

The Historical Implications and Modern Transformation of China's "Group-oriented" Legal Thought

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Abstract: This paper examines China's "group-oriented" legal thought, which prioritizes group interests, linking individual rights/obligations to blood, geographic or social groups. Tracing its evolution from pre-Qin clans, through imperial "family-state integration," to modern individual-collective coexistence under Western influences, it is rooted in patriarchal clans, Confucian ethics, with practices like joint liability. Its core—individual responsibility to groups—endures; it advocates adapting collectivism to modern rule of law, balancing rights and group interests for localized legal modernization.

Keywords: group-oriented; clan-based; family-based; rights and obligations; modern transformation

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1. Introduction

"Group-oriented" is a value orientation and way of thinking that emphasizes the priority of group interests over the interests of individuals, that is, individual rights, legal status, and rights and obligations often depend on group interests for continuation, and individuals form groups based on blood relations, geographical relations, or other social governance interest relationships to seek common interests, in which individuals must bear not only personal liability, but also group and social governance liability. Different connotations and values exist in different historical periods and cultural backgrounds. The thought of group-oriented still has a profound impact on the construction of the rule of law civilization today, and the attitude towards Chinese traditional statutes is not to abandon it blindly, but to take its essence and discard its dross, and transform and develop the collectivism thought of Chinese traditional society with inventiveness, and help the construction of a modern rule of law civilization.

2. Patriarchal Clan: Social foundation of group-based orientation

Compared with the Group consciousness of the West, the patriarchal etiquette and doctrine of China was initiated by Zhou and Confucius, but he did not consider Zhou and Confucius to be a strict belief system, namely religion, "Religion is said to be transcendental." In order to save the collapse of social rituals and music at that time, Confucius put forward Confucianism. Under the step-by-step development of Confucianism, it strengthened the family consciousness and family life of the Chinese people, and weakened the group consciousness of the Chinese people. Family is different from

group. Family does not emphasize rights and obligations, but only blood relations and closeness, and attaches importance to friendship, which will inevitably develop into an ethical society, and Confucius' Confucianism also develops in the direction of cultivating rationality with rituals and music, and organizing society with ethics^[1].

Confucian ethics takes "rites" as the core, and transforms the patriarchal system into behavioral standards and social standards with universal binding effect. In China's past historical society, the development of Confucian ethics is manifested through the essence of "rites" in Confucianism, because "rites and laws" determine the rights and obligations of each individual in society. In family ethics, Confucius said in *The Analects of Confucius·Xue Er*, "Filial piety and fraternal submission!—are they not the root of all benevolent actions?" raising "filial piety", this family ethic, to the foundation of all moral standards. The "Three Cardinal Guides and Five Constant Virtues" that ancestors and ancestors have exhorted to abide by, Dong Zhongshu even listed "the father guides the son" alongside "the ruler guides the minister" and "the husband guides the wife", making the hierarchy within the family a template and support for social and country order, and even more in line with this sentence in the *Book of Rites*, "Without ritual, there is no way to regulate the service of the gods of heaven and earth; without ritual, there is no way to distinguish the positions of ruler and minister, superior and inferior, elder and younger; without ritual, there is no way to distinguish the intimacy of men and women, father and son, brothers, and the sparse and numerous interactions of marriage".

From family ethics to country governance, this coupling is manifested at the legal level as that, during the Western Zhou Dynasty, the "Duke of Zhou's Ritual System" institutionalized the patriarchal principles, and the codes since the Qin and Han Dynasties have continuously legalized Confucian ethical articles, such as the *Tang Code with Commentary* explicitly defining the crimes of "Ten abominations," incorporating family ethics such as "unfilial piety" and "discord" into the scope of criminal sanctions, and the punishments were not light. Qu Tongzu emphasized in *Chinese Law and Chinese Society* that the patriarchal system, through rules such as the "the system of inheritance by the eldest son of the legal wife" and "ancestral succession" constructed a legal subject structure with blood relations as the bond. From Confucian ethics to the patriarchal ritual system, the family is no longer an ordinary living unit, but also a legal community of liability—the head of the family possesses the power to discipline family members, and at the same time assumes joint and several liability for the illegal acts of clan members, forming a "family-based" legal logic.

The foundation of ancient Chinese socio-economic development was the self-sufficient small-scale peasant economy mainly based on manual labor cultivation, and what adapted to the small-scale peasant productivity was the social relationship taking the family as the basic unit and the blood relationship as the bond, and on this foundation, the patriarchal relationship taking the blood relationship as the bond was deeply bound with the feudal politics, forming the ancient Chinese country concept of "family world", and the so-called "family world" was in essence the "enlargement of the family" characterized by blood relationship under the patriarchal feudal system^[2]. The social representation with blood relationship as the bond is also obviously reflected in the ancient Chinese legal system. It is mentioned in *Tang Code with Commentary* that, "Those who live together, if relatives of da gong or above and maternal grandparents, maternal grandchildren, or wife of grandson, brothers of husband and wife of brothers, conceal crimes for each other; retainers and slaves conceal for the master: all shall not be prosecuted, and even if the matter is leaked and the news is revealed, they shall not be held liable. Those who conceal for each other below xiao gong shall be reduced by three degrees compared to ordinary people. If those who commit treason or above, this law shall not be applied^[3]." "The privileges of the patriarchal hierarchy that criminal law does not extend to high officials, and rules of propriety do not go down to the common people." Therefore, in the ancient Chinese legal culture concept, the existence space of individuals is lacking, individuals are first the son, the father, and the member of a certain family or clan, and secondly the people of the country, "the law always maintains the prestige of the patriarch and punishes according to the status of family member relationship. The country thus gives legal support to the family structure, which is an obvious means for it to maintain social order^[4]." The consanguinity-based clan etiquette concept constructed the legal culture of ancient China.

3. Cultivating oneself, regulating one's family, governing the country, and pacifying the world: The political and cultural concept of group-oriented

"Cultivating oneself, regulating one's family, governing the country, and pacifying the world," this is the Confucian classics' guideline, requiring regarding individuals' moral self-cultivation as the starting point of group order, so as to better construct the liability connection from individuals to families and then to the country. Zhu Xi explained in *Collected Annotations to the Four Books*: "Cultivating oneself is the root of things." Precisely, it is mentioned in Mr. Sun Longji's *The Deep Structure of Chinese Culture* that, in the traditional cultural development of Chinese society, individuals are not independent minds or souls, and people have two parts: "body" and "mind." People's development should not only maintain the growth and safety of the "body," but also maintain the comfort of the "mind." In the development process of the legal system in traditional Chinese society, the emphasis on "self-cultivation" was manifested very obviously. For example, in the Han Dynasty, the prevailing practice of "recommending individuals for their filial piety and integrity" was used as the standard for evaluating moral character.

"Those who desire to govern their state, first regulate their families." The so-called regulating the family refers to not only managing the small family well, but also managing the large clan well, so as to realize an orderly and harmonious coexistence within both the large and small families. Sima Guang systematically expounded the logic of "governing the family as governing the state" in *Jia Fan*, because the head of the family possesses the greatest authority in the family or clan, and has the right to educate, the right to discipline, etc. over the younger generations, etc. Therefore, under the establishment of authority, the head of the family must be required to restrain the members of the family with "rites and laws" to achieve the order of "father's kindness and son's filial piety, brother's friendship and brother's respect."

"Those in ancient times who wished to manifest their clear virtue to the world would first govern their states." If a monarch of a generation wants to pacify the world, how to govern his own territory well is the primary task, and the "cultivating oneself" and "regulating the family" mentioned by the author in the previous part are the foundation of its foundation. Xiao Gongquan has such a passage in *A History of Chinese Political Thought*, "The keynote of Chinese political thought is 'the thought of people as the foundation'... However, this thought of people as the foundation is closely related to the family system. The monarch is the great parent of the world, so he should take protecting the people and nourishing the people as his duty^[5]." The relationship between the monarch and his subjects is like the relationship between father and son, and loyalty to the monarch is like filial piety to the father. The management model of the family can be transformed into the institutional foundation for governing the country.

With "cultivating oneself" and "regulating the family" as guarantees, and then under the premise of governing the country well, the goal of pacifying all under heaven awaits realization. The core of "pacifying all under heaven" is to realize overall harmony through group order, rather than the expansion of individual rights. Mr. Liang Shuming believes in *The Essentials of Chinese Culture* that traditional Chinese thought "lacks the concept of individuals", and what it pursues is the overall balance of "the world as one family". Because in traditional Chinese society, "pacifying all under heaven" is the highest political ideal realm of Confucianism, pursuing universal harmony and common development beyond the country, just like the ultimate goal of contemporary Chinese society is to realize "communism".

4. Joint liability to end litigation: A legal practice expression of group-oriented

When the thought of the concept of people-oriented ideology is mentioned, the writer will not only think of the development ideology of "people-centered" in today's society, but also the thought of "the people are the most important, the state comes next" proposed by Mencius in traditional Chinese society, or the sentence in *Xunzi*, "water can carry a boat, but it can also overturn it," and also Xiao Gongquan's basic tone of Chinese political thought mentioned above is "people-oriented ideology." It can be seen that the status and importance of the common people in society or the country, and in the people-oriented ideology, the common people are the foundation, and it is necessary to unite all the forces that can be united, which reflects the embodiment of group centrism here. From the people-oriented ideology to the unique theoretical

system, there is such a typical representative - the joint and several liability system. During the Shang Yang Reform period, the “mutual responsibility system in ancient China” was established, and the common people were numbered and grouped according to household registration. If one person violated the law, then the neighbors would all need to jointly and severally undergo punishment.

“Li,” as the unwritten aggregate of behavioral specifications originating from patriarchal ethics, together with the written “Law,” jointly constitute a system for governing social order. The so-called “virtue and Li are the foundation of governance and education, while penalties are the application of governance and education,” Li primarily relies on internal pressures such as edification, public opinion, and groups to maintain balance, and the scope and social aspect of adjustments are broader, with the focus on prevention; law is a compulsory means as the last line of defense in society, mainly focusing on punishment. Li entering legal codes and Li preceding Law, the *Yonghui Law Subcommentary* of the Tang Dynasty took “Li” as the foundation of legal interpretation, such as “Eight Deliberations” which can rely on status to obtain relief from penalties, and the punishment of “Ten Abominations,” these severely punished serious crimes endangering ethics and the ruling order, all originated from the Li system, enabling legal articles to carry the ethical order of Li, allowing the hierarchy and ethics advocated by groups to be enforced through law.

5. The transformation path of “group-oriented” thought in modern rule of law civilization

The “group-oriented” in our country’s traditional law thought takes the interests of family, collective, and country, etc. as the value core, emphasizing the individual’s liability and dependence on the collective. With the continuous development of Chinese society, the conflict of interests between individuals and groups is gradually being reconciled, the concepts of patriarchal clan and family are gradually weakened.

During the late Qin Dynasty, the Western thought of “individual-oriented” was introduced into our country, which produced a not small impact on the “group-oriented” thought of our country’s traditional society, but in postmodern society, the Western rule of law civilization with “liberalism” as the core has gradually revealed the problem of insufficient stamina. Contemporary Western liberal scholars, in order to maintain the stability of a pluralistic democratic society, and at the same time respect the rights of freedom and equality enjoyed by individuals at the moral and cultural level, have formed two different theoretical approaches^[6]. Facing these autonomous liberalism and tolerant liberalism, it is not difficult to see the degree of fermentation of the issue of “liberalism” in western society. Western society excessively emphasizes the supremacy of individual rights, highlights freedom for everyone, resulting in the tearing of social consensus, the marginalization of public interests caused by the so-called “NIMBY effect”, the frequent occurrence of social chaos, the social order once being destroyed, and even the social antagonism of rights abuse and identity politics tearing. Therefore, after the 20th century, the western rights-based law has been challenged, property rights can be arbitrarily used and disposed of, the rights of freedom are not subject to any limitations, this one-sided pursuit of the rights of individuals law conflicts with the social development prospect^[7].

The ethical responsibility of “cultivating oneself, regulating one’s family, governing the country, and pacifying the world” in our country’s traditional “group-oriented” thought, progresses step by step, consolidates the foundation, and provides a feasible way of thinking for balancing the relationship between rights and obligations. It neither denies the reasonableness of individual interests, nor emphasizes the relationship of individual dependence on family, collective, and the country. This wisdom of taking collective interests as the boundary of individual rights inspires the modern rule of law to rebuild the value consensus of “public interest first” in addition to rights guarantees, and individuals should firmly grasp the bottom line of group interests while realizing their self-worth. There is the ancient wisdom of “water can carry a boat, but it can also overturn it” in the past, and our country is a socialist country of people’s democratic dictatorship in the future. Just as the *Civil Code* protects the legitimate interests between equal private subjects from the perspective of real right, creditor’s right, etc., providing legal guarantees for individual survival.

Then, with regard to developing countries such as China, for every country seeking development, the first step is to understand its own country's national conditions, and based on the national conditions, explore a path of rule of law civilization construction that conforms to its own country, rather than blindly pursuing the Western "individual-oriented", such as Southeast Asian countries incorporating village and community elder mediation proceedings into the judicial system, endowing traditional authority with a new rule of law role. Taking this as a breakthrough point, the culture of the local traditional society will be processed, the "collective" thought contained therein will be excavated, its essence will be taken, combined with the characteristics and needs of modern rule of law civilization construction, adapting to the development of the times, and through the "cultural embedded" path of rule of law construction, it can not only reduce the rejection reaction of blindly transplanting and copying systems, but also enable the rule of law to truly become a bond for maintaining collective identity.

"Group-oriented" has not disappeared in the context of historical development. From the perspective of the period of traditional Chinese society, group-based indeed had its drawbacks in the legal system at that time, but it cannot be denied that it promoted the development of the country and society. China's traditional legal thought was also in the contradiction and conflict between individual and group interests, and was able to continuously improve. Today's society is facing major changes unseen in a century. The "group-oriented" thought conforms to the needs of the times and does not absolutely exclude individual-based. On the contrary, the two show great inclusiveness. This is the historical precipitation of "group-oriented" and also the wisdom of Chinese society, and even Chinese traditional legal thought.

Disclosure statement

The author declares no conflict of interest.

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