

The Source of Confidence and Worry: Analysis on the Cultural Deposits of Belief in the Rule of Law in Chinese Culture

Zhiyu Cao^{1,*}

¹ Jingdezhen University, Jingdezhen, Jiangxi 333000, China

*Corresponding author. Email: 41712916@qq.com

ABSTRACT

In the context of the new era, cultural confidence focuses on the ability of the excellent Chinese traditional culture to contribute wisdom and solutions to the survival and coexistence of mankind. The rule of law is a political choice for China to move towards a higher social form. The belief in the rule of law is a sacred sentiment of the public towards the law, and there are factors blocking the rule of law in Chinese culture, which should arouse sufficient cultural anxiety among the countrymen. Thus, cultural confidence and cultural anxiety constitute the cultural deposits of belief in the rule of law. This is the mature mentality of interpreting Chinese culture, and it is necessary to turn it into the seeds of the rule of law changes that lead the way to the future development of Chinese society.

Keywords: *Cultural confidence, Excellent Chinese traditional culture, Belief in rule of law, Sense of cultural anxiety.*

1. INTRODUCTION

With the attention of the world, China has undergone radical changes over the past 40 years of reform and opening up. Today, China is the second largest economic entity worldwide and is in a period of transformation and rise, at the same time, socialism with Chinese characteristics has entered a new era. In a general sense, culture is the spiritual outcome of a country and a nation that has been gradually formed and inherited through the active choice and long-lasting accumulation of people during its long-term historical development. Chinese culture is a type of culture created by the Chinese people, with Confucianism as the mainstay, which has a long history and extensive knowledge and contains positive elements such as social harmony, seeking common ground while preserving differences, peace among all nations and the Taoist approach to nature. The rule of law is a political choice for China to move towards a higher form of society, and the formation of the belief in the rule of law cannot be achieved without the support of the excellent Chinese traditional culture, which has a rich historical background, especially

when it is used to construct and consolidate the common national psychology.

In recent years, both official and private attention to culture has continued to rise, and the discovery and study of the excellent Chinese traditional culture has become a hot topic in the academic world. The researcher's search on CNKI for relevant subject terms reveals that more than 10,000 academic papers have been published since November 2012, with fruitful achievements. The theoretical connection between socialism with Chinese characteristics and excellent Chinese traditional culture has been discussed in academic circles, mainly focusing on the origins, connotations and promotion paths of excellent Chinese traditional culture. In general, the research perspective is rather homogeneous, and the historical comparison in China and foreign countries is not deep enough. In addition, the studies failed to fully clarify the cultural anxiety that should go hand in hand with cultural confidence, or failed to fully explain the factors that hinder the existence of the belief in the rule of law in Chinese culture. Therefore, an analysis of cultural confidence and cultural anxiety based on a

comparison of the cultural origins of the East and West is an indispensable logical dimension to clarify the cultural deposits of belief in the rule of law.

2. CULTURAL CONFIDENCE: EXCELLENT CHINESE TRADITIONAL CULTURE CONTRIBUTES WISDOM AND SOLUTIONS FOR HUMAN SURVIVAL AND COEXISTENCE

Chinese nation has made glorious cultural creation and deep cultural heritage. The excellent Chinese traditional culture is an important cultural resource and value base for the construction of socialist core values. The core socialist values include wealth and strength, democracy, civilization and harmony, freedom, equality, justice and the rule of law, patriotism, dedication for work, honesty and friendliness. Among them, the rule of law is an important element. In fact, from a wider historical perspective, any culture never exists in isolation, and other cultures constitute the comparative measure and meaning of their own existence. The relationship between Eastern and Western cultures is typical binary relation. In the new era of value evaluation, the basic attitude towards Eastern and Western cultures should be objective and dialectical.

Historically, Chinese culture is synonymous with Eastern culture, especially East Asian culture. In addition to the positive elements mentioned above, its representative elements include negative elements such as personal attachment, suppression of freedom and authoritarianism. Accordingly, the representative elements of Western culture include the pursuit of freedom, the promotion of reason, respect for rights, the focus on contracts, as well as altruism, consumerism and west-centered theory. Chinese culture has a unique and subjective position in the world cultural spectrum. Chinese culture is ultimately of a different origin from Western culture, and each has its own basis of existence and historical development. "The status of the laws of different cultural systems in the world cultural spectrum is distinctive. The East Asian culture represented by Chinese culture and the Western culture represented by Western European culture have obvious opposites in value orientation, which are prominently manifested in the fact that the Western culture based on the commodity market economy has shown the rationality of the supremacy of law, and the law has become the

human rule in the Christian belief system of God, while the modern Chinese culture with its predominantly agrarian economy emphasized the supremacy of 'natural justice and human decency.'" [1] Of course, since the mid-nineteenth century, capitalist industrialization and the globalization of the world economy have led to inevitable collisions and clashes between different qualitative Eastern and Western cultures, and 'chemical reaction' fusion has been formed, such as the cultural conditions of Japan, Korea and Taiwan, which are also part of the Eastern cultural sphere, after the Second World War. In addition, against the background of China's continuous rapid economic and social development since the 1990s, the serious spiritual and existential crisis brought about by Western culture to mankind has intensified, and excellent Chinese traditional culture has demonstrated its unique value and made its base of cultural confidence more evident, especially in interpreting and contributing to the wisdom and solutions for human survival and coexistence. For example, the idea of building a community with a shared future for mankind is derived from such elements as "peace and harmony" and "universal peace" in the excellent traditional Chinese culture.

3. CULTURAL ANXIETY: THERE ARE FACTORS HINDERING THE BELIEF IN RULE OF LAW IN CHINESE CULTURE

Since ancient times, cultural confidence comes from the same root and is accompanied by the strong and deep sense of crisis contained in Chinese culture. This sense of cultural anxiety has gradually been internalized into a collective consciousness of the Chinese nation through the expression of literary works and the practice of elite figures. The most representative ones are Mencius' idea of "being born in anxiety, dead in peace and happiness", Fan Zhongyan's idea of "being the first to worry about the affairs of the state and the last to enjoy oneself", and Gu Yanwu's idea of "being responsible for his country's rise or fall", showing the sentiment of being patient in times of adversity and prepared for danger in times of safety. It can be said that the awareness of unexpected development is the foundation and essence of Chinese culture. In the context of energy crisis, ecological crisis and food crisis in the new era, the cultural sense of worry of the nation should focus on the future development path of Chinese society. Since the basic strategy of the rule of law was first proposed in 1997 and incorporated into the Constitution in

1999, the goal of the rule of law for the future development of Chinese society has been constantly reinforced. In view of this, taking the jurisprudential comparison between the cultural sources of the East and the West as a perspective, the cultural anxiety of the contemporary nation should be projected on the factors hindering the belief in the rule of law in Chinese culture.

In Western culture, freedom is a central concept. Originated from religious myths, citizens' freedom rights are regarded as natural human rights. Protestantism has become a direct ladder to God for the individual believer, and freedom of faith and spiritual freedom has been fully realized. Chinese culture advocates the harmonious order of the unity of heaven and man, and this order is established on the differential order of the family and the state, which is based on blood relations. In this context, the differential order pattern refers to the traditional Chinese society (as opposed to modern society), where one cannot violate or overstep one's place in the hierarchy, and where different people and different groups have different degrees of hierarchy, which are integrated into the structure of ritual and righteousness. A person's status, courtesy and righteousness talk about various rights from different angles. The concept of 'rights' comes from the Western system of discourse. For Western liberalism, rights are natural and their legitimacy and justification are based on the presupposition and belief in an omniscient and omnipotent God. In order to argue for human relations and order, the ancient Chinese also turned to the heavens, i.e. how to articulate the heavenly principles, benevolence and righteousness. Zhu Xi in the Song dynasty developed two ways of arguing for legality and legitimacy, namely, going outwards to the heavenly principles and going inwards to conscience. In the opening chapter of the "History as a Mirror", Sima Guang said: "I have heard that the duty of the emperor focuses on the rite, that rite is greater than courtesy, and that courtesy is greater than courtesy", indicating that Chinese culture has stored up a wealth of theory and experience regarding the allotment and distribution of such power (rights). Human desires always drive all kinds of means to expand their own "duty", limit others' courtesy. Those at the top uphold difference, while those at the bottom pursue equality. Every change is accompanied by a corresponding calculation of costs and benefits, leaving a complex trajectory of evolution and forming a stable cultural tradition resulting from the long-term play of various social groups.

Some scholars claim that cultural tradition is the core of Chinese culture, its influence pervades almost all traditional cultures, and it governs the behaviour, the mind and even the soul of the Chinese people. It is unchanging, or extremely difficult to change. As Pang Pu said, it was an inert force (or inertial force), "I will remain unchanged despite the wind and rain" [2]. The pursuit of human relations for the rights in differential pattern inevitably gave rise to politics, religion and rituals in authoritarianism, which also led to the general lack of an independent, reflective rationality and spirit in Chinese nationality throughout history. Using the homogenous structure of the family and state as one, authoritarianism took on a humanistic veneer. The "Three Principles and Six Disciplines" were based on the kinship of the father and son. As the saying goes, "serving your father is same as serving the emperor." "If you want to seek a loyal officer, it is necessary to go to find a filial son." In the 1950s, the first decade after the Communist Party won power, it carried out a series of campaigns such as 'land reform', 'socialist transformation' and 'anti-rightist' that significantly transformed traditional Chinese society. However, after destroying the old social structure, instead of opting for a constitutional form of government and constructing the basic framework of a society based on the rule of law, a social structure in which state power dominated everything was reconstructed under new subjective and objective conditions. The planned economic system, the rural people's commune system and the urban unit system constructed in the 1950s, and the household registration system that corresponded to them, were the most extreme expression of the social structural characteristics of the 'official rule' for more than two thousand years." [3] It should be seen that democracy and the rule of law are complementary and inseparable, democracy is the basis of the rule of law, and the rule of law is the guarantee of democracy. What makes democracy more dynamic than autocracy is that it encourages competition, including competition in the spiritual world, competition in institutions, competition in speech, etc. Conversely, under authoritarianism, it is difficult for society to develop beliefs independently of the system of power, because the general public can only worship the resources of power. In short, while firmly asserting cultural confidence, the negative elements of Chinese culture, such as personal attachment, suppression of freedom and authoritarianism, remain in today's society to a greater or lesser extent due to the relative stability and inheritance of the culture itself,

and it is necessary to arouse sufficient cultural anxiety among the people of China, and to draw on the positive elements of Western culture, such as the pursuit of freedom, respect for reason, respect for rights and emphasis on contracts. These positive elements are precisely the source of the belief in the rule of law.

4. BELIEF IN THE RULE OF LAW: THE RULE OF LAW AS AN EXPRESSION OF THE PUBLIC'S SACRED FEELINGS TOWARDS THE LAW

Humanity once lived in the barbarism, brutality and chaos of pre-civilised times. After the beginning of civilization and the rejection of the law of the jungle, the existence and development of human society is sustained by reason and rules, and the change of reason and rules is generally characterized with the progress and advancement of social civilisation. In the limited history of mankind, fundamental values and beliefs such as freedom, fairness and justice, which constitute the so-called hearts and minds of the world and are a matter of human survival and dignity, have remained constant and everlasting. The belief in the rule of law is in fact a belief in the spirit of freedom in accordance with human reason and in the fairness and justice of society, as embodied behind the enactment of laws. The law, as a system of rules, aims to record the tried and tested experience of life and the wisdom of survival in the hearts and minds of the world, and to turn it into a law of life and a minimum standard of conduct. The law as a system of meaning is expressed in the fact that the highest values of the law are freedom, equity and justice; as the rules of the world, the law serves and benefits the world by regulating human beings. Faith in the law is a warmth and respect for the rule-based expressions of human life, and in turn requires that such rule-based expressions should be equally warm and respectful of human life itself. In the deepest sense, the choice of the law to satisfy the quest of the human world enshrines the moral ideals of a particular human type, expressing the transcendental concerns of that human type, all of which depend on the normative, universal, stable and obligatory nature of the law.

From the very beginning, Confucius, the founder of Confucianism, went straight beyond the origins of the universe and into the world of experience, and discussed the ways of rulers and subjects and human relations, without any

metaphysical or polemical overtones. In contrast, Western culture has a deep metaphysical tradition and a complex of ultimate concern. Religion in the West is the highest form of this ultimate concern. The rule of law expresses a sacred sentiment of the public towards the law, which is not formed by the harshness and coldness of the law, nor by external coercion and suppression. This sacred sentiment is a sincere belief in the law from the heart of the public, and a sentiment similar to religious faith. The belief in the rule of law is a conversion reached in the midst of complex social activities, experiences and feelings, and is consciously or unconsciously incorporated in the process of following or resorting to the law in the pursuit of interests. Sometimes, even if the law can give benefits to the subject, it can greatly affect people's loyalty and faith in the law if they have to pay a high cost and price for it. [4] In China, being conditioned socially and historically, subtle rules centred on relationships are often more practical and bring more real benefits than formal rules or laws. And in some areas, following the law is seen as an anomaly. [5] On the question of the relationship between people and law, it seems more relevant to return to people themselves, that is, how to shape them, how to cultivate their sense of rules, their law-abiding spirit, etc. The rule of law should not be a strict dichotomy or contradiction between the subject and the object of man and the law, but a two-way interaction and harmonisation of the subject and the object, i.e. the legalisation of the subject and the subjectification of the law. It is a two-way process of transformation and shaping, which transforms human beings into true men of law and laws into true good laws. Following this, the existence of the human world is always the basis for the belief in the rule of law, and the spatial and temporal boundary within which the rule of law can develop, not without a basic human scale. Otherwise, even though society maintains a superficial security, stability and order, inside it is indifference, suspicion and sinisterness between people.

5. CONCLUSION

The rule of law is generally considered by academics to be the rule of rules and good law, as opposed to the rule of man. The rule of man relies on the occasional virtues of personalised authority to govern the state; the rule of law relies primarily on good and complete laws to govern the state, and rests the long-term security of society on the laws and institutions of the state. In the rule of man, the

value of the existence of laws and the legislation, correction and abolition depend entirely on the utilitarian aims and personal preferences of the leaders, and the validity of laws often changes in response to the transfer of power, with a great deal of arbitrariness. Of course, the ideal way to govern is based on the rule of law supplemented by the virtue of the ruler, and the supremacy of law does not exclude the authority and role of the individual leader. However, it is not easy to achieve the perfect state of integration, and it is necessary to establish and perfect the subject selection mechanism, responsibility restraint mechanism, division of labor restriction mechanism and external supervision mechanism.

Worldwide, the rule of law is more than a political manifesto. Human beings have the right to believe in the rule of law, but they have to rely on their own efforts to create happiness. Unfortunately, in terms of the actual state of operation of power, the subconscious of the public and even the unspoken rules of society, the rule of law has been established as a dominant social discourse, the motives behind it are extremely complex, and most of which are out of utilitarianism, rarely out of faith. Moreover, they are even more blindly obedient and restless, and they are far from being internalized as the normal life of Chinese people. Many people are still looking forward to a world of discourse filled with the honest and upright official culture and 'local knowledge'. In other words, the deeper the sense of cultural confidence, the more painful the sense of cultural anxiety, which is the mature mindset for interpreting Chinese culture. With the rule of law as a guiding principle, this mature cultural mentality is reflected in the 'creative transformation of Chinese traditions', which draws appropriately on the positive elements of Western culture and combines cultural confidence and a sense of cultural anxiety, so as to turn them into the seeds of change in the rule of law that would lead the way to the future development of Chinese society. [6]

AUTHORS' CONTRIBUTIONS

This paper is independently completed by Zhiyu Cao.

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