believes that one's life is an inheritance from one's ancestors, just as one's children's lives flow from one's own. Therefore, health, which actualises and sustains life, is also constructed in terms of the system of relationships in which a person is involved. Responsibility for one's health is transcended from the individual and shared among family members. Therefore, in theory, the notion of 'personal responsibility for health' does not exist in traditional Chinese society.

Understanding this relational sense of responsibility is crucial to understanding various practices and decisions regarding health in the Chinese context. The value of an act is determined by its impact on significant relationships. For example, old members in a family might try their best to comply with rules that a healthy lifestyle is required because they consider it their responsibility to maintain health and not fall ill, as the latter circumstance might cause a financial and mental burden on children. In this case, responsibility is considered as an obligation. Yet, reportedly, there are also other old people who deliberately run the risk of getting a mild cold to see, or test, how committed their children are to taking the responsibility for their older relatives' health. Children would be condemned if they fail to care for or look

after their parents. But it is also likely that they would be criticised as non-filial (*buxiao*) for even causing the situation of driving parents to make up bogus illnesses as that implies that the children fail to show care on ordinary (non-ill) days. In contrast, the old people would receive much more leniency from the public because of their privileged 'parents' status.

The second problem is regarding the hierarchy of responsibility in the light of Confucianism which makes the activity of assigning responsibility highly contextual and subjective. The ruler and ministers have a strong obligation and responsibility to build up a situation (such as *renzheng*, benevolent government) which is favourable for the cultivation of the moral nature of ordinary people to take place. In particular, in the area of a good environment for health, these duties could include an affordable healthcare system, peace and non-interference, an effective educational system, and no discrimination against or stigmatisation of ill people. Almost each person in a Confucian society has obligations to promote the cultivation of persons below him in the hierarchy. The pursuit of good health is no exception. Moreover, Confucian ethics favours concepts of personal duties and social goals rather than personal rights. Western rights are claimed to exist irrespective of status or accomplishment because right is based on objective standards. So do the moral guidelines. However, in Confucian ethics, social behaviour is not controlled by reference to a code of abstract prescriptive formulas and the social pressure of praise and blame. The Confucian ethics system consists of the descriptive claim that men have certain natural tendencies which regulate their performance in the moral sphere. “When the moral faculty is properly cultivated and functioning, it is not applying rules to situations and deciding exceptions, but simply immediately apprehending what is right”.[42] Although there are conditions based on which we can make a Confucian evaluation of an action, such as whether one’s behaviour is following the essential moral virtue, or whether an action serves the social goal to enhance harmonious relations. The problem lies in what status this person holds in the society and how well his actions contribute

[42] Hansen, C. (1972) supra n.1.

to harmonious relations. Health-related behaviours are no exception. For example, in a Confucian society, parents are certainly responsible for the smoking or heavy drinking habit of their child, but people in health institutions and related manufacturers and industries should also bear, or even more highly bear, responsibilities for creating a bad health environment for young people. Note there is no absolute priority of one responsibility or interest over another, nor is the interest of one in absolute opposition to the other, but rather it exists and expresses itself in virtue of the circumstances and of their relationship. In terms of cigarette smoking, smokers are risk-taking individuals and non-smokers are 'innocent' communities, but in terms of other risky behaviours, such as the obese or unhelmeted motorcyclists, some smokers are 'innocent' communities and some non-smokers are risk-taking individuals. In the words of the Chinese bioethicist Nie, "the individual is the community, the community is the individual" and "not simply because the community is comprised of individuals, but rather because these terms have no meaning apart from their dyadic relationship".[43]

With the above features of relational identity and hierarchical responsibility in mind, interestingly, we may find that the absolutist conflict and opposition between autonomous individual and socially responsible community approach to health promotion in some Western societies dissolves in an idealist Chinese version of health promotion. We want smokers to evaluate their habits, for their own sake and for the sake of others, and ultimately we want to keep smokers in the community. Any strategies against good relations, like the anti-smoking policy, or the war on SARS in China, or the proposal to call people fat not obese, would only incite hostility between people and hinder the goal of building a balanced social environment which is favourable for enhancing the health of all human life.

This holistic view resonates with the distinct, dialectic *yin-yang* perspective on health in Traditional Chinese Medicine, which is the third factor which renders the conceptualisation of personal responsibility for health incomplete and difficult in a cosmic sense. Here we are only providing a sketch of the concept of *yin-yang* and

[43] Nie, J.B.(2011) supra n.10.

focusing on its application in viewing health, as it would require a vast work to make a full explanation of this complex idea.

In Nie's remark,

> *"yin-yang is far more than simply a theory of natural philosophy or a precept of Chinese thought. It is a unique way of seeing and thinking about the world. The dialectical logic of yin-yang — which seeks to discover truth through weighing and reconciling opposites — underlies all of Chinese culture and forms the basis, not only of ancient Chinese cosmology, science, and medicine, but also its ethics, and social and political philosophy".*[44]

Originally, *yin* and *yang* referred to the location of landmarks relative to the sun, for example, the sunny side of a hill is *yang* while the side in the shade is *yin.* This original idea evolved into a "generalised realisation that all things in reality have two aspects or complementary components, symbolised as *yin-yang*".[45] There are numerous pairings which manifest *yin-yang*: earth and heaven, female and male, night and day, moon and sun, with the former being of *yin* and the latter being of *yang*. "*Yin* and *yang* depend on each other, balance and control each other, and are transformed into each other".[46] This wonderful concept of change is beautifully illustrated in the simple image of *Tai-Ji-Tu* (the picture of the Supreme Ultimate).

The *yin-yang* perspective is still popular among Chinese people in their concepts of health and illness.[47] In Chinese medicine, health is viewed as harmony between the forces of *yin* and *yang* within and between the body and the environment, whereas imbalances of *yin* and *yang* are considered to be the fundamental

44 Ibid.
45 Ibid.
46 Ibid.
47 Chen, Y.L. (1996).'Conformity with Nature: a theory of Chinese American Elders' health promotion and illness prevention processes', Advances in Nursing Science,vol.19, no. 2.

pathogenesis of illness.[48] The forces of *yin* and *yang* formulate the *qi* (a narrow translation is 'vital energy for health', a wide meaning is the 'primary creative force'[49]) "*Qi* is the source of life" and is defined as "the energy circulating in the human body".[50] Based on this system, traditional trained Chinese physicians will prescribe treatment which regulates *yin* and *yang* to restore relative balance in a harmonious state.[51]

With regard to adverse health status or bad health behaviours, personal responsibility is community responsibility and community responsibility is personal responsibility. Apart from the above-mentioned two reasons, that "not simply because the community is comprised of individuals, but rather because these terms have no meaning apart from their dyadic relationship"[52], it is also because each is constitutive of the other and they essentially are one. As health is viewed in a *yin-yang* dialectic way, so is the responsibility for health. In this regard, the categories of individual and community in determining health cannot be understood in the Western sense, in opposition and competing for priority, but should be viewed as only "discriminable in theory", as "in reality individuals and communities remain fundamentally related aspects of a full and flourishing human existence".[53]

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[48] Beinfield, H. and Korngold, E. (1991) *Between Heaven and Earth: A guide to Chinese Medicine*. New York, NY: Ballantine

49 Sivin, N. (1987) Traditional Medicine in Contemporary China. Ann Arbor: university of Michigan Press.

50 Chen, Y.L. (1996).supra n.42.

51 Nie, J.B. (2011) supra n.10.

52 Ibid.

53 Ibid.

9 Chapter 9 - Conclusion: towards a promising and challenging future for bioethics in China

It seems like a mountain ridge,
when I see it from its facade.
It becomes a mountain peak,
when I look at it from its side face.
It always has different profile
when I observe it,
from far away, near, high or low places,
I cannot make sure its true feature,
Just because I myself am in the Lu Mountains...
--Su Shi, Ti Xilin Bi (Writing on the wall of the Xinlin Temple)

A main task of this thesis is to bring Chinese ethical theories, especially Confucian ethics, into a contemporary context of the epidemic of HIV/AIDS, and to see how the thoughts of Confucius interact, compete, or integrate with concepts from Western ethical traditions. An underlying belief is that some ideas in Confucian ethics are important and insightful beyond their cultural and historical origins in China and other Confucianism influenced societies. This is a significant but difficult project and one important element involved regards the standpoint, or perspective of the author.

It is common sense that things can be very different if we see them from different perspectives. As one of China's greatest poets and writers, Su Shi (1037-1101), expressed the same idea more than 900 years ago in his famous poem (above) about one of the best-known mountains in China. Indeed, any landscape can appear differently when seen from different angles or by different people. The same idea can be applied in the task of applying and comparing ethical ideas from Confucian and Western traditions in the context of HIV/AIDS.

As I have mentioned in the introduction, this task is a two dimensional project, which includes: the vertical dimension, involving critical interpretation and extraction of insights from the ancient texts that link up with our own contemporary concerns and interests; and the horizontal dimension, involving comparison and contrast between Chinese moral tradition and Western theories. The original text or idea may be unchanging in its historical context and its content is accessible by

others, but our own philosophical inclinations, such as what I regard as a philosophically appealing way of developing the idea, make a difference to the process of research and to its outcome.[1] Furthermore, our own present concerns and experiences also make a difference to the way we interpret and explicate these ideas. Consequently, our different philosophical constructions of the text may have very different practical implications although we have the same starting point. Besides this two way activity of moving back and forth between past and present, we also need to look horizontally to draw on ideas and insights from other moral traditions, such as Western ethical theory. This research assumes that there are some overlaps of moral ground of the two traditions involved and there are shared common experiences. During this comparison, we can gain some new insights that could deepen and broaden our understanding of our own ethical experiences or enable us to see them from a fresh perspective. We would also be able to find each other's theoretical and practical deficiencies based on specific contexts which are otherwise difficult to identify. Indeed, this process is also mutually beneficial for each other. This activity can again be done in different ways by different investigators.

These aforementioned differences or contingencies in conducting cross-cultural study of bioethics are inevitable and also desirable. They are no more than contingencies involved in other types of philosophical activities in other branches of philosophy. However, we should be clear and cautious to direct our own philosophical inclinations to avoid the two dispositions/tendencies I have explained in the introduction - chauvinist or ethnocentric attitudes and the tendency to assume incommensurability. In addition, we should also resist the tendency of privileging the current dominate or official stance on bioethics and ethical practice in the name of respecting cultural differences. Therefore, it is important that different views or approaches to cross-cultural study are open to speak and interact with each other; just like bringing together fragmented pictures of the Lu

[1] Loi, S.K.(2009) Studying Confucian and comparative ethics: methodological reflections. *Journal of Chinese Philosophy,* vol.36, no.3, pp.455-478.

Mountain observed from different perspectives in order to gain a more systematic outlook. I trust that this work has illustrated this point.

While perhaps Su Shi encourages us to see things from the outside if we wanted to get a whole and true picture. In the second half of his poem it is suggested that the reason a person cannot be sure of the true feature of a thing (e.g. Lu Mountain) even though he has seen it for a long time, is because he is too involved in it (e.g. in the mountain). I do not fully agree with this view. The external perspective and internal perspective are both important ways of seeking the truth of a subject, including our cross-cultural bioethics study. Fundamentally and more importantly, the terms 'external' and 'internal' are only relative concepts, existing in relation to the other. Essentially they are only two complementary aspects in approaching comparative bioethics and cannot be strictly and absolutely distinguished. As demonstrated in this work, in blood donation in China, the Mohist approach is regarded as external to the Confucian approach, but is seen as 'internal' compared to a Western approach. Another example is the status of the socialist approach to blood donation: it is 'internal' in the sense that presently it is the state's official dominant framework for blood donation in China, it is also 'external' in the sense that it is an 'imported' approach whose origins are outside of China.

With this in mind, I am not sure in this comparative bioethics study, whether my perspective is internal, external, or both, nor do I think this distinction is necessary and useful, nor do I believe it is desirable to decide which one is superior to the other. All I can confidently say is that my stance towards this cross-cultural study is quite pragmatic and down-to-earth: equipped with the methods of interpretation and comparative analysis, I take a 'problem-oriented' approach to look at some of our common ethical experiences and dilemmas surrounding the particular problem of HIV/AIDS across East and West, including the problems of HIV testing, blood donation, vulnerability of PLWHAs, discriminative and stigmatising attitudes towards HIV/AIDS and PLWHAs. Based on this problem-oriented approach, I have drawn on and integrated the insights of two ethical traditions, Chinese and Western, in an attempt to construct an ethical framework for developing the

strategy and policy towards HIV/AIDS which will appeal to China and perhaps to some other societies as well.

The emphasis of this problem-oriented approach is not on approximating ancient ideas in the historical original texts, but instead, the attention is directed to the present—to build an account or moral framework which relates to our experiences with HIV/AIDS and other similar contemporary issues. It is an exercise that requires imagination and sensitivity, as well as a sympathetic attitude and patient probing of the ancient texts.[2] This work tried to fulfil this requirement and I believe it has contributed to our knowledge in three related but independent areas*: the control of the epidemic of HIV/AIDS in China; both the methods and the utility of cross-cultural study of bioethics between China and the West; and medical ethics in China.*

Firstly, this work has fundamentally advanced our understanding of HIV/AIDS in China and enabled us to deal more adequately with the challenges arising from Chinese cultural traditions that HIV/AIDS programmes may encounter. Due to the sensitive nature of HIV/AIDS, it is a conventional wisdom that programmes and policies concerning HIV/AIDS should be culturally sensitive. This requirement entails a number of perspectives, cultural factors, and moral beliefs with relevance to HIV/AIDS, some of which are obvious and uncontroversial, some are hidden, and some are incompatible, or in conflict with the goals of HIV/AIDS prevention. This thesis has explored and evaluated these cultural and ethical factors mainly in light of Confucianism (combined with Communist ethics and Western ethical theories) and demonstrated ways of coping with the tension, conflict, and discrepancy between these factors and the goal of curbing HIV/AIDS. My purpose in exposing some cultural beliefs and practices encountered in responding to HIV/AIDS is to clear the ground for the emergence of constructive ways of addressing HIV/AIDS and ultimately developing a humane and effective strategy towards HIV/AIDS in China. I think I have achieved this objective in many different aspects, to select some: I suggested the opt-out system to HIV testing proposed by UNAIDS is not applicable in Chinese duty-based Confucian tradition; I explored the

[2] Loi, S.K.(2009) supra n.1.

Confucian concept of relational personhood and its negative impact which increases the vulnerability of PLWHAs in China; I have also examined the evolution of names and metaphors regarding HIV/AIDS and people living with HIV/AIDS in the past decades in China, from a disease of 'Western capitalism', a disease associated with drug users, prostitutes, and homosexual, to more recently the classification of PLWHAs as 'innocent victims' versus 'guilty victims'. I have also proposed ways to correct it, for example I have identified the serious problem of privileging law enforcement measures over 'harm reduction' approaches in behaviour intervention programmes in China.

I believe challenges that are rooted in cultural experience with relevance to HIV/AIDS may appear in various forms in different societies but the core elements can be the same. Therefore, the above problems, especially the core aspects of them, are not only encountered by China, hence the lessons and insights extracted from China's failures and successes can be useful to other societies, just as the Chinese response to HIV/AIDS has always been shaped by borrowing or being influenced by ideas from other societies as well.

Secondly, this work contributes to a long neglected but very important field of cross-cultural comparative study of bioethics, in this case, the study of Chinese Confucian ethics and Western ethics, in terms of intellectual advancement and methodology. By introducing a problem-oriented approach, this thesis regards the two ethical traditions of China and West, with some of their concepts foreign to each other, as partners in dialogue rather than rivals.[3] The structure of the dialogue does not follow the more prevalent and dominant 'combat model'[4] in Western philosophical activities, where the purpose of the argument is to win or to privilege one argument over the other. I leave aside the merits and perils of this tradition of 'combat model' in Western philosophy, but at least the field of comparative philosophy is not the battlefield of two cultures competing for dominance. In this work, the goal of comparing ideas of Confucian ethics and Western ethical

[3] "The other is neither a paradise nor a hell, neither a source of salvation nor an inferior being". See Nie, J.B. (2011) *Medical ethics in China: A transcultural interpretation.* New York: Routledge.

[4] Mattice, S.(2010) 'Rethinking combative dialogue: Comparative philosophy as a resource for examining models of dialogue'. *Paideusis,* vol.19, no.1.

traditions in HIV/AIDS is not to pursue one's victory over the other, but to foster a deeper understanding of each other and promote long-term coexistence and mutual flourishing. Admittedly, sometimes in specific circumstances in HIV/AIDS, after careful comparative analysis, some ideas or approaches from one tradition seem, or indeed are, better in addressing a particular problem or facilitating a specific prevention programme than their counterpart in the other tradition, however this is only contextual and shall not be generalised, nor taken as a presupposed goal. This thesis always tries to avoid grand generalisations and sweeping assertions. For example, I argued that Confucian idea of *zhengming* (rectification of names) may be better able to address the negative labels or aspect in our conception of HIV/AIDS in China. This does mean that indigenous 'remedies' are always better able to address local problems than their 'foreign' counterpart or vice versa.

Methodologically, this thesis demonstrates different approaches to the overall transcultural approach. Treating 'the other' as an equal partner does not mean we should not examine ourselves in light of the achievements of the other. In some chapters, I make reference to some Western philosophical frameworks or concepts, or approaches and examine their applicability in the context of HIV/AIDS in China. For example, I examined whether there is a notion of 'altruism' in blood donation in China in light of a Western ethical framework. While in other chapters, I focus on certain questions raised in Western philosophical discussions, and consider how Chinese thinkers, and different thinkers from different schools, would view and address such questions. In some situations, instead of just considering how Chinese philosophy might view the relevant questions differently, I also attempt to address the questions in a way that draws on the insight and inspiration of Chinese thought. To illustrate, I put forward a Chinese account of moral responsibility to characterise Chinese understanding of the notion of 'personal responsibility for health' which has re-emerged in Western healthcare promotion campaigns nowadays.

Thirdly, this work advances the understanding of medical ethics in China—for westerners and Chinese as well—and shows a promising and challenging future

for doing bioethics in China. Notably, this thesis is not a comprehensive and systematic work/exploration of medical ethics in China, however, it advances our knowledge about bioethics in China from a unique, but very significant angle of Chinese-Western dialogue. Besides, it also suggests ways of developing such an important interaction and conversation which I have already explicated above.

China is my homeland with a vast and varied land, immensely long and rich history, and diverse cultural traditions. Its internal cultural diversity and pluralism is no less significant than any of the Western societies who are described as multi-cultural, multi-racial, and pluralist. Chinese culture, including medical ethics, is by no means a monolithic, static, and communitarian entity that is the 'radical other' of the West. As I have stressed in the introduction, to claim that American culture prioritises individual liberty while Chinese culture emphasises collective welfare is one thing, it is entirely another thing to habitually conceptualise the philosophies of East and West in dichotomising and dualistic terms (a popular one being the individualist West versus collectivist China). Moreover, we should also be aware that the official position or current mainstream view on medical practice may not be the only representative of medical ethics in China. In addition, *to appreciate cultural diversity does not mean that all cultural practices shall be privileged and not subject to ethical scrutiny.*

It is these complexities and subtleties that make the study of medical ethics in China an intriguing and rewarding endeavour instead of deterring us from striving hard to understand it. I sincerely hope this work has at least exhibited 'a tip of the iceberg' of the richness of Chinese medical ethics and Confucian ethics in particular, it is hoped this will be inspiring and stimulating for more in-depth explorations on this topic.

I want also to highlight another related point, the 'objectivity' in my interpretation of medical ethics in China. As expressed by influential neo-Confucian philosopher, Lu Jiuyuan (1139-1192), in his classic work that "*Wo zhu liujing* (I interpret the Six Confucian Classics), *Liujing zhu wo* (Six Confucian Classics are used to interpret me)". Indeed, our interpretation of any text, or any theory, is always influenced by our own particularity including world views and philosophical inclination, which may

precisely be shaped by the same theories. In this thesis, the knowledge about medical ethics in China is mainly acquired through Chinese-Western comparative study while I, myself, am a native Chinese exposed to Confucian culture from an early age. I do believe this work has been affected by the retaining of (unconsciously) a deep commitment to my original culture. Nevertheless, just as there is no absolute 'meaning', but rather 'interpretation' of a particular Confucian ancient text (which often appear vague and ambiguous); nor is there an absolute and objective whole picture of Lu Mountain which can capture its every single detailed feature; nor is there an ideal knower who is 'radically individual without being at all personal—a kind of epistemological Everyman'[5], I believe this concern of objectivity or subjectivity would not challenge the validity of advancement in my understanding of Chinese medical ethics.

The future of bioethics in China and its capability to address ethical challenges in contemporary problems depends on how well it can reconcile and integrate the insights and achievements in China, the West, and elsewhere. This is also an age-old but persistent challenge that Chinese civilisation has been facing for the past two centuries. China has paid an enormous price for the inadequacy of its ability to address this challenge in history, which is replete with disturbances, revolutions and disorder, socially, politically, and culturally. It is now an even more intense era, because the direct interaction and communication between different cultures and civilisations is taking place at an unprecedented speed and scale. One of the central themes in contemporary medical ethics in China has always been claimed as that of how China shall learn from the West without losing its own distinctive cultural identity and tradition. This theme seems to resonate with the dilemma that Chinese bioethicists have always faced, as I have mentioned in the introduction, that is, to seek 'general' bioethical truth and retain something from Confucianism that is 'theirs'. However, this analogy is based on a problematic assumption: Western ethical theories or beliefs might not, or should not be, as 'general' as we thought, just as Confucian ethics should not be assumed as always be 'theirs' only

[5] Peter, H. (1999) *Reinventing the wheel, A Buddhist response to the information age*. Albany: SUNY press. pp90.

for Chinese. It is true that maintaining distinctive Chinese tradition is very important in response to the hegemony and dominance of the West politically and culturally. Yet, a more optimistic, even 'ambitious' conception of the theme of Chinese medical ethics would be how to transcend insights from Chinese tradition, those perceived and assumed as solely 'theirs' for Chinese, from its racial, linguistic, and geographic origin, to the 'general' truth which has a universal application and which is intelligible to all humanity. I believe this vision is realistic given the richness, dynamism, and diversity of cultural tradition and medical ethics in China. Also, I believe genuine insights should be capable of being developed in their own right, without referring back to the historical context from where they emerged. Correspondingly, I would also like to promote another orientation in Chinese-Western comparative bioethics, to study Western thoughts in light of the Chinese philosophical framework as opposed to the more popular reverse way. For example, it is hoped in the future the school of Mohism can be discussed without reference to the Thinking of *Mozi*, just as utilitarianism as an ethical theory can be explained without reference to Jeremy Bentham and John Stuart Mill, and questions can be asked such as whether he is a Mohist and whether he agrees with '*jian ai*' (the impartial caring).

The readership for this work is not limited to academics who are interested in Confucian ethics and comparative philosophy and people who are interested in medical ethics in China, but also extends to healthcare professionals and policy makers whose work involves elements about HIV/AIDS.

My hope is that I have contributed, in a small way, to a better understanding of HIV and the difficulties of respecting HIV positive people and treating them both effectively and fairly; but also to increasing mutual appreciation of both the similarities and differences in understanding and approach that obtain both philosophically and in terms of both personal and public health between China and the West.

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